

# FUEL EXCISE TAX

## Table of Contents

<b>Section</b>		<b>Page</b>
<b>PART I. GENERAL PROVISIONS.</b>		
901.	<b>PURPOSE AND SHORT TITLE.....</b>	<b>2</b>
902.	<b>ADMINISTRATION AND DEFINITIONS.....</b>	<b>2</b>
<b>PART II. TAX ADMINISTRATION.</b>		
903.	<b>TAX IMPOSED.....</b>	<b>5</b>
904.	<b>TAXABLE UNIT.....</b>	<b>5</b>
905.	<b>RATE OF TAX.....</b>	<b>5</b>
906.	<b>LEGAL INCIDENCE.....</b>	<b>5</b>
907.	<b>RETAILER NOTICE REQUIREMENT.....</b>	<b>6</b>
908.	<b>FUEL INVENTORIES AND PAYMENT OF TAX.....</b>	<b>7</b>
909.	<b>EXEMPTIONS.....</b>	<b>7</b>
910.	<b>REFUNDS.....</b>	<b>7</b>
<b>PART III. ENFORCEMENT.</b>		
911.	<b>LICENSING.....</b>	<b>8</b>
912.	<b>RESTRICTIONS ON FUEL IMPORTATION, DISTRIBUTION, TRANSPORTATION, REFINING, AND RETAILING.....</b>	<b>10</b>
913.	<b>PROCEDURES FOR LAWFUL IMPORTATION.....</b>	<b>11</b>
914.	<b>DETENTION AND INSPECTION.....</b>	<b>12</b>
915.	<b>FILING OF RETURNS AND PAYMENT OF TAX.....</b>	<b>13</b>
916.	<b>RECORDKEEPING.....</b>	<b>14</b>
917.	<b>VIOLATIONS.....</b>	<b>15</b>
918.	<b>PENALTIES.....</b>	<b>17</b>
<b>PART IV. MISCELLANEOUS.</b>		
919.	<b>EFFECTIVE DATE.....</b>	<b>19</b>
920.	<b>SEVERABILITY.....</b>	<b>19</b>
921.	<b>REPEALS.....</b>	<b>19</b>
922.	<b>NO CONFLICT WITH LOCAL GOVERNANCE ACT...</b>	<b>19</b>
923.	<b>DISBURSEMENTS.....</b>	<b>19</b>

## PART I. GENERAL PROVISIONS

### 901. PURPOSE AND SHORT TITLE

#### A. Purpose.

The Navajo Nation Council hereby enacts this tax for purposes of defraying necessary governmental expenses incurred in providing for the public welfare.

#### B. Short Title.

The tax imposed by this Chapter shall be called the "Fuel Excise Tax."

### 902. ADMINISTRATION AND DEFINITIONS

#### A. Administration.

All provisions of the Uniform Tax Administration Statute shall apply to this Chapter.

#### B. Definitions.

Subject to additional definitions (if any) contained in the subsequent sections of this Chapter, and unless the context otherwise requires, in this Chapter:

1. "Authorized Carrier" means any person issued a current and valid authorized carrier's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who obtains fuel from a supplier on or for the account of an Authorized Distributor for importation into and delivery within, the Navajo Nation, and transports such fuel via cargo tank to any person(s) at any location(s) within the Navajo Nation.  
"Authorized Carrier" does not include any person who imports into, and transports within, the Navajo Nation any fuel contained in the fuel supply tank of a motor vehicle at the time of such importation or transportation.
2. "Authorized Carrier's License" means a license properly issued by the Office of the Navajo Tax Commission to any person pursuant to §911 of this Chapter and corresponding regulations.
3. "Authorized Distributor" means any person issued a current and valid authorized distributor's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who distributes by any method any amount of fuel within the Navajo Nation.  
"Authorized Distributor" does not include any person who imports into, and transports within, the Navajo Nation any fuel carried in the fuel supply tank of a motor vehicle at the time of such importation and transportation, nor any common carrier who obtains, imports into, or transports and delivers within, the Navajo Nation, on behalf of any distributor, any fuel which is not owned by such common carrier.
4. "Authorized Distributor's License" means a license properly issued by the Office of the Navajo Tax Commission to any person pursuant to §911 of this Chapter and corresponding regulations.
5. "Authorized Refiner" means any person issued a current and valid authorized refiner's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who refines fuel at any refinery located within the Navajo Nation, and sells, resells, uses or gives away such fuel to distributors, retailers, or consumers.
6. "Authorized Refiner's License" means a license properly issued by the Office of the Navajo Tax Commission to any person pursuant to §911 of this Chapter and corresponding regulations.
7. "Authorized Retailer" means any person issued a current and valid authorized retailer's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who sells, resells, uses or gives away fuel from any retail facility located within the Navajo Nation or any refinery located within the Navajo Nation, generally dispensing such fuel into

the fuel supply tanks of motor vehicles.

8. "Authorized Retailer's License" means a license properly issued by the Office of the Navajo Tax Commission to any person pursuant to §911 of this Chapter and corresponding regulations.
9. "Bill of Lading" means any document, way bill, shipping paper, certificate, consignment contract, billing statement, invoice or other written record issued by a supplier, which evidences the obtaining of any amount of fuel from such supplier by any distributor, or any common carrier thereof.
10. "Cargo Tank" means any liquid fuel container mounted on or attached to a truck, trailer, wagon, or any other mobile vehicle used for transporting fuel, but does not include the fuel supply tank of motor vehicles.
11. "Common Carrier" means any person, whether an Authorized Carrier or an Unauthorized Carrier, who obtains fuel from a supplier on or for the account of any distributor, for importation into, and delivery within, the Navajo Nation, and transports such fuel via cargo tank to any person(s) at any location(s) within the Navajo Nation.

"Common Carrier" does not include any person who imports into, or transports within, the Navajo Nation any fuel contained in the fuel supply tank of a motor vehicle at the time of such importation or transportation.
12. "Consumer" means any person who purchases, acquires, holds, possesses, uses, or consumes any amount of fuel for use by such person and not for resale or transfer to, or use by, any other person(s).
13. "Deliver" or "Delivery" means the physical transfer of any amount of fuel by dispensing or transferring it by any method from a cargo tank, pipeline, or any other container into a fuel storage tank, terminal device, or any other container for purposes of sale, resale, use or giving away of such fuel.
14. "Distribute" means to own by any means any amount of fuel and:
  - a. to import by any method such fuel into the Navajo Nation for delivery of the fuel to any person(s) at any location(s) within the Navajo Nation; or,
  - b. at any refinery located within the Navajo Nation, to receive such fuel by any method, which fuel is transferred or dispensed from any container at the refinery into a cargo tank for further transportation in bulk quantities and subsequent delivery to any person(s) at any location(s) within the Navajo Nation.

"Distribute" does not include the importation into, or transportation within, the Navajo Nation of any fuel contained in the fuel supply tank of a motor vehicle at the time of such importation or transportation.
15. "Distributor" means any person, whether an Authorized Distributor or an Unauthorized Distributor, who distributes by any method any amount of fuel within the Navajo Nation.

"Distributor" does not include any person who imports into, and transports within, the Navajo Nation any fuel carried in the fuel supply tank of a motor vehicle at the time of such importation and transportation.
16. "Fuel" means flammable hydrocarbon liquid used primarily in internal combustion engines for the generation of power for the propulsion of motor vehicles, and generally dispensed into the fuel supply tank of a motor vehicle, including any blended gasoline of any type, and diesel fuel.

"Fuel" does not include kerosene, liquefied petroleum gas, compressed or liquefied natural gas, butane, propane, non-fuel stove oil, and fuel products used for the propulsion of aircraft.
17. "Fuel Supply Tank" means any receptacle on a motor vehicle designed for containing fuel from which such fuel is supplied directly to the engine of a motor

- vehicle for purposes of propulsion of the motor vehicle.
18. "Gallon" means the quantity of fuel, which fills a standard United States gallon liquid measurement.
  19. "Government Vehicle" means any motor vehicle, which is owned and operated exclusively by the government of the Navajo Nation or any political subdivision, chapter, enterprise, or instrumentality thereof.
  20. "Import" or "Importation" means to cause, by any means, to be transported across the exterior boundaries of, and into, the jurisdiction of the Navajo Nation.
  21. "Manifest" means the original individually-numbered document, or non-carbon reproduction thereof (Form NN-MANF- ), issued by the Office of the Navajo Tax Commission to an Authorized Distributor authorizing the Authorized Distributor, or an Authorized Carrier thereof, to obtain a fuel load from a supplier for distribution of such fuel within the Navajo Nation.
  22. "Motor Vehicle" means any self-propelled motor-driven mobile vehicle operated primarily or incidentally on a highway, and includes vehicles designed for grading, paving, earth moving, or other construction or demolition purposes, all-terrain vehicles, motor scooters and cycles, motor boats, jet skis or other watercraft, snowmobiles, and any other recreational motor vehicle designed primarily for use off-road, or any other motor vehicle which may not be subject to license for operation on a highway, but does not include aircraft of any kind.
  23. "Period" means one calendar month.
  24. "Refine" or "Refining" means to produce, manufacture, blend or compound, or otherwise prepare as a finished product by any method, any amount of fuel for purposes of sale, resale, use or giving away as such finished product.
  25. "Refiner" means any person, whether an Authorized Refiner or an Unauthorized Refiner, who refines any amount of fuel at any refinery and sells, resells, uses or gives away such fuel to consumers, distributors, or retailers.
  26. "Refinery" means any plant, facility, or other location where any amount of fuel is refined by any method.
  27. "Regulations" means the regulations adopted by official resolution of the Navajo Tax Commission for purposes of administering the letter and intent of this Chapter.
  28. "Retail Facility" means any place of business where any amount of fuel is delivered and/or received by any method for purposes of sale, resale, use or giving away by any retailer.
  29. "Retailer" means any person, whether an Authorized Retailer or an Unauthorized Retailer, who sells, resells, uses or gives away any amount of fuel from any retail facility or any refinery, generally dispensing such fuel into the fuel supply tanks of motor vehicles.
  30. "Retailing" means to sell, resell, use or give away any amount of fuel from any retail facility or any refinery, generally dispensing such fuel into the fuel supply tanks of motor vehicles.
  31. "Sale" or "Sell" means the transfer of ownership, title, or possession to another in exchange for a consideration and includes the transfer of possession on a consignment basis.
  32. "Supplier" means any person engaged in the business of selling bulk quantities of fuel to other persons for purposes of further transportation of such fuel in bulk quantities for subsequent delivery and sale.
  33. "Unauthorized Carrier" means any person not issued a current and valid authorized carrier's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who obtains fuel from a supplier on or for the account of any distributor, for

importation into and delivery within, the Navajo Nation, and transports such fuel via cargo tank to any person(s) at any location(s) within the Navajo Nation.

"Unauthorized Carrier" does not include any person who imports into, or transports within, the Navajo Nation any fuel contained in the fuel supply tank of a motor vehicle at the time of such importation or transportation.

34. "Unauthorized Distributor" means any person not issued a current and valid Authorized Distributor's license, issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who distributes by any method any amount of fuel within the Navajo Nation.

"Unauthorized Distributor" does not include any person who imports into, and transports within, the Navajo Nation any fuel carried in the fuel supply tank of a motor vehicle at the time of such importation and transportation.

35. "Unauthorized Refiner" means any person not issued a current and valid authorized refiner's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who refines fuel at any refinery located within the Navajo Nation, and sells, resells, uses or gives away fuel to consumers, distributors, or retailers.

36. "Unauthorized Retailer" means any person not issued a current and valid authorized retailer's license, properly issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter and corresponding regulations, who sells, resells, uses or gives away fuel from any retail facility located within the Navajo Nation or any refinery located within the Navajo Nation, generally dispensing such fuel into the fuel supply tanks of motor vehicles.

## **PART II. TAX ADMINISTRATION**

### **903. TAX IMPOSED**

For the privilege of distributing or retailing any amount of fuel within the Navajo Nation, there is imposed an excise tax on each gallon of fuel, or fraction thereof, at the rate fixed by §905 of this Chapter.

### **904. TAXABLE UNIT**

The unit of fuel on which the fuel excise tax is imposed is the gallon, with the tax computed to the nearest mill on all amounts of fuel.

### **905. RATE OF TAX**

The rate of tax imposed by this Chapter shall be set in regulations, provided that the rate shall not be less than ten (10¢) cents per gallon and no more than twenty-five (25¢) cents per gallon. Until another rate is established, the rate shall be eighteen (18¢) cents per gallon (.18 x number of gallons or fraction thereof).

### **906. LEGAL INCIDENCE.**

A. Fuel imported into the Navajo Nation.

1. Time and place of importation.

Any and all fuel that is imported into the Navajo Nation for purposes of delivery to any person(s) at any location(s) within the Navajo Nation, other than in the fuel supply tank of a motor vehicle, is taxed at the time and place such fuel is imported.

2. Distributors liable for tax.

The tax imposed by this Chapter is presumed to be a tax on all distributors of any amount of fuel imported into the Navajo Nation, notwithstanding the use of any common carrier. The distributor owning fuel at the time and place of importation of such fuel is the taxpayer.

3. Payment by distributors.

For each period, all distributors shall pay any and all fuel excise tax or taxes due on all amounts of imported fuel, less the applicable discount, if any, taken pursuant to §915(A)(3) of this Chapter. Any amount of fuel excise tax or taxes that arise shall constitute a debt owed by the distributor until paid in full to the Office of the Navajo Tax Commission.

B. Fuel refined within the Navajo Nation.

1. Time and place of transfer at a refinery.

Fuel refined at a refinery located within the Navajo Nation by any person is taxable at the time and place of transfer at the refinery of such fuel by any method from one container into a separate fuel container, and is taxable to the person owning such fuel immediately after its transfer, so long as there is no further transportation of the fuel in bulk quantities for purposes of sale, resale, use or giving away directly from such container.

2. Payment by refiners or retailers.

For each period, the person owning the fuel immediately after its transfer as described in §906(B)(1) of this Chapter, shall pay directly to the Office of the Navajo Tax Commission any and all fuel excise tax or taxes due on all amounts of transferred fuel, less the applicable discount, if any, taken pursuant to §915(C)(3) of this Chapter. Any amount of fuel excise tax or taxes that arise shall constitute a debt owed by such person(s) until paid in full to the Office of the Navajo Tax Commission.

3. Time and place of loading into a cargo tank.

Fuel that is loaded by any method from any refinery located within the Navajo Nation into a cargo tank is taxable at the time and place of such loading to the distributor on or for whose account such fuel was loaded for further transportation in bulk quantities and subsequent delivery to any person(s) at any location(s) within the Navajo Nation.

4. Payment by distributors.

For each period, all distributors, on or for whose account fuel was loaded as described in §906(B)(3) of this Chapter, shall pay any and all fuel excise tax or taxes due on all amounts of such fuel, less the applicable discount, if any, taken pursuant to §915(A)(3) of this Chapter. Any amount of fuel excise tax or taxes that arise shall constitute a debt owed by such distributors until paid in full to the Office of the Navajo Tax Commission.

C. Fuel retailed within the Navajo Nation.

Any retailer, whether authorized or unauthorized, who has controlled or obtained by any method any amount of fuel on which the fuel excise tax has not been timely paid in full, shall be liable for payment of any and all fuel excise tax or taxes due for all such fuel received or obtained by the retailer.

907. **RETAILER NOTICE REQUIREMENT**

A. Tax must be indicated.

All retailers shall keep posted at all times on all fuel pumps or other fuel dispensing apparatus at any and all retail facilities located within the Navajo Nation, a notice reading substantially as follows:

**"THE PRICE OF MOTOR VEHICLE FUEL INCLUDES APPLICABLE NAVAJO NATION FUEL EXCISE TAX COMPUTED TO THE NEAREST MILL ON EACH GALLON OR FRACTION THEREOF."**

B. Notice regarding other applicable fuel taxes.

In accordance with regulations, all retailers shall keep posted at all times on all fuel pumps or other fuel dispensing apparatus at any and all retail facilities located within the Navajo

Nation an appropriate notice regarding any other applicable fuel tax.

908. **FUEL INVENTORIES AND PAYMENT OF TAX**

A. Inventory requirement.

The Fuel Excise Tax imposed by this Chapter applies to all fuel within the Navajo Nation, other than fuel contained in the fuel supply tank of a motor vehicle, as of the date that the tax becomes effective or the tax rate is increased. By the close of business on such day, each and every owner of fuel storing, controlling, transporting, holding or otherwise possessing any amount of fuel shall take a complete inventory of the total amount of gallons of such fuel on hand, including any fuel loads in transit, and record such inventory.

B. Reporting and payment requirement.

Within 10 days of taking fuel inventory as required by §908(A) of this Chapter, each and every person owning any amount of fuel inventory shall prepare and submit to the Office of the Navajo Tax Commission a written record of such inventory, in form and content prescribed by regulations, which report shall be accompanied by a Fuel Excise Tax Return and payment in full of all Fuel Excise Tax or taxes due on such inventory, as required by §915 of this Chapter and corresponding regulations.

C. Discount for timely reporting and payment.

Any person owning any amount of fuel inventory who is in compliance with all applicable provisions of this Chapter and corresponding regulations, and who timely submits a fuel inventory record accompanied by a Fuel Excise Tax Return and timely submits payment in full of all Fuel Excise Tax or taxes due on such inventory, as required by §908(B) of this Chapter, may claim a discount on the payment of such fuel excise tax in an amount specified by regulations. Until another amount is set by regulations, the discount shall be one-half of one-percent (1/2%) of the number of gallons reported on the return (.005 x number of gallons or fraction thereof).

D. Regulations.

The procedure for administration of this §908 shall be prescribed and governed by regulations.

909. **EXEMPTIONS**

The Fuel Excise Tax imposed by this Chapter does not apply to any amount of fuel used solely and exclusively for the following:

A. Propulsion and operation of a farm tractor or other farm machinery designed primarily for agricultural use;

B. Operation of electricity-producing generators for private residential or household use;

C. Operation of chainsaws, lawn mowers, or other landscaping or woodcutting machinery;

D. Propulsion of any government vehicle.

910. **REFUNDS**

A. Consumer refunds.

A refund of the Fuel Excise Tax, if based on any exemption(s) listed in §909 of this Chapter, shall be available only to a consumer who provides adequate proof that the Fuel Excise Tax has been charged to and paid in full by such consumer for any and all fuel purchases for which the consumer seeks a fuel excise tax refund.

B. Refunds due to loss or destruction.

1. Authorized Distributors and Authorized Retailers only.

A refund of the Fuel Excise Tax shall be available only to an Authorized Distributor or an Authorized Retailer for fuel which has been lost or destroyed by fire, accident, leakage, acts of God, or other mishap while such fuel was owned, at the time of such loss or destruction, by the Authorized Distributor or Authorized Retailer seeking a fuel excise tax refund.

2. Requirements of proof.

Refunds under this §910(B) shall be available only upon adequate proof of the following:

- a. that the Fuel Excise Tax on any and all such fuel lost or destroyed has been charged to and paid in full by the Authorized Distributor or the Authorized Retailer seeking a refund; and,
- b. full compliance by the Authorized Distributor or the Authorized Retailer seeking a refund, both at the time of loss or destruction of fuel and at the time the application for refund is received by the Office of the Navajo Tax Commission, with all applicable provisions of this Chapter; and,
- c. full compliance at the time of loss or destruction, by any person(s) possessing the fuel at the time of such loss or destruction, with all applicable provision(s) of §911 of this Chapter; and,
- d. proof that such loss or destruction was not due to the negligence or recklessness of the Authorized Distributor or the Authorized Retailer seeking a refund, or of any person(s) possessing the fuel at the time of loss or destruction; and,
- e. proof that such loss or destruction was not due to any violation(s) of applicable Navajo Nation law or any applicable federal law, with a fine or any other punishment constituting a violation; and,
- f. any other requirements adopted by regulations.

C. Regulations.

The procedure for refunds under this §910 shall be prescribed and governed by regulations.

### **PART III. ENFORCEMENT**

911. **LICENSING**

A. Licenses required.

Except for fuel contained in the fuel supply tank of a motor vehicle, licenses must be obtained from the Office of the Navajo Tax Commission as follows:

1. Authorized Distributors.

For the privilege of distributing within the Navajo Nation any amount of fuel, each and every person seeking to do so shall first secure and maintain a current and valid authorized distributor's license.

2. Authorized Carriers.

For the privilege of importing into, or carrying or transporting within, the Navajo Nation any amount of fuel, each and every person seeking to do so shall first secure and maintain a current and valid authorized carrier's license.

3. Authorized Refiners.

For the privilege of refining within the Navajo Nation any amount of fuel, each and every person seeking to do so shall first secure and maintain a current and valid authorized refiner's license.

4. Authorized Retailers.

For the privilege of retailing within the Navajo Nation any amount of fuel, each and every person seeking to do so shall first secure and maintain a current and valid authorized retailer's license.

B. Term and fee.

1. Licenses required yearly.

A separate license must be secured and maintained for each calendar year, or fraction thereof, ending on December 31st, during which a person seeks to operate as a licensee. In the case of an existing licensee, the deadline for receipt of an application by the Office of the Navajo Tax Commission for a new license to

operate for the subsequent year shall be ten calendar days prior to the date of expiration of the existing license.

2. License fee.

The application fee for any license applied for under this §911 shall be set by regulations, but shall not be less than one hundred dollars (\$100.00) per calendar year, or fraction thereof, ending on December 31st. Until another fee is set, the license fee shall be one hundred dollars (\$100.00). A separate application fee must be paid for each calendar year, or fraction thereof, ending on December 31st, for which a person seeks to secure and maintain a license. The application fee is non-refundable and shall be retained by the Office of the Navajo Tax Commission whether or not the applicant is issued a license.

C. Criteria of licensees.

As a condition of securing and maintaining any license under this §911, any person(s) applying for a license, shall, from the date of receipt of a license application by the Office of the Navajo Tax Commission to the time of issuance of such license, or the issuance of a Letter of License Denial, satisfy in full all of the following criteria:

1. no felony conviction of the applicant, or any officer or any director thereof, in any Navajo Nation court or any other court of competent jurisdiction, within 10 years prior to the issuance of a license by the Office of the Navajo Tax Commission; and,
2. no permanent or temporary suspension or revocation of any license or other authorization granted or issued to the license applicant, or any officer or any director thereof, which pertains in any manner to the distribution, carrying or transportation of fuel via cargo tank, refining, or retailing of fuel, which was issued by the Office of the Navajo Tax Commission or any other jurisdiction, within 10 years prior to the issuance of a license by the Office of the Navajo Tax Commission; and,
3. disclosure of all principal and primary persons involved in any way with the license applicant; and,
4. proof of insurance, in an amount prescribed and governed by regulations, for purposes of indemnification for any loss of, destruction of, or damage caused by, any amount of fuel which will be imported into, or distributed, transported, delivered, refined, or retailed within, the Navajo Nation, by or on behalf of the license applicant; and,
5. adequate proof that the license applicant, or any employees, agents, or other personnel thereof who will be engaged in the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel, have been certified by a recognized and accredited program as trained in appropriate safety procedures pertaining to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel; and,
6. adequate proof that any and all fuel transportation vehicles, cargo tanks, storage tanks, pipelines, equipment, paraphernalia, measuring or other devices, or any other tangible personal property used for or incident to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel, to be used by the license applicant or any employees, agents, or other personnel thereof, have been fully inspected and certified as fully complying with all applicable laws and/or regulations pertaining to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel, of the federal government and any state(s) where such vehicles or other personal property were licensed, manufactured or constructed, leased, purchased or obtained by any means; and,

7. in the case of an applicant for an authorized distributor's license, the posting of a bond with the Office of the Navajo Tax Commission as follows:
  - a. such bond may be in the form of a cash payment or a bond issued by a surety, or may be in the form of any other acceptable negotiable instrument in lieu thereof; and,
  - b. the dollar amount of such bond shall be equal to or greater than double the full amount of fuel excise tax which the Office of the Navajo Tax Commission estimates to be due for the first period in which the license applicant proposes to operate as an Authorized Distributor; and,
  - c. the bond shall be retained by the Office of the Navajo Tax Commission for a minimum time of at least two calendar years from the date of posting of the bond, and thereafter shall be released only to an Authorized Distributor who is in full compliance, for the entire duration that such bond is held, with all applicable provisions of this Chapter and corresponding regulations; and,
  - d. the bond shall be released by the Office of the Navajo Tax Commission in accordance with procedures prescribed and governed by regulations; and,
8. in the case of an applicant for an authorized carrier's license, proof of such applicant's possession of a current and valid transportation and/or common carrier's license issued by the United States Interstate Commerce Commission or equivalent state agency; and,
9. no violation(s) of any applicable Navajo Nation law or any applicable federal law, with a fine or any other punishment constituting a violation, within 10 years prior to the receipt by the Office of the Navajo Tax Commission of the application for a license; and,
10. any other requirements for licensing adopted by regulations.

D. Licenses non-transferable.

No license issued by the Office of the Navajo Tax Commission pursuant to this Chapter shall be assigned or transferred in any manner, except as specifically provided by resolution of the Navajo Tax Commission in its discretion.

E. Licenses or letter of denial.

The Office of the Navajo Tax Commission shall issue a license, or shall issue a Letter of License Denial within 30 days after the application for license is received by the Office of the Navajo Tax Commission. Failure of the Office of the Navajo Tax Commission to issue a license or a Letter of License Denial within the 30-day period shall be deemed a Letter of License Denial.

F. Regulations.

The procedure for administration of licensing under this Section 911 shall be prescribed and governed by regulations.

G. Appeal.

A Letter of License Denial shall be considered an adverse action, which may be appealed pursuant to §131 of the Uniform Tax Administration Statute.

912. **RESTRICTIONS ON FUEL IMPORTATION, DISTRIBUTION, TRANSPORTATION, REFINING, AND RETAILING**

A. Persons authorized to import, distribute, and/or transport fuel.

Other than in the fuel supply tank of a motor vehicle, fuel shall not be imported into, and/or transported or distributed within, by any method, the Navajo Nation, except by the following persons as hereby authorized:

1. any Authorized Distributor who is in full compliance with all requirements of §911, §913(A), and any other applicable provision(s) of this Chapter and corresponding regulations; and/or,
2. any Authorized Carrier who is in full compliance with all applicable requirements of §911, §913(B), and any other applicable provision(s) of this Chapter and

corresponding regulations.

B. Persons authorized to refine fuel.

Only Authorized Refiners in full compliance with all requirements of §911, and any other applicable provision(s) of this Chapter and corresponding regulations, are hereby authorized to refine any amount of fuel within the Navajo Nation.

C. Persons authorized to retail fuel.

Only Authorized Retailers in full compliance with all requirements of §911, and any other applicable provision(s) of this Chapter and corresponding regulations, are hereby authorized to retail any amount of fuel within the Navajo Nation.

913. **PROCEDURES FOR LAWFUL IMPORTATION AND DISTRIBUTION**

A. Importation and distribution by Authorized Distributors.

Any Authorized Distributor in full compliance with all requirements of §911, and any other applicable provision(s) of this Chapter and corresponding regulations is hereby authorized to distribute fuel within the Navajo Nation by fully complying with all of the following provisions:

1. Issuance of manifests.

In the case of distribution of fuel by cargo tank, the Authorized Distributor must first notify the Office of the Navajo Tax Commission of its proposed importation of each and every single load or shipment of any amount of fuel obtained for importation into, transportation and delivery or distribution within, the Navajo Nation to any person(s) at any location(s) within the Navajo Nation.

The Office of the Navajo Tax Commission may then issue a manifest for such fuel authorizing the Authorized Distributor to acquire the fuel from the supplier. The manifest must be in the form and content prescribed by regulations and must identify the Authorized Distributor as the buyer of fuel.

2. Bill of lading required.

In the case of distribution of fuel by cargo tank, the Authorized Distributor must secure a valid bill of lading issued by the supplier for each and every single shipment or load of any amount of fuel obtained for importation into, transportation and delivery or distribution within, the Navajo Nation to any person(s) at any location(s) within the Navajo Nation.

3. Authorized Distributor responsible for tax.

In the case of distribution of fuel by any method, the Authorized Distributor shall be deemed the distributor of fuel imported under this §913(A), and shall timely remit to the Office of the Navajo Tax Commission any and all fuel excise tax or taxes due on such imported fuel along with a fully completed Fuel Excise Tax Return for such fuel, as required by regulations.

B. Importation by Authorized Carriers.

Any Authorized Carrier in full compliance with all requirements of §911, and any other applicable provision(s) of this Chapter and corresponding regulations is hereby authorized to import fuel into, and/or transport and deliver fuel within, the Navajo Nation, by fully complying with all of the following provisions:

1. Authorized Carrier contract with Authorized Distributor.

The Authorized Carrier must first contract only with an Authorized Distributor who is in full compliance with all requirements of §911, §913(A), and any other applicable provision(s) of this Chapter and corresponding regulations.

2. Issuance of a manifest.

The Authorized Carrier, or Authorized Distributor employing such Authorized Carrier, must notify the Office of the Navajo Tax Commission of its proposed importation of each and every single load or shipment of any amount of fuel obtained for importation into, transportation and delivery or distribution within, the Navajo Nation to any person(s) at any location(s) within the Navajo Nation.

The Office of the Navajo Tax Commission may then issue a manifest for such fuel authorizing the Authorized Carrier to obtain the fuel from the supplier. The manifest must be in the form and content prescribed by regulations and must identify the Authorized Distributor as the buyer of fuel, and must identify the Authorized Carrier as the carrier of fuel.

3. Bill of lading required.

The Authorized Carrier, or Authorized Distributor employing such Authorized Carrier, must secure a valid bill of lading issued by the supplier for each and every single shipment or load of any amount of fuel obtained for importation into, transportation and delivery or distribution within, the Navajo Nation to any person(s) at any location(s) within the Navajo Nation.

4. Authorized Distributor remains liable.

Notwithstanding the use of an Authorized Carrier, the Authorized Distributor shall be deemed, for purposes of this §913(B), the distributor of fuel imported and shall comply with all requirements of §913(A) of this Chapter and corresponding regulations.

C. Authority to issue manifests.

The Office of the Navajo Tax Commission is hereby authorized to issue a Navajo Nation Manifest (Form NN-MANF- ), to any Authorized Distributor in full compliance with all applicable requirements of this Chapter and corresponding regulations or to any Authorized Carrier in full compliance with all applicable requirements of this Chapter and corresponding regulations, for each and every single load or shipment of any amount of fuel obtained for importation into, and/or transportation and delivery or distribution within, the Navajo Nation to any person(s) at any location(s) within the Navajo Nation.

914. **DETENTION AND INSPECTION**

A. Carrying of documents.

A current and valid original of the following documents, completed in full, shall be kept on file at the Office of the Navajo Tax Commission, and an exact copy thereof must be carried at all times in any vehicle in which any amount of fuel is being imported into, and transported within, the Navajo Nation:

1. Authorized carrier's License; and,
2. in the case of a distributor who is also acting as a common carrier, an authorized distributor's license; and,
3. Bill(s) of lading pertaining to the fuel load being imported and transported, issued by the supplier; and,
4. Manifest(s) pertaining to the fuel loads being imported and transported, issued by the Office of the Navajo Tax Commission.

B. Presentation of documents.

Any license, bill of lading, manifest, application, report, return, form, inventory record, or any other document required to be secured and maintained, filed, and/or carried under any applicable provision(s) of this Chapter and corresponding regulations must be immediately delivered up and presented upon request by a representative or designee of the Office of the Navajo Tax Commission, or any on-duty officer of the Navajo Nation Division of Public Safety.

C. Authorization to stop, detain, and inspect.

For purposes of determining compliance by any person(s) with any and all applicable provision(s) of this Chapter and corresponding regulations, the representative, designee, or officer is hereby authorized and directed to stop, detain and/or inspect at any time, any fuel transportation vehicles, cargo tanks, storage tanks, pipelines, equipment, paraphernalia, measuring or other devices, or any other tangible personal property used for or incident to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel.

D. Presentation of vehicles or other property.

Any fuel inventory, transportation vehicles, cargo tanks, storage tanks, pipelines, equipment, paraphernalia, measuring or other devices, or any other tangible personal property used for or incident to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel must be immediately delivered up and presented upon request by a representative or designee of the Office of the Navajo Tax Commission, or any on-duty officer of the Navajo Nation Division of Public Safety.

E. Notification of violation.

Upon discovery of any failure to comply by any person(s) with any and all applicable provision(s) of this Chapter and corresponding regulations, the representative, designee, or officer is hereby authorized and directed to immediately notify the Office of the Navajo Tax Commission of the violation(s) and identify the violator(s).

915. **FILING OF RETURNS AND PAYMENT OF TAX**

A. Distributors.

1. Monthly returns.

All distributors, whether authorized or unauthorized, shall prepare and submit, on a monthly basis, to the Office of the Navajo Tax Commission a Fuel Excise Tax Return (Form 900), for each period for any fuel excise tax or taxes that arise, as prescribed by regulation. Returns are due on the twentieth day of each month immediately following the end of each period.

2. Payment of tax.

All distributors, whether authorized or unauthorized, shall timely remit to the Office of the Navajo Tax Commission all fuel excise tax or taxes imposed by this Chapter. Payment in full of the tax or taxes owed is due at the time the Fuel Excise Tax Return is due. The returns required to be filed under §915(A)(1) of this Chapter shall be accompanied by payment in full of all fuel excise tax or taxes due.

3. Discount for timely remittance.

Any Authorized Distributor who is in compliance, both at the time the fuel excise tax arises and at the time the return and payment are due, with all applicable provisions of this Chapter and corresponding regulations, and who timely files a Fuel Excise Tax Return and timely remits all fuel excise tax due with respect to such return may claim a discount on the payment of such fuel excise tax in an amount specified by regulations. Until another amount is set by regulations, the discount shall be one-half of one-percent (1/2%) of the number of gallons reported on the return (.005 x number of gallons or fraction thereof).

B. Carriers.

All common carriers, whether authorized or unauthorized, shall prepare and submit, on a monthly basis, to the Office of the Navajo Tax Commission a Carrier's Reporting Form (Form NN-CAR- ), for each period, as prescribed by regulation. Forms are due on the twenty-fifth day of each month immediately following the end of each period.

C. Refiners.

1. Quarterly reports.

All refiners, whether authorized or unauthorized, shall prepare and submit, on a quarterly basis, to the Office of the Navajo Tax Commission a Refiner's Reporting Form (Form NN-REF- ) for each quarter, as prescribed by regulation. Forms are due on the twentieth day of each month immediately following the end of each quarter.

2. Filing of returns and payment of tax.  
All refiners, whether authorized or unauthorized, who own fuel immediately after its transfer as described in §906(B)(1)-(2) of this Chapter shall timely remit to the Office of the Navajo Tax Commission fuel excise tax returns accompanied by payment in full of all fuel excise tax or taxes due, as required of distributors by all provisions of §915(A) of this Chapter and corresponding regulations.

3. Discount for timely remittance.  
Any Authorized Refiner who is in compliance, both at the time the fuel excise tax arises and at the time the return and payment are due, with all applicable provisions of this Chapter and corresponding regulations, and who timely files a Fuel Excise Tax Return and timely remits all fuel excise tax due with respect to such return may claim a discount on the payment of such fuel excise tax in an amount specified by regulations. Until another amount is set by regulations, the discount shall be one-half of one-percent (1/2%) of the number of gallons reported on the return (.005 x number of gallons or fraction thereof).

D. Retailers.

1. Quarterly reports.  
All retailers, whether authorized or unauthorized, and whether or not obtaining fuel as described in §906(C) of this Chapter, shall prepare and submit, on a quarterly basis, to the Office of the Navajo Tax Commission a Retailer's Reporting Form (Form NN-RET- ), for each quarter, as prescribed by regulation. Forms are due on the twenty-fifth day of each month immediately following the end of each quarter.
2. Filing of returns and payment of tax.  
All retailers, whether authorized or unauthorized, who have controlled or obtained by any method any amount of fuel on which the fuel excise tax has not been timely paid in full shall immediately remit to the Office of the Navajo Tax Commission fuel excise tax returns accompanied by payment in full of all fuel excise tax or taxes due, as required of distributors by all provisions of §915(A) of this Chapter and corresponding regulations.
3. No discount for fuel on which the fuel excise tax has not been timely paid.  
No discount shall be available to retailers for the payment of fuel excise tax as required by §915(D)(2) of this Chapter, for fuel on which the fuel excise tax has not been timely paid in full which fuel has been controlled or obtained by a retailer.

E. Regulations administering discount.

The procedure for claiming a discount under any applicable provision of this §915 shall be prescribed and governed by regulations.

916. **RECORDKEEPING**

Where appropriate, any and all distributors, common carriers, refiners, and retailers required by this Chapter to file any application, report, return, and/or form shall maintain full, true, legible, and accessible records, for four years beyond the period to which the records relate, pertaining in any manner to the following:

- A. all incidents of receipt, acquisition, delivery, or distribution of fuel by any method;
- B. all incidents, with dates and volumes, of fuel transfers and/or sales;
- C. all suppliers, distributors, common carriers, refiners, retailers, sellers, and/or buyers of fuel;
- D. all person(s) and location(s) within the Navajo Nation to which fuel was delivered by any method; and,
- E. any other information required by regulations.

917. **VIOLATIONS**

In addition to violations described in the Uniform Tax Administration Statute, the following violations of this Chapter shall apply:

A. Presentation of documents.

Each single act of refusal or failure by any person(s) to present, upon request by a representative or designee of the Office of the Navajo Tax Commission or an on-duty officer of the Navajo Nation Division of Public Safety, any license, bill of lading, manifest, application, report, return, form, inventory record, or any other document required to be secured and maintained, filed, and/or carried under any applicable provision(s) of this Chapter shall constitute a separate violation.

B. Permission to inspect.

Each single act of refusal or failure by any person(s) to permit, upon request by a representative or designee of the Office of the Navajo Tax Commission or an on-duty officer of the Navajo Nation Division of Public Safety, the inspection of any and all fuel inventory, transportation vehicles, cargo tanks, storage tanks, pipelines, equipment, paraphernalia, measuring or other devices, or any other tangible personal property used for or incident to the handling, carrying, storage, possession, dispensing, delivery, distribution, transportation, refining, or retailing of fuel shall constitute a separate violation.

C. Unlawful distribution of fuel.

Each single act by any person(s) of importation into, or transportation, delivery, or distribution within, the Navajo Nation of any amount of fuel shall constitute a separate violation by such person(s) who, at the time of importation, transportation, delivery, or distribution of such fuel, owns the fuel and:

1. fails to secure, maintain, carry, or deliver up a valid authorized distributor's license as required under §911 and §914 of this Chapter and corresponding regulations;
2. fails to secure, maintain, carry, or deliver up any manifest(s) and/or bill(s) of lading with all appropriate information thereon, as required by §914 of this Chapter and corresponding regulations;
3. in such case where any common carrier is employed by any distributor to transport fuel, such distributor shall be deemed vicariously liable for the failure of such common carrier thereof to secure, maintain, carry, or deliver up a valid authorized carrier's license or any manifest(s) and/or bill(s) of lading with all appropriate information thereon, as required by §911 and §914 of this Chapter and corresponding regulations;
4. has failed to prepare and timely submit a report of any fuel inventory, and timely submit a Fuel Excise Tax Return accompanied by payment in full of any fuel excise tax or taxes due on such inventory, as required by §908 of this Chapter and corresponding regulations.

D. Unlawful transportation of fuel.

Each single act by any person(s) of importation into, or transportation or delivery within, the Navajo Nation of any amount of fuel shall constitute a separate violation by such person(s) who, at the time of importation, transportation, or delivery of fuel:

1. fails to secure, maintain, carry, or deliver up a valid authorized carrier's license, as required under §911 and §914 of this Chapter and corresponding regulations;
2. fails to secure, maintain, carry, or deliver up a valid manifest(s) and/or bill(s) of lading with all appropriate information thereon, as required by §914 of this Chapter and corresponding regulations, which violation applies in addition to the vicarious liability of any distributor under §917(C)(3) of this Chapter, if any;
3. has failed to prepare and timely submit a Carrier's Reporting Form (Form NN-CAR- ), as required by §915(B) of this Chapter and corresponding regulations.

4. in such case where any common carrier transports fuel on behalf of any distributor, such common carrier shall be deemed vicariously liable for the failure of such distributor to secure and maintain a valid authorized distributor's license, as required by §911 of this Chapter and corresponding regulations.

E. Unlawful refining of fuel.

Each single act by any person(s) of refining of any amount of fuel at any refinery located within the Navajo Nation shall be considered a separate violation if such person(s) at the time of refining:

1. fails to secure, maintain, carry, or deliver up a valid authorized refiner's license, as required under §911 and §914 of this Chapter and corresponding regulations;
2. has failed to prepare and timely submit a Refiner's Reporting Form (Form NN-REF- ), as required by this Chapter and corresponding regulations;
3. has failed to prepare and timely submit a report of any fuel inventory, and timely submit a Fuel Excise Tax Return accompanied by payment in full of any fuel excise tax or taxes due on such inventory, as required by §908 of this Chapter and corresponding regulations.

F. Unlawful retailing of fuel.

Each single act by any person(s) of retailing of any amount of fuel shall be considered a separate violation if such person(s) at the time of retailing:

1. fails to secure, maintain, carry, or deliver up a valid authorized retailer's license, as required under §911 and §914 of this Chapter and corresponding regulations;
2. in the case of fuel delivery by cargo tank, has acquired such fuel from any person(s) who was not an Authorized Distributor duly licensed at the time of such fuel acquisition, or who was not an Authorized Carrier thereof duly licensed at the time of such fuel acquisition;
3. fails to post a notice as required by §907 of this Chapter and corresponding regulations;
4. has failed to prepare and timely submit a Retailer's Reporting Form (Form NN-RET- ) as required by this Chapter and corresponding regulations;
5. has failed to prepare and timely submit a report of any fuel inventory, and timely submit a Fuel Excise Tax Return accompanied by payment in full of any fuel excise tax or taxes due on such inventory, as required by §908 of this Chapter and corresponding regulations.

G. Other violations.

Each act or omission, or any document filed or submitted, shall be considered a separate violation by any person(s) who knowingly:

1. has failed to prepare and timely submit a completed Fuel Excise Tax Return for any tax or taxes due, as required by this Chapter and corresponding regulations;
2. has failed to timely remit payment in full of any fuel excise tax or taxes due, as required by this Chapter and corresponding regulations;
3. refuses or fails to file a report or return as required by any applicable provision(s) of this Chapter and/or corresponding regulations;
4. makes a false statement in connection with the administration of any provision(s) of this Chapter and/or corresponding regulations;
5. fails to keep any and all records as required by §916 of this Chapter and/or corresponding regulations;
6. collects a refund or discount of fuel excise tax or taxes without being lawfully entitled under this Chapter and/or corresponding regulations to receive such refund or discount;
7. causes to be paid to any other person(s) a refund or discount of the fuel excise tax or taxes which refund or discount such person(s) is not lawfully entitled under this Chapter and/or corresponding regulations to receive;

8. violates any applicable Navajo Nation law or any applicable federal law, with a fine or any other punishment constituting a violation, at any time during which the violator ostensibly possesses a license issued by the Office of the Navajo Tax Commission pursuant to §911 of this Chapter;
9. violates any other applicable provision(s) of this Chapter and/or corresponding regulations.

H. Regulations.

The procedure for administration of this §917 shall be prescribed and governed by regulations.

918. **PENALTIES**

In addition to the penalties provided for in the Uniform Tax Administration Statute, the following penalties shall apply whenever any activity by any person(s) constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and is attributable to the activity:

A. Suspension and revocation of license.

Regardless of the date of discovery of any violation(s), the license(s) (if any) of the violator(s) shall be deemed automatically suspended pending a preliminary review by the Office of the Navajo Tax Commission. The suspension shall be deemed effective as of the date of the first act, omission, or date of any document filed or submitted, in violation of this Chapter and corresponding regulations.

B. Closure of refinery.

The Office of the Navajo Tax Commission is hereby authorized to immediately close any refinery that is in violation of any applicable provision(s) of this Chapter and corresponding regulations, by issuing a Notice of Closure to the alleged violator(s). Thereafter, the privilege of any violator(s) to engage in productive activity within the Navajo Nation may be immediately suspended according to procedures found in the Uniform Tax Administration Statute.

C. Closure of retail facility.

The Office of the Navajo Tax Commission is hereby authorized to immediately close any retail facility that is in violation of any applicable provision(s) of this Chapter and corresponding regulations, by issuing a Notice of Closure to the alleged violator(s). Thereafter, the privilege of any violator(s) to engage in productive activity within the Navajo Nation may be immediately suspended according to procedures found in the Uniform Tax Administration Statute.

D. Impoundment of fuel, vehicles, or other property.

The Office of the Navajo Tax Commission, or any on-duty officer of the Navajo Nation Division of Public Safety, is hereby authorized to immediately detain and/or impound any fuel load, fuel inventory on hand, transportation vehicles, cargo tanks, storage tanks, equipment, paraphernalia, measuring or other devices, or any other tangible personal property used for or incident to the distribution, transportation, delivery, refining, storage, possession, or retailing of fuel, which fuel or property is owned or possessed by any person(s) discovered violating or having violated any applicable provision(s) of this Chapter and corresponding regulations.

E. Preliminary review.

1. Request for preliminary review.

Within ten calendar days from receipt by the alleged violator(s) of a Notice of License Suspension or a Notice of Closure, the alleged violator(s) may request a preliminary review of the action taken by the Office of the Navajo Tax Commission. Upon receipt by the Office of the Navajo Tax Commission of a written request for review by the alleged violator(s), a preliminary review shall be held within thirty calendar days after receipt by the Office of the Navajo Tax

Commission of the request for review.

2. Purpose of preliminary review.

The preliminary review shall be held for the purpose of determining the following:

- a. a license suspension occurring pursuant to §918(A) is to be lifted or continued for any amount of time specified in regulations, or the suspended license is to be revoked permanently, or for any amount of time specified in regulations; or,
- b. a closure of a refinery or retail facility is to be rescinded or continued for any amount of time specified in regulations, or the refinery or retail facility is to be permanently closed.

3. Burden of proof at preliminary review.

At the preliminary review, the alleged violator(s) shall bear the burden of demonstrating, by a preponderance of the evidence, good cause why the action taken by the Office of the Navajo Tax Commission under §918(A)-(D) of this Chapter should not be continued.

F. Action after preliminary review.

Notwithstanding the filing of an appeal by an alleged violator(s) under Section 918(G) of this Chapter, upon determination by the Office of the Navajo Tax Commission after the preliminary review conducted pursuant to §918(E) of this Chapter that any adverse action taken by the Office of the Navajo Tax Commission under §918(A-D) of this Chapter is not to be lifted or rescinded, the Office of the Navajo Tax Commission is hereby authorized to take the following action(s):

1. Sale to satisfy tax liability.

- a. Sale of fuel or property after fifteen days.

Unless proof is presented to the Office of the Navajo Tax Commission within 15 calendar days of impoundment under §918(D) of this Chapter that all fuel excise tax or taxes due on the impounded fuel, or due on any fuel to which the impounded personal property relates, have been paid in full, the impounded fuel and/or property may be sold by the Office of the Navajo Tax Commission to satisfy any unpaid and outstanding fuel excise tax or taxes owed.

- b. Return of excess revenue from sale.

Any amount of fuel and/or property remaining after such sale shall be returned to the person(s) from whom it was impounded within 10 working days of the final date of such sale. In lieu thereof, the Office of the Navajo Tax Commission may, in its discretion, determine the fair market value of such fuel and/or property and apply this amount as a credit against any subsequent fuel excise tax or taxes owing, provided that the person(s) to receive such credit has, within 60 days after impoundment, demonstrated full compliance with all applicable provision(s) of this Chapter and corresponding regulations.

2. Civil penalties.

In addition to any other applicable penalties provided for in this Chapter, the following penalties shall apply:

- a. Standard penalty.

A civil penalty of no less than five hundred dollars (\$500.00) and no more than one thousand five hundred dollars (\$1500.00) for each single and separate violation shall be assessed against any violator(s) for each month, or fraction thereof, in which the violation has occurred. The standard penalty amount shall be specified in regulations.

- b. Penalty on each gallon.

In addition to any other applicable penalties provided for in this Chapter, a civil penalty of five dollars (\$5.00) per gallon of fuel, or fraction thereof, shall be assessed against any violator(s) for each single and separate violation involving any amount of fuel owned or possessed by, or under the control of,

the violator(s) at the time of such violation(s).

G. Appeal.

Failure to lift a license suspension, failure to rescind the closure of a refinery or retail facility, or the imposition of a standard or per-gallon penalty by the Office of the Navajo Tax Commission, after conclusion of the preliminary hearing conducted pursuant to §918(E) of this Chapter, shall be considered an adverse action which may be appealed pursuant to §131 of the Uniform Tax Administration Statute.

H. Relief of penalties.

Upon receipt of an appeal and upon written recommendation of the Director of the Compliance Department of the Office of the Navajo Tax Commission, the Office of the Navajo Tax Commission may in its discretion relieve the appealing person(s) of all or part of the penalties assessed under this Chapter.

I. Regulations.

The procedure for the determination, assessment, and/or relief of penalties under this §918 shall be prescribed and governed by regulations.

#### **PART IV. MISCELLANEOUS**

919. **EFFECTIVE DATE**

This Chapter shall take effect October 1, 1999.

920. **SEVERABILITY**

If any provision of this Chapter, as amended, or its application to any person or factual circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

921. **REPEALS**

All laws or parts of laws (or amendments and attachments thereto), which are inconsistent with the provisions of this Chapter, are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.

922. **NO CONFLICT WITH LOCAL GOVERNANCE ACT**

The provisions of this Chapter and corresponding regulations shall not be construed inconsistent with the Local Governance Act, adopted April 20, 1998 by Navajo Nation Council Resolution No. CAP-34-98.

923. **DISBURSEMENTS**

The net revenue generated from this Chapter, after 1) payment to any state pursuant to a fully executed and valid intergovernmental agreement between the Navajo Nation and such state; 2) allocation to permanent or special revenue funds as required by Navajo Nation law; and 3) allocation to the Tax Administration Suspense Fund, as required by the fiscal policy adopted by the Navajo Tax Commission in accordance with the Uniform Tax Administration Statute, shall be deposited into the Navajo Nation Road Fund.