Article 36C.

Gasoline, Diesel, and Blends.

Part 1. General Provisions.

§ 105-449.60. Definitions.

The following definitions apply in this Article:

(1) Additive. – A de minimus amount of product that is added or mixed with motor fuel. Examples of an additive include fuel system detergent, an oxidation inhibitor, gasoline antifreeze, or an octane enhancer.

(2) Aviation gasoline. – Fuel blended or produced specifically for use in an aircraft motor.

(3) Biodiesel. – Any fuel or mixture of fuels derived in whole or in part from agricultural products or animal fats or wastes from these products or fats.

(4) Biodiesel provider. – A person who does any of the following:

a. Produces an average of no more than 500,000 gallons of biodiesel per month during a calendar year. A person who produces more than this amount is a refiner.

b. Imports biodiesel by means of a transport truck, a railroad tank car, a tank wagon, or a marine vessel.

(5) Blended fuel. – A mixture composed of gasoline or diesel fuel and another liquid, other than an additive, that can be used as a fuel in a highway vehicle.

(6) Blender. – A person who produces blended fuel outside the terminal transfer system.

(7) Bonded importer. – A person, other than a supplier, who imports by transport truck or another means of transfer outside the terminal transfer system motor fuel removed from a terminal located in another state in one or more of the following circumstances:

a. The state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal of the fuel at that state's rate or the rate of the destination state.

b. The supplier of the fuel is not an elective supplier.

c. The supplier of the fuel is not a permissive supplier.

(8) Bulk end-user. – A person who maintains bulk storage for motor fuel and uses part or all of the stored fuel to operate a highway vehicle.

(9) Bulk plant. – A motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

(9a) Bulk storage. – A container or tank used to store bulk purchase of motor fuel or alternative fuel of 42 gallons or more.

(10) Code. – Defined in G.S. 105-228.90.

(11) Destination state. – The state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use.

(12) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, kerosene, and renewable diesel. The term does not include jet fuel.

(13) Distributor. – A person who does one or more of the activities listed in this subdivision. The term does not include a person who sells motor fuel only at retail.
   a. Produces, refines, blends, compounds, or manufactures motor fuel.
   b. Transports motor fuel into a state or exports motor fuel out of a state.
   c. Engages in the distribution of motor fuel primarily by tank car or tank truck or both.
   d. Operates a bulk plant where the person has active motor fuel bulk storage.

(14) Diversion. – The movement of motor fuel to a state other than the destination state indicated on the original bill of lading.

(15) Dyed diesel fuel. – Diesel fuel that meets the dyeing and marking requirements as set out in 26 C.F.R. § 48.4082.1.

(16) Elective supplier. – A supplier that is required to be licensed in this State and that elects to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state.

(17) Exempt card or code. – A credit card or an access code that enables the person to whom the card or code is issued to buy motor fuel at retail without paying the motor fuel excise tax on the fuel.

(18) Export. – To obtain motor fuel in this State for sale or other distribution in another state. In applying this definition, motor fuel delivered out-of-state by or for the seller constitutes an export by the seller and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.

(19) Fuel alcohol. – Alcohol, methanol, or fuel grade ethanol.

(20) Fuel alcohol provider. – A person who does any of the following:
   a. Produces an average of no more than 500,000 gallons of fuel alcohol per month during a calendar year. A person who produces more than this amount is a refiner.
   b. Imports fuel alcohol by means of a transport truck, a railroad tank car, a tank wagon, or a marine vessel.

(20a) Fuel grade ethanol. – Ethanol meeting the standard for the American Society Testing Materials Specification D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," or ethanol, regardless of how it was produced, denatured in accordance with 27 C.F.R. § 19.746 as of January 1, 2021.

(21) Gasohol. – A blended fuel composed of gasoline and fuel alcohol or gasoline and ethanol.

(22) Gasoline. – Any of the following:
   a. All products that are commonly or commercially known or sold as gasoline and are suitable for use as a fuel in a highway vehicle, other than products that have an American Society for Testing Materials octane number of less than 75 as determined by the motor method. The term does not include aviation gasoline.

b. A petroleum product component of gasoline, such as naptha, reformate, or toluene, listed in Treasury Regulation Section 48-4081-1(c)(3) as of January 1, 2017, that can be blended for use in a motor fuel.
c. Gasohol.
d. Fuel alcohol.

(23) Gross gallons. – The total amount of motor fuel measured in gallons, exclusive of any temperature, pressure, or other adjustments.

(24) Highway. – Defined in G.S. 20-4.01(13).

(25) Highway vehicle. – A self-propelled vehicle that is designed for use on a highway.

(26) Import. – To bring motor fuel into this State by any means of conveyance other than in the fuel supply tank of a highway vehicle. In applying this definition, motor fuel delivered into this State from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into this State from out-of-state by or for the purchaser constitutes an import by the purchaser.

(27) In-State supplier. – Either of the following:
a. A supplier that is required to have a license and elects not to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state.
b. A supplier that does business only in this State.

(28) Jet fuel. – Kerosene that meets all of the following requirements:
a. Has a maximum distillation temperature of 400 degrees Fahrenheit at the ten percent (10%) recovery point and a final maximum boiling point of 572 degrees Fahrenheit.
b. Meets American Society Testing Materials Specification D 1655 and Military Specifications MIL-T-5624P and MIL-T-83133D, Grades JP-5 and JP-8.

(29) Kerosene. – Petroleum oil that is free from water, glue, and suspended matter and that meets the specifications and standards adopted under G.S. 119-26 by the Gasoline and Oil Inspection Board.

(30) Marine vessel. – A ship, boat, or other watercraft used or capable of being used to move in or through a waterway.

(31) Motor fuel. – Gasoline, diesel fuel, and blended fuel.

(32) Motor fuel rate. – The rate of tax set in G.S. 105-449.80.

(33) Motor fuel transporter. – A person who transports motor fuel by pipeline, transport truck, tank wagon for hire, railroad tank car, or marine vessel.

(34) Net gallons. – The amount of motor fuel measured in gallons when corrected to a temperature of 60 degrees Fahrenheit and a pressure of 14 7/10 pounds per square inch.

(35) Occasional importer. – One or more of the following that imports motor fuel by any means outside the terminal transfer system:
a. A distributor that imports motor fuel on an average basis of no more than once a month during a calendar year.
b. A bulk end-user that acquires motor fuel for import from a bulk plant and is not required to be licensed as a bonded importer.

c. A distributor that imports motor fuel for use in a race car.

(36) Permissive supplier. – An out-of-state supplier that elects, but is not required, to have a supplier's license under this Article.

(37) Person. – Defined in G.S. 105-228.90.

(38) Pipeline. – A fuel distribution system that moves motor fuel, in bulk, through a pipe either from a refinery to a terminal or from a terminal to another terminal.

(39) Position holder. – The person who holds the inventory position on the motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position on the motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.

(40) Rack. – A mechanism for delivering motor fuel from a refinery, a terminal, or a bulk plant into a transport truck, a railroad tank car, or another means of transfer that is outside the terminal transfer system.

(41) Refiner. – A person who owns, operates, or controls a refinery. The term includes a person who produces an average of more than 500,000 gallons of fuel alcohol or biodiesel a month during a calendar year.

(42) Refinery. – A facility used to process crude oil, unfinished oils, natural gas liquids, or other hydrocarbons into motor fuel and from which fuel may be removed by pipeline or vessel or at a rack. The term does not include a facility that produces only blended fuel or gasohol.

(43) Removal. – A physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or another means of conveyance outside the terminal transfer system is complete upon delivery into the means of conveyance.

(43a) Renewable diesel. – A motor fuel chemically equivalent to diesel fuel that is manufactured from organic feedstocks and meets American Society for Testing and Materials Specification D975, "Standard Specification for Diesel Fuel."

(44) Retailer. – A person who maintains storage facilities for motor fuel and who sells the fuel at retail or dispenses the fuel at a retail location.

(45) Secretary. – Defined in G.S. 105-228.90.

(46) Supplier. – Any of the following:

a. A position holder or a person who receives motor fuel pursuant to a two-party exchange.

b. A fuel alcohol provider.

c. A biodiesel provider.

d. Repealed by Session Laws 2017-39, s. 12, effective June 21, 2017.

e. A person who owns tax-paid motor fuel as it enters the terminal transfer system at a location other than an approved terminal as defined by 26 C.F.R. § 48.4081-1(b).

(47) System transfer. – A transfer of motor fuel within the terminal transfer system.

(48) Tank wagon. – A truck that is not a transport truck and is designed or used to carry at least 1,000 gallons of motor fuel and the motor fuel is owned by the transporter.

(48a) Tank wagon for hire. – A truck designed or used to carry at least 1,000 gallons of motor fuel and the transporter is compensated for transporting motor fuel owned by another person.

(49) Tank wagon importer. – A person who imports only by means of a tank wagon motor fuel that is removed from a terminal or a bulk plant located in another state.

(50) Tax. – An inspection or other excise tax on motor fuel and any other fee or charge imposed on motor fuel on a per-gallon basis.

(51) Terminal. – A motor fuel storage and distribution facility that is supplied by pipeline or marine vessel, and from which motor fuel, jet fuel, or aviation gasoline may be removed at a rack.

(52) Terminal operator. – A person who owns, operates, or otherwise controls a terminal.

(53) Terminal transfer system. – The motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. The term has the same meaning as "bulk transfer/terminal system" under 26 C.F.R. § 48.4081-1.

(54) Transmix. – Either of the following:

a. The buffer or interface between two different products in a pipeline shipment.

b. A mix of two different products within a refinery or terminal that results in an off-grade mixture.

(55) Transport truck. – A tractor trailer designed or used to transport loads of motor fuel over a highway. For the purposes of this definition, a tank wagon for hire is considered a transport truck.

(56) Trustee. – A person who is licensed as a supplier and who receives tax payments from and on behalf of a licensed distributor or licensed importer for remittance to the Secretary.

(57) Two-party exchange. – A transaction in which motor fuel is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver motor fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

(58) User. – A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at least 10,001 pounds and who does not maintain storage facilities for motor fuel. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, ss. 1, 2; 1998-146, s. 3; 2000-173, ss. 13(a), 14(a); 2001-414, s. 27; 2002-108, ss. 5, 6; 2003-349, s. 10.2; 2004-170, s. 27; 2006-162, s. 14(a); 2008-134, s. 24; 2017-39, s. 12; 2019-169, s. 4.11; 2021-180, s. 42.13E(k); 2026-31, ss. 4.4(a), (b), 4.5(a).)

§ 105-449.61. Tax restrictions; administration.

(a) No Local Tax. – A county or city may not impose a tax on the sale, distribution, or use of motor fuel, except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A, 105-449.106(d), or 105-449.107.

(b) No Double Tax. – The tax imposed by this Chapter applies only once on the same motor fuel.

(c) Administration. – Article 9 of this Chapter applies to this Article. (1995, c. 390, s. 3; 2014-3, s. 9.6; 2023-12, s. 3.15.)

§ 105-449.62. Nature of tax.

This Article imposes a tax on motor fuel to provide revenue for the State's transportation needs and for the other purposes listed in Part 7 of this Article. The tax is collected from the supplier or importer of the fuel because this method is the most efficient way to collect the tax. The tax is designed, however, to be paid ultimately by the person who consumes the fuel. The tax becomes a part of the cost of the fuel and is consequently paid by those who subsequently purchase and consume the fuel. (1997-60, s. 1.)

§ 105-449.63. Reserved for future codification purposes.

§ 105-449.64. Reserved for future codification purposes.

Part 2. Licensing.

§ 105-449.65. List of persons who must have a license.

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in that business:

(1) A refiner.
(2) A supplier.
(3) A terminal operator.
(4) An importer.
(5) An exporter.
(6) A blender.
(7) A motor fuel transporter who transports motor fuel for hire.
(8) Repealed by Session Laws 1999-438, s. 20, effective August 10, 1999.
(9) Repealed by Session Laws 1999-438, s. 21, effective August 10, 1999.
(10) A distributor who purchases motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State.

(b) Multiple Activity. – A person who is engaged in more than one activity for which a license is required must have a separate license for each activity, unless one of the following subdivisions provides otherwise.

(1) Supplier. – A person who is licensed as a supplier is considered to have a license as a distributor. A person who is licensed as a supplier is considered to have a license as a blender.
(2) Importer. – A person who is licensed as an occasional importer or a tank wagon importer is not required to obtain a separate license as a distributor unless the importer is also purchasing motor fuel, at the terminal rack, from an elective or permissive supplier who is authorized to collect and remit the tax to the State.
(3) Distributor. – A person who is licensed as a distributor is not required to obtain a separate license as an importer if the distributor acquires fuel for import only from an elective supplier or a permissive supplier and is not required to obtain a separate license as an exporter. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c.

647, s. 3; 1997-60, s. 2; 1999-438, ss. 20, 21; 2003-349, s. 10.3; 2005-435, s. 9; 2006-162, s. 13(a); 2008-134, s. 25; 2017-39, s. 13.)

§ 105-449.66. Importer licensing.

An applicant for a license as an importer must indicate on the application the type of importer license sought. The types of importers are bonded importer, occasional importer, and tank wagon importer.

A person may not be licensed as more than one type of importer. A bulk end-user that imports motor fuel from a terminal of a supplier that is not an elective or a permissive supplier must be licensed as a bonded importer. A bulk end-user that imports motor fuel from a bulk plant and is not required to be licensed as a bonded importer must be licensed as an occasional importer. A bulk end-user that imports motor fuel only from a terminal of an elective or a permissive supplier is not required to be licensed as an importer. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 4; 1997-60, s. 3; 2008-134, s. 26.)

§ 105-449.67. List of persons who may obtain a license.

A person who is engaged in business as any of the following may obtain a license issued by the Secretary for that business:

(1) A distributor who is not required to be licensed under G.S. 105-449.65.

(2) A permissive supplier. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 5; 1997-60, s. 4; 2003-349, s. 10.4.)

§ 105-449.68. Restrictions on who can get a license as a distributor.

A bulk end-user of motor fuel may not be licensed as a distributor unless the bulk end-user also acquires motor fuel from a supplier or from another distributor for subsequent sale. This restriction does not apply to a bulk end-user that was licensed as a distributor on January 1, 1996. If a distributor license held by a bulk end-user on January 1, 1996, is subsequently revoked or cancelled, the bulk end-user is subject to the restriction set in this section. (1995, c. 390, s. 3; 2000-173, s. 14(b); 2008-134, s. 27; 2017-204, s. 4.5(a).)

§ 105-449.69. How to apply for a license.

(a) General. – To obtain a license, an applicant must file an application with the Secretary on a form provided by the Secretary. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary.

(b) Most Licenses. – An applicant for a license as a refiner, a supplier, a terminal operator, an importer, a blender, or a distributor must meet the following requirements:

(1) If the applicant is a corporation, the applicant must either be incorporated in this State or be authorized to transact business in this State.

(2) If the applicant is a limited liability company, the applicant must either be organized in this State or be authorized to transact business in this State.

(3) If the applicant is a limited partnership, the applicant must either be formed in this State or be authorized to transact business in this State.

(4) If the applicant is an individual or a general partnership, the applicant must designate an agent for service of process and give the agent's name and address.

(c) Federal Certificate. – An applicant for a license as a refiner, a supplier, a terminal operator, or a blender must have a federal Certificate of Registry that is issued under § 4101 of the

Code and authorizes the applicant to enter into federal tax-free transactions in taxable motor fuel in the terminal transfer system. An applicant that is required to have a federal Certificate of Registry must include the registration number of the certificate on the application for a license under this section.

An applicant for a license as an importer, an exporter, or a distributor that has a federal Certificate of Registry issued under § 4101 of the Code must include the registration number of the certificate on the application for a license under this section.

(d) Import Activity. – An applicant for a license as an importer or as a distributor must list on the application each state from which the applicant intends to import motor fuel and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state.

(e) Export Activity. – An applicant for a license as an exporter or as a distributor must list on the application each state to which the applicant intends to export motor fuel received in this State by means of a transfer that is outside the terminal transfer system and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state. If the Secretary determines that an exporter has ceased operations as an exporter in this State for one year, the Secretary may cancel the exporter's license by sending a notice of cancellation in accordance with G.S. 105-449.76(b1). (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 6; 2003-349, s. 10.5; 2005-435, s. 10; 2008-134, s. 28; 2017-39, s. 14; 2026-31, s. 4.6(a).)

§ 105-449.69A. Temporary license during disaster response period.

(a) Temporary License. – The Secretary may grant a temporary license to an applicant to import, export, distribute, or transport motor fuel in this State in response to a state of emergency or a disaster declaration. The terms "state of emergency" and "disaster declaration" have the same meaning as defined in G.S. 166A-19.3. A temporary license is effective on the date the applicant engages in business in this State and expires 30 days after that date. Prior to the expiration of the temporary license, the licensee may request, on a form prescribed by the Secretary, that the license be extended for an additional 30 days, if the state of emergency or disaster declaration remains in effect. A temporary license issued under this section may not be renewed or a new temporary license granted if the licensee failed to comply with this Article.

(b) Requirements. – To obtain a temporary license, a person must file an application with the Secretary on a form prescribed by the Secretary within seven calendar days of engaging in business in this State. The application must be filed prior to the termination of the state of emergency or disaster declaration and must include all of the following information:

(1) The legal name of the business and the trade name, if applicable, under which the person will transact business within the State.
(2) The federal identification number of the business or, if such number is unavailable, the Social Security number of the owner.
(3) The location, with a street number address, of the principal office or place of business and the location where records will be made available for inspection.
(4) Any other information required by the Secretary.

(c) The Secretary may issue a temporary license under this section as an importer, exporter, distributor, or transporter without requiring the applicant to file with the Secretary a bond or an

irrevocable letter of credit, as otherwise required by G.S. 105-449.72, and without requiring the applicant to be authorized to transact business in this State with the Secretary of State. (2019-187, s. 2; 2020-58, s. 2.11.)

§ 105-449.70. Supplier election to collect tax on out-of-state removals.

(a) Election. – An applicant for a license as a supplier may elect on the application to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state. The Secretary must provide for this election on the application form. A supplier that makes the election allowed by this section is an elective supplier. A supplier that does not make the election allowed by this section is an in-State supplier.

A supplier that does not make the election on the application for a supplier's license may make the election later by completing an election form provided by the Secretary. A supplier that does not make the election may not act as an elective supplier for motor fuel that is removed at a terminal in another state and has this State as its destination state.

(b) Effect. – A supplier that makes the election allowed by this section agrees to all of the following with respect to motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state:

(1) To collect the excise tax due this State on the fuel and to waive any defense that the State lacks jurisdiction to require the supplier to collect the excise tax due this State under this Article on the fuel.

(2) To report and pay the tax due on the fuel in the same manner as if the removal had occurred at a terminal located in this State.

(3) To keep records of the removal of the fuel and submit to audits concerning the fuel as if the removal had occurred at a terminal located in this State.

(4) To report removals of fuel received by a person who is not licensed in the state where the removal occurred.

(c) Limited Jurisdiction. – A supplier that makes the election allowed by this section acknowledges that the State imposes the requirements listed in subsection (b) of this section on the supplier under its general police power set out in Article 3 of Chapter 119 of the General Statutes to regulate the quality of motor fuel and thereby promote public health and safety. A supplier that makes the election allowed by this section submits to the jurisdiction of the State only for the administration of this Article. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, ss. 7, 8; 2008-134, s. 29.)

§ 105-449.71. Permissive supplier election to collect tax on out-of-state removals.

(a) Election. – An out-of-state supplier that is not required to have a license under this Part may elect to have a license and thereby become a permissive supplier. An out-of-state supplier that does not make this election may not act as a permissive supplier for motor fuel that is removed at a terminal in another state and has this State as its destination state.

(b) Effect. – By obtaining a license as a permissive supplier, the permissive supplier agrees to be subject to the same requirements as a supplier and to all of the following with respect to motor fuel that is removed by the permissive supplier at a terminal located in another state and has this State as its destination state:

(1) To collect the excise tax due this State on the fuel and to waive any defense that the State lacks jurisdiction to require the supplier to collect the excise tax due this State under this Article on the fuel.
(2) To report and pay the tax due on the fuel in the same manner as if the removal had occurred at a terminal located in this State.
(3) To keep records of the removal of the fuel and submit to audits concerning the fuel as if the removal had occurred at a terminal located in this State.
(4) To report removals of fuel received by a person who is not licensed in the state where the removal occurred.

(c) Limited Jurisdiction. – A supplier that makes the election allowed by this section acknowledges that the State imposes the requirements listed in subsection (b) of this section on the supplier under its general police power set out in Article 3 of Chapter 119 of the General Statutes to regulate the quality of motor fuel and thereby promote public health and safety. A supplier that makes the election allowed by this section submits to the jurisdiction of the State only for the administration of this Article. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 9.)

§ 105-449.72. Bond or letter of credit required as a condition of obtaining and keeping certain licenses or of applying for certain refunds.

(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

(1) For an applicant for a license as any of the following, the amount is two million dollars ($2,000,000):
  a. A refiner.
  b. A terminal operator.
  c. A supplier that is a position holder or a person that receives motor fuel pursuant to a two-party exchange.
  d. A bonded importer.
  e. A permissive supplier.
  f. A supplier who owns tax-paid motor fuel as it enters the terminal transfer system at a location other than an approved terminal as defined by 26 C.F.R. § 48.4081-1(b).
(2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars ($2,000) and may not be more than five hundred thousand dollars ($500,000):
  a. Repealed by Session Laws 2007-527, s. 17(a), effective October 1, 2007.
  b. An occasional importer.
  c. A tank wagon importer.
  d. A distributor.
  e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997.

(3) For an applicant for a license as any of the following, a bond is required only if the applicant's average expected annual tax liability under this Article, as determined by the Secretary, is at least two thousand dollars ($2,000). When a bond is required, the bond amount is the same as under subdivision (2) of this subsection.

a. A blender.

b. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.

(b) Multiple Activity. – An applicant for a license as a distributor and as a bonded importer must file only the bond required of a bonded importer. An applicant for two or more of the licenses listed in subdivision (a)(2) or (a)(3) of this section may file one bond that covers the combined liabilities of the applicant under all the activities. A bond for these combined activities may not exceed the maximum amount set in subdivision (a)(2) of this subsection.

(c) Adjustment to Bond. – When notified to do so by the Secretary, a person that has filed a bond or an irrevocable letter of credit and that holds a license listed in subdivision (a)(2) of this section must file an additional bond or irrevocable letter of credit in the amount requested by the Secretary. The person must file the additional bond or irrevocable letter of credit within 30 days after receiving the notice from the Secretary. The amount of the initial bond or irrevocable letter of credit and any additional bond or irrevocable letter of credit filed by the licensee, however, may not exceed the limits set in subdivision (a)(2) of this section.

(d) Replacements. – When a licensee files a bond or an irrevocable letter of credit as a replacement for a previously filed bond or letter of credit and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions:

(1) Return the previously filed bond or letter of credit.

(2) Notify the person liable on the previously filed bond that the person is released from liability on the bond.

(e) Credit Card Companies. – The Secretary may require a credit card company to file with the Secretary a bond if the company applies for a refund under G.S. 105-449.105(a) and the Secretary determines after an audit that a bond is needed to protect the State from loss in collecting any additional tax due pursuant to the audit. The bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of a bond required under this subsection is two times the average monthly refund due, subject to the minimum and maximum amounts provided in subdivision (a)(2) of this section.

(f) Exemption. – The requirement to obtain a bond or an irrevocable letter of credit does not apply to a distributor, an importer, or a motor fuel transporter who supplies motor fuel when the market for motor fuel is disrupted and emergency supplies are needed, as identified by an executive order of the Governor. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 10; 1997-60, s. 5; 1998-146, s. 4; 2001-205, s. 5; 2002-108, ss. 7, 8; 2003-349, s. 10.6; 2004-170, s. 28; 2007-527, s. 17(a); 2009-445, s. 33; 2017-204, s. 4.5(b); 2026-31, s. 4.5(c).)

§ 105-449.73. Denial of license application.

The Secretary may refuse to issue a license to an applicant that has done any of the following:

(1) Had a license or registration issued under this Article or former Article 36 or 36A of this Chapter revoked by the Secretary.

(1a) Had a motor fuel license or registration issued by another state revoked.
(2) Had a federal Certificate of Registry issued under § 4101 of the Code, or a similar federal authorization, revoked.
(3) Been convicted of fraud or misrepresentation.
(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if issued a license.
(5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.
(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 11; 2003-349, s. 10.7; 2005-435, s. 11; 2017-204, s. 4.5(c).)

§ 105-449.74. Issuance of license.

Upon approval of an application, the Secretary must issue a license to the applicant. A supplier's license must indicate the category of the supplier. An importer's license must indicate the category of the importer. A licensee must maintain and display a copy of the license issued under this Part in a conspicuous place at each place of business of the licensee. A license is not transferable and remains in effect until revoked or cancelled. (1995, c. 390, s. 3; 2004-170, s. 29; 2008-134, s. 30; 2017-204, s. 4.5(d).)

§ 105-449.75. Licensee must notify the Secretary of discontinuance of business.

A licensee that stops engaging in this State in the business for which the license was issued must give the Secretary written notice of the change and must surrender the license to the Secretary. The notice must give the date the change takes effect and, if the licensee has transferred the business to another by sale or otherwise, the date of the transfer and the name and address of the person to whom the business is transferred.

The licensee is responsible for all taxes for which the licensee is liable under this Article but are not yet due. If the licensee has transferred the business to another and does not give the notice required by this section, the person to whom the licensee has transferred the business is liable for the amount of any tax the licensee owed the State on the date the business was transferred. The liability of the person to whom the business is transferred is limited to the value of the property acquired from the licensee. (1995, c. 390, s. 3; 2008-134, s. 31; 2017-204, s. 4.5(e).)

§ 105-449.76. Cancellation or revocation of license.

(a) Cancellation. – The Secretary may cancel a license issued under this Article upon the written request of the licensee or as permitted under G.S. 105-449.69(e). The licensee's request must include a proposed effective date of cancellation and must return the license to the Secretary on or before the proposed effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned. The Secretary shall notify the licensee when the license is cancelled.

(a1) Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article when the Secretary determines that the licensee is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. The

Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

(a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee that commits one or more of the acts listed in G.S. 105-449.120 after affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

(a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

(1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.

(2) The effective date of the revocation, which must be one of the following:

a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.

b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.

c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.

(3) The circumstances, if any, under which the Secretary will not revoke the license.

(4) An explanation of how the licensee may contest the proposed revocation.

(a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation and the revocation is final and not subject to further administrative or judicial review.

(b) Hearing Procedure. – The Secretary must give a licensee who filed a timely hearing request in accordance with subsection (a4) of this section at least 20 days' written notice of the date, time, and place of the hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give

notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses and decals previously issued. If a license or decal is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

(1) Return an irrevocable letter of credit to the licensee.

(2) Return a bond to the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond. (1995, c. 390, s. 3; 2017-204, s. 4.5(f); 2019-6, s. 4.11; 2020-58, s. 2.3(b); 2021-180, s. 42.13D(c); 2026-31, s. 4.6(b).)

§ 105-449.77. Records and lists of license applicants and license holders.

(a) Records. – The Secretary must keep a record of the following:

(1) Applicants for a license under this Article.

(2) Persons to whom a license has been issued under this Article.

(3) Persons that hold a current license issued under this Article, by license category.

(b) Lists. – The Secretary must make available to each licensee a list of all the licensees under this Article. The list must state the name, account number, and business address of each licensee on the list. The Secretary must update the list monthly.

(c) Repealed by Session Laws 2002-108, s. 9, effective January 1, 2003. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 12; 1997-60, s. 6; 2002-108, s. 9; 2017-204, s. 4.5(g); 2020-58, s. 2.2(c).)

§ 105-449.78. Reserved for future codification purposes.

§ 105-449.79. Reserved for future codification purposes.

Part 3. Tax and Liability.

§ 105-449.80. Tax rate.

(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

(1) The percentage change in population for the prior calendar year, as estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).

(2) The annual percentage change in the Consumer Price Index for All Urban Consumers, multiplied by twenty-five percent (25%). For purposes of this subdivision, "Consumer Price Index for All Urban Consumers" means the

United States city average for energy index contained in the detailed report released in the November prior to the applicable calendar year by the Bureau of Labor Statistics of the United States Department of Labor, or data determined by the Secretary to be equivalent.

(b) Repealed by Session Laws 2015-2, s. 2.2(a), effective January 1, 2016.

(c) Notification. – The Secretary must notify affected taxpayers of the tax rate to be in effect for each calendar year beginning January 1. (1995, c. 390, s. 3; 2015-2, s. 2.2(a); 2018-5, s. 38.6(f); 2023-134, s. 42.22(a).)

§ 105-449.81. Excise tax on motor fuel.

An excise tax at the motor fuel rate is imposed on motor fuel that is:

(1) Removed from a refinery or a terminal and, upon removal, is subject to the federal excise tax imposed by § 4081 of the Code.

(2) Imported by a system transfer to a refinery or a terminal and, upon importation, is subject to the federal excise tax imposed by § 4081 of the Code.

(3) Imported by a means of transfer outside the terminal transfer system for sale, use, or storage in this State and would have been subject to the federal excise tax imposed by § 4081 of the Code if it had been removed at a terminal or bulk plant rack in this State instead of imported.

(3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1, 2008.

(3b) Fuel grade ethanol or biodiesel fuel if the fuel meets at least one of the following descriptions:

a. Is produced in this State and is removed from the storage facility at the production location.

b. Is imported to this State by means of a transport truck, a railroad tank car, a tank wagon, or a marine vessel where fuel grade ethanol or biodiesel from the vessel is not delivered to a terminal that has been assigned a terminal control number by the Internal Revenue Service.

c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1, 2010.

d. Is removed from the terminal transfer system and is not subject to the federal excise tax imposed by § 4081 of the Code.

(4) Blended fuel made in this State or imported to this State.

(5) Transferred within the terminal transfer system and is subject, upon transfer, to the federal excise tax imposed by § 4081 of the Code or is transferred to a person at a terminal who is not licensed under this Article as a supplier. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 13; 2004-170, s. 30; 2007-527, s. 38(a); 2008-134, s. 32; 2009-445, s. 34(a); 2014-3, s. 9.7(a); 2017-39, s. 15; 2017-204, s. 6.3(a); 2023-12, s. 3.21.)

§ 105-449.82. Liability for tax on removals from a refinery or terminal.

(a) Refinery Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor fuel removed from a refinery in this State is payable by the refiner.

(b) Terminal System Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor fuel removed by a system transfer from a terminal in this State is payable by the position holder for

the fuel. If the position holder is not the terminal operator, the terminal operator is jointly and severally liable for the tax.

(c) Terminal Rack Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor fuel removed at a terminal rack in this State is payable by the person that first receives the fuel upon its removal from the terminal. If the motor fuel is removed by an unlicensed distributor, the supplier of the fuel is jointly and severally liable for the tax due on the fuel. If the motor fuel is sold by a person who is not licensed as a supplier, as required by this Article, the terminal operator, the person selling the fuel, and the person removing the fuel are jointly and severally liable for the tax due on the fuel. If the motor fuel removed is not dyed diesel fuel but the shipping document issued for the fuel states that the fuel is dyed diesel fuel, the terminal operator, the supplier, and the person removing the fuel are jointly and severally liable for the tax due on the fuel.

If the motor fuel is removed for export by an unlicensed exporter, the exporter is liable for tax on the fuel at the motor fuel rate and at the rate of the destination state. A supplier who sells motor fuel to a unlicensed exporter is jointly and severally liable for the tax due on the fuel at the motor fuel rate. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 14; 1997-60, s. 7; 2008-134, s. 33.)

§ 105-449.83. Liability for tax on imports.

(a) By System Transfer. – The excise tax imposed by G.S. 105-449.81(2) on motor fuel imported by a system transfer to a refinery is payable by the refiner. The excise tax imposed by that subdivision on motor fuel imported by a system transfer to a terminal is payable by the person importing the fuel and by the terminal operator, both of which are jointly and severally liable for payment of the tax due on the fuel.

(b) From Out-of-State Terminal. – The excise tax imposed by G.S. 105-449.81(3) on motor fuel that is removed from a terminal rack located in another state and has this State as its destination state is payable by the importer of the fuel as follows:

(1) If the importer of the fuel is a licensed supplier in this State and the fuel is removed for the supplier's own account for use in this State, the tax is payable by the supplier.

(2) If the supplier of the fuel is licensed in this State as an elective supplier or a permissive supplier, the tax is payable to the supplier as trustee.

(3) If no other subdivision of this subsection applies, the tax is payable by the importer when filing a return with the Secretary.

(c) From Out-of-State Bulk Plant. – The excise tax imposed by G.S. 105-449.81(3) on motor fuel that is removed from a bulk plant located in another state is payable by the person that imports the fuel. (1995, c. 390, s. 3.)

§ 105-449.83A. Liability for tax on fuel grade ethanol and biodiesel.

The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the refiner or fuel alcohol provider. The excise tax imposed by G.S. 105-449.81(3b) on biodiesel is payable by the refiner or the biodiesel provider. (1995 (Reg. Sess., 1996), c. 647, s. 15; 2008-134, s. 34; 2009-445, s. 34(b); 2014-3, s. 9.7(b).)

§ 105-449.84. Liability for tax on blended fuel.

(a) On Blender. – The excise tax imposed by G.S. 105-449.81(4) on blended fuel made in this State is payable by the blender. The number of gallons of blended fuel on which the tax is

payable is the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed motor fuel used to make the blended fuel.

(b) On Importer. – The excise tax imposed by G.S. 105-449.81(4) on blended fuel imported to this State is payable by the importer.

(c) Blends Made at Terminal. – The following blended fuel is considered to have been made by the supplier of gasoline or undyed diesel fuel used in the blend:

(1) An in-line-blend made by combining a liquid with gasoline or undyed diesel fuel as the fuel is delivered at a terminal rack into the motor fuel storage compartment of a transport truck or a tank wagon.

(2) A kerosene splash-blend made when kerosene is delivered at a terminal into a motor fuel storage compartment of a transport truck or a tank wagon and undyed diesel fuel is also delivered at that terminal into the same storage compartment, if the buyer of the kerosene notified the supplier before or at the time of delivery that the kerosene would be used to make a splash-blend. (1995, c. 390, s. 3.)

§ 105-449.84A. Liability for tax on behind-the-rack transfers.

The excise tax imposed by G.S. 105-449.81(5) on motor fuel that is transferred within the terminal transfer system and is subject to the federal excise tax is payable by the supplier of the fuel, the person receiving the fuel, and the terminal operator of the terminal at which the fuel was transferred, all of whom are jointly and severally liable for the tax. The excise tax imposed by that subdivision on motor fuel that is transferred within the terminal transfer system by a person that is not licensed under this Article as a supplier is payable by the person transferring the motor fuel, the person receiving the motor fuel, and the terminal operation of the terminal at which the fuel was transferred, all of whom are jointly and severally liable for the tax. (1995 (Reg. Sess., 1996), c. 647, s. 17; 2008-134, s. 35.)

§ 105-449.85. Compensating tax on and liability for unaccounted for motor fuel losses at a terminal.

(a) Tax. – An excise tax at the motor fuel rate is imposed annually on unaccounted for motor fuel losses at a terminal that exceed one-half of one percent (0.5%) of the number of net gallons removed from the terminal during the year by a system transfer or at a terminal rack. To determine if this tax applies, the terminal operator of the terminal must determine the difference between the following:

(1) The amount of motor fuel in inventory at the terminal at the beginning of the year plus the amount of motor fuel received by the terminal during the year.

(2) The amount of motor fuel in inventory at the terminal at the end of the year plus the amount of motor fuel removed from the terminal during the year.

(b) Liability. – The terminal operator whose motor fuel is unaccounted for is liable for the tax imposed by this section and is liable for a penalty equal to the amount of tax payable. Motor fuel received by a terminal operator and not shown on an informational return filed by the terminal operator with the Secretary as having been removed from the terminal is presumed to be unaccounted for motor fuel. A terminal operator may establish that it can account for motor fuel received at a terminal but not shown on an informational return as having been removed from the terminal if the motor fuel was lost or part of a transmix. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 18; 2008-134, s. 36.)

§ 105-449.86. Tax on and liability for dyed diesel fuel used to operate certain highway vehicles.

(a) Tax. – An excise tax at the motor fuel rate is imposed on dyed diesel fuel acquired to operate any of the following:

(1) Repealed by Session Laws 2003-349, s. 10.8, effective January 1, 2004.

(2) A local bus that is allowed by § 4082(b)(3) of the Code to use dyed diesel fuel.

(3) A highway vehicle that is owned by or leased to an educational organization that is not a public school and is allowed by § 4082(b)(1) or (b)(3) of the Code to use dyed diesel fuel.

(4) Repealed by Session Laws 2005-435, s. 12, effective September 27, 2005.

(b) Liability. – If the distributor of dyed diesel fuel that is taxable under this section is not liable for the tax imposed by this section, the person that acquires the fuel is liable for the tax. The distributor of dyed diesel fuel that is taxable under this section is liable for the tax imposed by this section in the following circumstances:

(1) When the person acquiring the dyed diesel fuel has storage facilities for the fuel and is therefore a bulk end-user of the fuel.

(2) When the person acquired the dyed diesel fuel from a retail outlet of the distributor by using an access card or code indicating that the person's use of the fuel is taxable under this section. (1995, c. 390, s. 3; 2003-349, s. 10.8; 2005-435, s. 12; 2008-134, s. 37.)

§ 105-449.87. Backup tax and liability for the tax.

(a) Tax. – An excise tax at the motor fuel rate is imposed on the following:

(1) Dyed diesel fuel that is used to operate a highway vehicle for a use that is not a nontaxable use under § 4082(b) of the Code.

(2) Motor fuel that was allowed an exemption from the motor fuel tax and was then used for a taxable purpose.

(3) Motor fuel that is used to operate a highway vehicle after an application for a refund of tax paid on the motor fuel is made or allowed under G.S. 105-449.106(d) on the basis that the motor fuel was used for an off-highway purpose.

(4) Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 19.

(5) Motor fuel that, based on its shipping document, is destined for delivery to another state and is then diverted and delivered in this State.

(b) General Liability. – The operator of a highway vehicle that uses motor fuel that is taxable under subdivisions (a)(1) through (a)(3) of this section is liable for the tax. If the highway vehicle that uses the fuel is owned by or leased to a motor carrier, the motor carrier is jointly and severally liable for the tax. If the end-seller of motor fuel taxable under this section knew or had reason to know that the motor fuel would be used for a purpose that is taxable under this section, the end-seller is jointly and severally liable for the tax. If the Secretary determines that a bulk end-user or retailer used or sold untaxed dyed diesel fuel to operate a highway vehicle when the fuel is dispensed from a storage facility or through a meter marked for nonhighway use, all fuel delivered into that storage facility is presumed to have been used to operate a highway vehicle. An end-seller of dyed diesel fuel is considered to have known or had reason to know that the fuel

would be used for a purpose that is taxable under this section if the end-seller delivered the fuel into a storage facility that was not marked as required by G.S. 105-449.123.

(c) Diverted Fuel. – The person who authorizes a change in the destination state of motor fuel from the state given on the fuel's shipping document to North Carolina is liable for the tax due on the motor fuel. If motor fuel is diverted from North Carolina to another state, only the person who authorized the fuel to be diverted is eligible for a refund of the amount of tax paid on the fuel. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 19; 1997-60, s. 8; 1998-146, s. 5; 1999-438, s. 22; 2002-108, s. 10; 2008-134, s. 38; 2026-31, s. 4.7.)

§ 105-449.88. Exemptions from the excise tax.

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the motor fuel is removed by a licensed distributor or a licensed exporter and the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.

(1a) Motor fuel removed by transport truck from a terminal for export if the motor fuel is removed by a licensed distributor or licensed exporter, the supplier that is the position holder for the motor fuel sells the motor fuel to another supplier as the motor fuel crosses the terminal rack, the purchasing supplier or its customer receives the motor fuel at the terminal rack for export, and the supplier that is the position holder collects tax on the motor fuel at the rate of the motor fuel's destination state.

(2) Motor fuel sold to the federal government for its use.

(3) Motor fuel sold to the State for its use.

(4) Motor fuel sold to a local board of education for use in the public school system.

(5) Diesel that is kerosene and is sold to an airport.

(6) Motor fuel sold to a charter school for use for charter school purposes.

(7) Motor fuel sold to a community college for use for community college purposes.

(8) Motor fuel sold to a county or a municipal corporation for its use.

(9) Biodiesel that is produced by an individual for use in a private passenger vehicle registered in that individual's name pursuant to Chapter 20 of the General Statutes. For the purposes of this subdivision, the term "private passenger vehicle" has the same meaning as in G.S. 20-4.01.

(10) Motor fuel sold to a hospital authority created under G.S. 131E-17.

(11) Motor fuel sold to a joint agency created by interlocal agreement pursuant to G.S. 160A-462 to provide fire protection, emergency services, or police protection.

(12) Fuel grade ethanol or biodiesel transferred between terminals within North Carolina, if the fuel grade ethanol or biodiesel is owned by the same licensed supplier. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, ss. 20, 21; 1998-98, s. 28; 1998-146, s. 6; 2000-72, s. 2; 2000-173, ss. 13(b), 15; 2001-427, s. 9(a); 2002-108, s. 11; 2007-524, s. 1; 2016-5, s. 5.3(d); 2018-39, s. 1; 2023-12, s. 3.22(a).)

§ 105-449.88A. Liability for tax due on motor fuel designated as exempt by the use of cards or codes.

(a) Repealed by Session Laws 2006-162, s. 14(b), effective January 1, 2007, and applicable to motor fuel purchased on or after that date.

(b) Exempt Card or Code. – An entity that issues an exempt card or code has a duty to determine if the person to whom it is issued is exempt from the motor fuel excise tax. An entity that issues an exempt card or code to a person who is not exempt from tax is liable for tax due on motor fuel the person purchases at retail by use of the exempt card or code. If a supplier authorizes another entity to issue an exempt card or code to a person who is not exempt from tax, the supplier and the entity that issued the card are jointly and severally liable for tax due on motor fuel the person purchases at retail by use of the exempt card or code.

(c) Card Holder. – A person to whom an exempt card or code is issued is liable for any tax due on fuel purchased with the card or code for a purpose that is not exempt. A person who misuses an exempt card or code by purchasing fuel with the card or code for a purpose that is not exempt is liable for the tax due on the fuel. (1997-60, s. 9; 2001-205, s. 4; 2006-162, s. 14(b).)

§ 105-449.89. Restrictions on removal of motor fuel from terminal.

(a) By Bulk End-User. – An out-of-state bulk end-user may not remove motor fuel from a terminal in this State for use in the state in which the bulk end-user is located unless the bulk end-user is licensed under this Article as an exporter. An out-of-state bulk end-user that is not licensed under this Article may remove motor fuel from a bulk plant in this State.

(b) To Marine Vessel. – A supplier may not transfer motor fuel from a terminal to a marine vessel unless the person to whom the supplier transfers the motor fuel is licensed as a supplier. (1995 (Reg. Sess., 1996), c. 647, s. 22; 1997-60, s. 10; 2008-134, s. 39.)

Part 4. Payment and Reporting.

§ 105-449.90. When tax return and payment are due.

(a) Filing Periods. – The excise tax imposed by this Article is payable when a return is due. A return is due annually or monthly, as specified in this section. A return must be filed with the Secretary and be in the form required by the Secretary.

An annual return is due within 45 days after the end of each calendar year. An annual return covers tax liabilities that accrue in the calendar year preceding the date the return is due.

A monthly return of a person other than an occasional importer is due within 22 days after the end of each month. A monthly return of an occasional importer is due by the 3rd of each month. A monthly return covers tax liabilities that accrue in the calendar month preceding the date the return is due.

(b) Annual Filers. – A terminal operator must file an annual return for the compensating tax imposed by G.S. 105-449.85.

(c) Repealed by Session Laws 2006-162, s. 14(c), effective January 1, 2007, and applicable to motor fuel purchased on or after that date.

(d) Monthly Filers on 22nd. – The following persons must file a monthly return by the 22nd of each month:

(1) A refiner.
(2) A supplier.
(3) A bonded importer.
(4) A blender.

(5) A tank wagon importer.
(6) A person that incurred a liability under G.S. 105-449.86 during the preceding month for the tax on dyed diesel fuel used to operate certain highway vehicles.
(7) A person that incurred a liability under G.S. 105-449.87 during the preceding month for the backup tax on motor fuel.

(e) Monthly Filers on 3rd. – An occasional importer must file a monthly return by the third day of each month. An occasional importer is not required to file a return if all the motor fuel imported by the importer in a reporting period was removed at a terminal located in another state and the supplier of the fuel is an elective supplier or a permissive supplier. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 23; 1997-60, s. 11; 2006-162, s. 14(c); 2019-6, s. 4.12.)

§ 105-449.90A. Payment by supplier of destination state tax collected on exported motor fuel.

Tax collected by a supplier on exported motor fuel is payable by the supplier to the destination state. Payments of destination state tax are due to the destination state on the date set by the law of the destination state. (1995 (Reg. Sess., 1996), c. 647, s. 24; 2005-435, s. 13.)

§ 105-449.91. Remittance of tax to supplier.

(a) Distributor. – A distributor must remit tax due on motor fuel removed at a terminal rack to the supplier of the fuel. A licensed distributor has the right to defer the remittance of tax to the supplier, as trustee, until the date the trustee must pay the tax to this State or to another state. The time when an unlicensed distributor must remit tax to a supplier is governed by the terms of the contract between the supplier and the unlicensed distributor.

(b) Exporter. – A licensed exporter must remit tax due on motor fuel removed at a terminal rack to the supplier of the fuel. The time when a licensed exporter must remit tax to a supplier is governed by the law of the destination state of the exported motor fuel.

(c) Importer. – A licensed importer must remit tax due on motor fuel removed at a terminal rack of a permissive or an elective supplier to the supplier of the fuel. A licensed importer that removes fuel from a terminal rack of a permissive or an elective supplier has the right to defer the remittance of tax to the supplier until the date the supplier must pay the tax to this State.

(d) General. – A person who removes motor fuel at a terminal rack and is not subject to another subsection in this section must remit tax due on the motor fuel to the supplier of the fuel. The time the person must remit tax to a supplier is governed by the terms of the contract between the supplier and the person.

The method by which a person must remit tax to a supplier under this section is governed by the terms of the contract between the supplier and that person. G.S. 105-449.76 governs the cancellation of a license of a distributor, an exporter, and an importer. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 25; 1997-60, s. 12; 2008-134, s. 40.)

§ 105-449.92. Notice to suppliers of cancellation, revocation, or reissuance of certain licenses; effect of notice.

(a) Notice to Suppliers. – If the Secretary cancels or revokes a distributor's license, an exporter's license, or an importer's license, the Secretary must notify all suppliers of the cancellation or revocation. If the Secretary issues a license to a distributor, an exporter, or an importer whose license was cancelled or revoked, the Secretary must notify all suppliers of the issuance.

(b) Effect of Notice. – A supplier that sells motor fuel to a distributor after receiving notice from the Secretary that the Secretary has cancelled or revoked the distributor's license is jointly and severally liable with the distributor for any tax due on motor fuel the supplier sells to the distributor after receiving the notice. This joint and several liability does not apply to excise tax due on motor fuel sold to a previously unlicensed distributor after the supplier receives notice from the Secretary that the Secretary has issued another license to the distributor. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 26; 1997-60, s. 13; 2017-204, s. 4.5(h).)

§ 105-449.93. Percentage discount for licensed distributors and some licensed importers.

(a) Repealed by Session Laws 2006-162, s. 14(d), effective January 1, 2007, and applicable to motor fuel purchased on or after that date.

(b) Percentage Discount. – A licensed distributor that pays the tax due a supplier by the date the supplier must pay the tax to the State may deduct from the amount due a discount of one percent (1%) of the amount of tax payable. A licensed importer that removes motor fuel from a terminal rack of a permissive or an elective supplier and that pays the tax due the supplier by the date the supplier must pay the tax to the State may deduct from the amount due a discount of the same amount allowed a licensed distributor. The discount covers the expense of furnishing a bond and losses due to shrinkage or evaporation. A supplier may not directly or indirectly deny this discount to a licensed distributor or licensed importer that pays the tax due the supplier by the date the supplier must pay the tax to the State. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 27; 2006-162, s. 14(d).)

§ 105-449.94: Repealed by Session Laws 2006-162, s. 14(e), effective January 1, 2007, and applicable to motor fuels purchased on or after that date.

§ 105-449.95: Recodified as G.S. 105-449.105B by Session Laws 2009-445, s. 35(a), effective January 1, 2010.

§ 105-449.96. Information required on return filed by supplier.

A return of a supplier must list all of the following information and any other information required by the Secretary:

(1) The number of gallons of tax-paid motor fuel received by the supplier during the month, sorted by type of fuel.

(2) The number of gallons of motor fuel removed at a terminal rack during the month from the account of the supplier, sorted by type of fuel.

(3) The number of gallons of motor fuel removed during the month for export, sorted by type of fuel.

(4) The number of gallons of motor fuel removed during the month at a terminal located in another state for destination to this State, as indicated on the shipping document for the fuel, sorted by type of fuel.

(5) The number of gallons of motor fuel the supplier sold during the month to a governmental unit whose use of fuel is exempt from tax, sorted by type of fuel.

(6) The amount of discounts allowed under G.S. 105-449.93(b) on motor fuel sold during the month to licensed distributors or licensed importers.

(7) The number of gallons of motor fuel the supplier exchanged during the month with another licensed supplier pursuant to a two-party exchange agreement,

sorted by type of fuel. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 30; 1997-60, s. 14; 2005-435, s. 14; 2008-134, s. 41.)

§ 105-449.97. Deductions and discounts allowed a supplier when filing a return.

(a) Taxes Not Remitted. – When a supplier files a return, the supplier may deduct from the amount of tax payable with the return the amount of tax any of the following licensees owes the supplier but failed to remit to the supplier:

(1) A licensed distributor.

(2) A licensed importer that removed the motor fuel on which the tax is due from a terminal of an elective or a permissive supplier.

(3) Repealed by Session Laws 1995, c. 647, s. 32.

A supplier is not liable for tax a licensee listed in this subsection owes the supplier but fails to pay. If a listed licensee pays tax owed to a supplier after the supplier deducts the amount on a return, the supplier must promptly remit the payment to the Secretary.

(a1) Tax Paid After Deduction. – A supplier is not liable for tax a licensee listed in subsection (a) of this section owes the supplier but fails to pay. If a listed licensee pays tax owed to a supplier after the supplier deducts the amount on a return, the supplier must promptly remit the payment to the Secretary.

(b) Administrative Discount. – A supplier that files a timely return and sends a timely payment may deduct from the amount of tax payable with the return an administrative discount of one-tenth of one percent (0.1%) of the amount of tax payable to this State as the trustee, not to exceed eight thousand dollars ($8,000) a month. The discount covers expenses incurred in collecting taxes on motor fuel.

(c) Percentage Discount. – A supplier that sells motor fuel directly to an unlicensed distributor or to the bulk end-user, the retailer, or the user of the fuel may take the same percentage discount on the fuel that a licensed distributor may take under G.S. 105-449.93(b) when making deferred payments of tax to the supplier.

(d) Taxes Paid on Exempt Retail Sales. – When filing a return, a supplier that issues or authorizes the issuance of an exempt card or code to a person that enables the person to buy motor fuel without paying tax on the fuel may deduct the amount of excise tax imposed on fuel purchased with the exempt card or code. The amount of excise tax imposed on fuel purchased with an exempt card or code is the amount that was imposed on the fuel when it was delivered to the retailer of the fuel.

(e) Credit for Motor Fuel in Terminal Transfer System. – When filing a return, a licensed supplier may take a credit for tax-paid motor fuel in the terminal transfer system if either of the following applies:

(1) The supplier is the position holder.

(2) The supplier is the person who owns tax-paid motor fuel as it enters the terminal transfer system at a location other than an approved terminal as defined by 26 C.F.R. § 48.4081-1(b). (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, ss. 31, 32; 1997-60, s. 15; 1999-438, s. 23; 2000-173, s. 14(c); 2006-162, s. 14(f); 2008-134, s. 42; 2017-204, s. 4.5(i); 2023-12, s. 3.16; 2026-31, s. 4.5(b).)

§ 105-449.98. Duties of supplier concerning payments by distributors, exporters, and importers.

(a) As Fiduciary. – A supplier has a fiduciary duty to remit to the Secretary the amount of tax paid to the supplier by a licensed distributor, licensed exporter, or licensed importer. A supplier is liable for taxes paid to the supplier by a licensed distributor, licensed exporter, or licensed importer.

(b) Notice of Fuel Received. – A supplier must notify a licensed distributor, a licensed exporter, or a licensed importer that received motor fuel from the supplier during a reporting period of the number of taxable gallons received. The supplier must give this notice after the end of each reporting period and before the licensee must remit to the supplier the amount of tax due on the fuel.

(c) Notice to Department. – A supplier of motor fuel at a terminal must notify the Department within 10 business days after a return is due of any licensed distributors, licensed exporters, or licensed importers that did not pay the tax due the supplier when the supplier filed the return. The notice must be transmitted to the Department in the form required by the Department.

(d) Payment Application. – A supplier that receives a payment of tax from a licensed distributor, a licensed exporter, or a licensed importer may not apply the payment to a debt that person owes the supplier for motor fuel purchased from the supplier. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 33; 1997-60, s. 16; 2017-204, s. 4.5(j).)

§ 105-449.99. Returns and discounts of importers.

(a) Return. – A monthly return of a bonded importer, an occasional importer, or a tank wagon importer must contain the following information concerning motor fuel imported during the period covered by the return:

(1) The number of gallons of imported motor fuel acquired from a supplier that collected the excise tax due this State on the fuel.

(2) The number of gallons of imported motor fuel acquired from a supplier that did not collect the excise tax due this State on the fuel, listed by source state, supplier, and terminal.

(3) The import authorization number of each import that is reported under subdivision (2) of this subsection and was removed from a terminal.

(4) For an occasional importer or a tank wagon importer, the number of gallons of imported motor fuel acquired from a bulk plant, listed by bulk plant.

(b) Discounts. – An importer may not deduct an administrative discount from the amount remitted with a return. An importer that imports motor fuel received from an elective supplier or a permissive supplier may deduct the percentage discount allowed by G.S. 105-449.93(b) when remitting tax to the supplier, as trustee, for payment to the State. An importer that imports motor fuel received from a supplier that is not an elective supplier or a permissive supplier may not deduct the percentage discount allowed by G.S. 105-449.93(b) when filing a return for the tax due. (1995, c. 390, s. 3.)

§ 105-449.100. Terminal operator to file informational return showing changes in amount of motor fuel at the terminal.

(a) Requirement. – A terminal operator must file a monthly informational return with the Secretary that shows the amount of motor fuel received or removed from the terminal during the month. A terminal operator must report all motor fuel removed from an out-of-state terminal that has this State as its destination state.

(b) Content. – The return is due on the date a monthly return is due under G.S. 105-449.90. The return must contain the following information and any other information required by the Secretary:

(1) The number of gallons of motor fuel received in inventory at the terminal during the month and each position holder for the fuel, sorted by type of fuel.

(2) The number of gallons of motor fuel removed from inventory at the terminal during the month and, for each removal, the position holder for the fuel and the destination state of the fuel, sorted by type of fuel.

(3) The number of gallons of motor fuel gained or lost at the terminal during the month.

(4) The number of gallons of motor fuel in inventory at the beginning of each month and at the end of each month.

(c) Due Date. – The return is due on the date a monthly return is due under G.S. 105-449.90. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 34; 2006-162, s. 15(a); 2008-134, s. 43.)

§ 105-449.101. Motor fuel transporter to file informational return showing deliveries of motor fuel.

(a) Requirement. – A motor fuel transporter that is required to be licensed under this Article must file a monthly informational return with the Secretary that shows motor fuel transported in this State by the transporter during the month.

(b) Content. – The return required by this section must contain the following information and any other information required by the Secretary:

(1) The name and address of each person from whom the transporter received motor fuel outside the State for delivery in the State, the amount of motor fuel received, the date the motor fuel was received, and the destination state of the fuel.

(2) The name and address of each person from whom the transporter received motor fuel in the State for delivery outside the State, the amount of motor fuel delivered, the date the motor fuel was delivered, and the destination state of the fuel.

(3) The name and address of each person from whom the transporter received motor fuel in the State for delivery in the State, the amount of motor fuel received, the date the motor fuel was received, and the destination state of the fuel.

(c) Due Date. – The return required by this section is due on the date a monthly return is due under G.S. 105-449.90. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 35; 2002-108, s. 12; 2006-162, ss. 13(b), 15(b); 2008-134, s. 44.)

§ 105-449.102. Distributor to file return showing exports from a bulk plant.

(a) Requirement. – A distributor that exports motor fuel from a bulk plant located in this State must file a monthly return with the Secretary that shows the exports. The return serves as a claim for refund by the distributor for tax paid to this State on the exported motor fuel.

(b) Content. – The return must contain the following information and any other information required by the Secretary:

(1) The number of gallons of motor fuel exported during the month.

(2) The destination state of the motor fuel exported during the month.

(3) A certification that the distributor has paid to the destination state of the motor fuel exported during the month, or will pay on a timely basis, the amount of tax due that state on the fuel.

(c) Due Date. – The return is due on the date a monthly return is due under G.S. 105-449.90. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 36; 2006-162, s. 15(c); 2008-134, s. 45.)

§ 105-449.103. Reserved for future codification purposes.

§ 105-449.104. Use of name and account number on return.

When a transaction with a person licensed under this Article is required to be reported on a return, the return must state the licensee's name and the account number used by the Department to identify the licensee. The name of a licensee and the licensee's account number is stated on the lists compiled under G.S. 105-449.77. (1995 (Reg. Sess., 1996), c. 647, s. 37; 2017-204, s. 4.5(k).)

Part 5. Refunds.

§ 105-449.105. Monthly refunds for tax paid on exempt fuel, lost fuel, and accidental mixes that result in fuel unsuitable for highway use.

(a) Exempt Fuel. – An entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the entity pays on its motor fuel. A person who sells motor fuel to an entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the person pays on motor fuel it sells to the entity. A credit card company that issues a credit card to an entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the company pays on motor fuel the entity purchases using the credit card.

A person may obtain a monthly refund of tax paid by the person on exported fuel, including fuel whose shipping document shows this State as the destination state but was diverted to another state in accordance with the diversion procedures established by the Secretary. An out-of-state bulk end-user is not allowed a refund on fuel exported from a bulk plant unless the bulk end-user is licensed as an exporter.

(b) Lost Fuel. – A supplier, an importer, or a distributor that loses tax-paid motor fuel due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident may obtain a monthly refund for the tax paid on the fuel.

(c) Accidental Mixes. – A person that accidentally combines any of the following may obtain a monthly refund for the amount of tax paid on the fuel:

(1) Dyed diesel fuel with tax-paid motor fuel.

(2) Gasoline with diesel fuel.

(3) Undyed diesel fuel with dyed kerosene.

(d) Repealed by Session Laws 1998-98, s. 29.

(e) Refund Amount. – The amount of a refund allowed under this section is the amount of excise tax paid, less the amount of any discount allowed on the fuel under G.S. 105-449.93. (1995, c. 390, s. 3; c. 523, ss. 32.1, 32.2; 1995 (Reg. Sess., 1996), c. 647, s. 38; 1997-6, s. 12; 1997-60, s. 17; 1998-98, s. 29; 2000-173, s. 16; 2001-205, s. 3; 2008-134, s. 46.)

§ 105-449.105A. Monthly refunds for kerosene.

(a) Refund for Undyed Kerosene Sold to an End User for Non-Highway Use. – A distributor who sells kerosene to an end user for one of the purposes listed in this subsection may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for one of those purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable.

(1) Heating.
(2) Drying crops.
(3) A manufacturing process.

(b) Liability. – If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. (1998-146, s. 8; 2000-173, s. 17; 2001-205, s. 6; 2006-162, s. 14(g); 2008-134, ss. 47, 48; 2010-95, s. 29(a).)

§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 29; 1997-6, s. 11; 2009-445, s. 35(a); 2010-95, s. 30.)

§ 105-449.106. Quarterly refunds for nonprofit organizations, special mobile equipment, and off-highway use.

(a) Nonprofits. – A nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed, less one cent (1¢) per gallon.

Any of the following entities may receive a refund under this subsection:

(1) Repealed by Session Laws 2002-108, s. 13, effective January 1, 2003.
(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.
(3) A volunteer fire department.

(4) A volunteer rescue squad.
(5) A sheltered workshop recognized by the Department of Health and Human Services.

(b) Repealed by 2014-100, s. 34.6(a), effective for taxable years beginning on or after January 1, 2015.

(c) Special Mobile Equipment. – A person who purchases and uses motor fuel for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund must be made in accordance with this Part.

(d) Off-Highway Use. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive a quarterly refund for the excise tax paid during the preceding calendar quarter. The amount of refund allowed is the tax rate in effect under G.S. 105-449.80 for the time period less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund must be made in accordance with this Part. (1995, c. 390, s. 3; 1997-6, s. 13; 1997-443, s. 11A.118(a); 1999-438, s. 24; 2002-108, s. 13; 2005-435, s. 15; 2006-162, s. 16(a); 2010-95, s. 31(a), (b); 2014-3, s. 9.10(a); 2014-100, s. 34.6(a); 2016-5, s. 4.10(b); 2022-74, s. 42.4(a); 2023-12, s. 3.17.)

§ 105-449.107. Annual refunds for certain vehicles with power attachments.

(a) Repealed by Session Laws 2022-74, s. 42.4(c), effective January 1, 2023, and applicable to purchases of motor fuel on or after that date.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

(1) A concrete mixing vehicle.
(2) A solid waste compacting vehicle.
(3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.
(4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
(5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid fuel into storage tanks and uses a power takeoff to make the delivery.
(6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.
(7) A commercial vehicle that uses a power takeoff to remove and dispose of septage and for which an annual fee is required to be paid to the Department of Environmental Quality under G.S. 130A-291.1.
(8) A sweeper.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from

propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Repealed by Session Laws 2022-74, s. 42.4(c), effective January 1, 2023, and applicable to purchases of motor fuel on or after that date. (1995, c. 390, s. 3; 1997-6, s. 14; 1997-423, s. 4; 2001-408, s. 1; 2005-377, s. 1; 2006-162, s. 16(b); 2014-3, s. 9.10(b); 2015-2, ss. 2.2(b), 2.3; 2015-6, s. 2.25; 2015-241, s. 14.30(u); 2016-5, ss. 4.9(a), 4.10(c); 2022-74, s. 42.4(b), (c).)

§ 105-449.107A. Sales tax due on motor fuel.

(a) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted from a motor fuel excise tax refund identified in subsection (b) of this section. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this section from a motor fuel excise tax refund identified in subsection (b) of this section. The cents-per-gallon cost of motor fuel used to calculate the amount of State and local sales and use tax deducted from a claim for refund for each taxable period equals the average of the United States city average price of finished motor gasoline and No. 2 diesel fuel for resale in the "Consumer Price Index Detailed Reports" published by the Bureau of Labor Statistics of the United States Department of Labor or data determined by the Secretary to be equivalent. The average is computed by weighting the cost of finished motor gasoline and No. 2 diesel fuel by the proportion of tax collected on each under this Article for the taxable period, rounding to the nearest one-tenth of a cent (1/10¢). If the cents-per-gallon cost is exactly between two-tenths of a cent (2/10¢), the average is rounded up to the higher of the two.

(b) Refunds Subject to Sales Tax Amount. – The sales tax amount must be deducted from all of the following claims for refunds:

(1) Refunds for special mobile equipment pursuant to G.S. 105-449.106(c).

(2) Refunds for off-highway use pursuant to G.S. 105-449.106(d).

(3) Refunds for eligible vehicles with power attachments pursuant to G.S. 105-449.107. (2022-74, s. 42.4(d).)

§ 105-449.108. When an application for a refund is due.

(a) Due Dates. – The due dates of applications for refunds are as follows:

Refund Period	Due Date
Annual	April 15 after the end of the year
Quarterly	Last day of the month after the end of the quarter
Monthly	22nd day after the end of the month

(b) Requirements. – An application for a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year.

(c) Repealed by Session Laws 1998-146, s. 10, effective September 18, 1998.

(d) Late Application. – A refund applied for more than three years after the date the application is due is barred. (1995, c. 390, s. 3; 1997-6, s. 15; 1998-146, s. 10; 1998-212, s. 29A.14(r); 2008-134, s. 49; 2010-95, s. 32.)

§ 105-449.109: Repealed by Session Laws 1998-212, s. 29A.14(s).

§ 105-449.110. Review of refund application and payment of refund.

(a) Decision. – Upon determining that an application for refund is correct, the Secretary must issue the applicant a warrant upon the State Treasurer for the amount of the refund. If the Secretary determines that an application for refund is incorrect, the Secretary must send the applicant a proposed denial of the request for a refund. The provisions of Article 9 of this Chapter apply to the procedure for requesting a review of proposed denial of a refund sought under this Article.

(b) Interest. – The rate of interest payable on a refund is the rate set in G.S. 105-241.21. Interest accrues on a refund from the date that is 90 days after the later of the following:

(1) The date the application for refund was filed.

(2) The date the application for refund was due. (1995, c. 390, s. 3; 1998-98, s. 30; 2007-491, s. 44(1)a; 2017-204, s. 4.5(*l*).)

§ 105-449.111. Reserved for future codification purposes.

§ 105-449.112. Reserved for future codification purposes.

§ 105-449.113. Reserved for future codification purposes.

§ 105-449.114. Authority for agreement with Eastern Band of Cherokee Indians.

(a) By virtue of an Act of June 4, 1924, Pub. L. No. 68-191, Ch. 253, 43 Stat. 370, Congress and the United States courts have recognized the Eastern Band of Cherokee Indians as possessing sovereign legal rights over their members and their trust lands.

(b) The following definitions apply in this act:

(1) Chief. – The Principal Chief of the Eastern Band of the Cherokee Indians.

(2) Council. – The Tribal Council of the Eastern Band of the Cherokee Indians.

(3) Tribe. – The Eastern Band of the Cherokee Indians.

(c) Notwithstanding any other provision of law concerning refunds of motor fuels and alternative fuels taxes, the Department of Revenue may enter into a memorandum of understanding or an agreement with the Eastern Band of Cherokee Indians to make refunds of motor fuels and alternative fuels taxes to the Tribe in its collective capacity on behalf of its members who reside on or engage in otherwise taxable transactions within Cherokee trust lands. The memorandum or agreement shall be approved by the Council and signed by the Chief on behalf of the Tribe and shall be signed by the Secretary of Revenue on behalf of Department of Revenue. The memorandum or agreement may not affect the right of an individual member of the Tribe to a refund and shall provide for deduction of amounts refunded to individual members of the Tribe from the amounts to be refunded to the Tribe on behalf of all members. The memorandum or agreement may be effective for a definite or indefinite period, as specified in the agreement. (1989, c. 753, ss. 1-3; 1991, c. 193, s. 6; 2002-108, s. 14.)

Part 6. Enforcement and Administration.

§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car or transport truck.

(a) Issuance. – A person may not transport motor fuel by railroad tank car or transport truck unless the person has a shipping document for its transportation that complies with this section. A refiner, a terminal operator, a fuel alcohol provider, a biodiesel provider, and the operator of a bulk plant must give a shipping document to the person who operates a railroad tank car or a transport truck into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) Content. – A shipping document is a permanent record that must contain the following information and any other information required by the Secretary:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.

(1a) The type of motor fuel loaded.

(2) The date the motor fuel was loaded.

(3) The gross gallons loaded if the motor fuel is loaded onto a transport truck, and the gross pounds loaded if the motor fuel is loaded onto a railroad tank car.

(3a) The motor fuel transporter for the motor fuel.

(4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.

(5) If the document is issued by a refiner or a terminal operator, the document must be machine printed. If the motor fuel is loaded onto a transport truck, the document must contain the following information:

a. The net gallons loaded.

b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel.

(c) Reliance. – A person who issues a shipping document may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of fuel from the represented destination state.

(d) Duties of Transporter. – A person to whom a shipping document was issued must do all of the following:

(1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it.

(2) Show the shipping document to a law enforcement officer upon request when transporting the motor fuel described in it.

(2a) Maintain a copy of the shipping document at a centralized place of business for at least three years from the date of delivery.

(3) Deliver motor fuel described in the shipping document to the destination state designated on it unless the person, in a manner prescribed by the Secretary, does all of the following:

a. Notifies the Secretary before transporting the motor fuel into a state other than the state designated on the shipping document.

b. Receives from the Secretary a confirmation number authorizing the shipment of motor fuel to a state other than the state designated on the shipping document.

c. Contemporaneously notes on the shipping document the change in destination state and the confirmation number received from the Secretary.

(4) Upon delivery, provide a copy of the shipping document to the person to whom the motor fuel is delivered.

(e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by railroad tank car or transport truck may only accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is North Carolina or has been changed to North Carolina in accordance with subdivision (3) of subsection (d) of this section. The person must maintain a copy of the shipping document for at least three years from the date of delivery and must maintain a copy of the shipping document at the place of business where the motor fuel was delivered for 90 days from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

(f) Sanctions Against Transporter. – The acts listed in this subsection are grounds for a civil penalty. The penalty is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed. The grounds for a civil penalty are:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

(g) Penalty Defense. – Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery of fuel to a state other than the destination state printed on the shipping document for the fuel. The Secretary must waive a penalty imposed against a person under that subsection if the person establishes a defense under this subsection. The conditions for the defense are:

(1) The person notified the Secretary of the diversion and received a confirmation number for the diversion before the imposition of the penalty.

(2) Tax was timely paid on the diverted fuel, unless the person is a motor fuel transporter.

(h) Sanctions. – The Secretary may assess a civil penalty of five thousand dollars ($5,000) against a person who intentionally issues a shipping document that does not satisfy the requirements of subsection (b) of this section. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, ss. 39, 40; 2002-108, s. 15; 2003-349, s. 10.9; 2005-435, s. 16; 2007-527, ss. 16(b), 18(a); 2008-134, s. 50; 2009-445, s. 36(a); 2014-3, s. 9.9(a); 2017-39, s. 16; 2019-169, s. 4.12; 2021-180, s. 42.13E(*l*).)

§ 105-449.115A. Shipping document required to transport fuel by tank wagon.

(a) Issuance. – A person who operates a tank wagon into which motor fuel is loaded at the terminal must comply with the document requirements in G.S. 105-449.115(b). A person who operates a tank wagon into which motor fuel is loaded from some other source must have an invoice, bill of sale, or shipping document containing the following information and any other information required by the Secretary:

(1) The name and address of the person from whom the motor fuel was received.

(2) The date the fuel was loaded.

(3) The type of fuel.

(4) The gross number of gallons loaded.
(5) The destination state of the fuel.

(b) Duties of Transporter. – A person to whom an invoice, bill of sale, or shipping document was issued must do all of the following:

(1) Carry the invoice, bill of sale, or shipping document in the conveyance for which it is issued when transporting the motor fuel described in it.
(2) Show the invoice, bill of sale, or shipping document upon request when transporting the motor fuel described in it.
(3) Maintain a copy of the invoice, bill of sale, or shipping document at a centralized place of business for at least three years from the date of delivery.
(4) Deliver motor fuel described in the shipping document to the state designated on it unless the person, in a manner prescribed by the Secretary, does all of the following:
a. Notifies the Secretary before transporting the motor fuel into a state other than the state designated on the shipping document.
b. Receives from the Secretary a confirmation number authorizing the shipment of motor fuel to a state other than the state designated on the shipping document.
c. Contemporaneously notes on the shipping document the change in destination state and the confirmation number received from the Secretary.
(5) Upon delivery, provide a copy of the shipping document to the person to whom the motor fuel is delivered.

(b1) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by tank wagon may only accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is North Carolina or has been changed to North Carolina in accordance with subdivision (4) of subsection (b) of this section. The person must maintain a copy of the shipping document for at least three years from the date of delivery and must maintain a copy of the shipping document at the place of business where the motor fuel was delivered for 90 days from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

(c) Sanctions. – Transporting motor fuel in a tank wagon without an invoice, bill of sale, or shipping document containing the information required by this section is grounds for a civil penalty. The penalty is payable to the agency that assessed the penalty and is payable by the person in whose name the tank wagon is registered. The amount of the penalty is one thousand dollars ($1,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed. (2002-108, s. 16; 2005-435, s. 17; 2007-527, s. 16(c); 2019-169, s. 4.13; 2021-180, s. 42.13E(m).)

§ 105-449.116. Repealed by Session Laws 1999-438, s. 25.

§ 105-449.117. Penalties for highway use of dyed diesel or other non-tax-paid fuel.

(a) Violation. – It is unlawful to use dyed diesel fuel or other non-tax-paid fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless that use is allowed under section 4082 of the Code. It is unlawful to use motor fuel or alternative fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless the tax imposed by this Article or Article 36D of this Chapter and the

tax imposed by Article 3 of Chapter 119 of the General Statutes have been paid. A person who violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty.

(b) Civil Penalty. – The civil penalty is payable to the agency that assessed the penalty and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars ($1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed.

(c) Enforcement. – The Secretary or a person designated by the Secretary may conduct investigations to identify violations of this Article. It is not a valid defense to a violation of this Article that the State is exempt from the tax imposed by this Article. (1995, c. 390, s. 3; 1997-60, s. 19; 2003-349, s. 10.10; 2007-527, s. 16(d); 2008-134, s. 51.)

§ 105-449.118. Civil penalty for buying or selling non-tax-paid motor fuel.

A person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a highway vehicle is subject to a civil penalty of two hundred fifty dollars ($250.00) per occurrence.

The penalty is payable to the agency that assessed the penalty. Failure to pay a penalty imposed under this section is grounds under G.S. 20-88.01(b) to withhold or revoke the registration plate of the motor vehicle into which the motor fuel was dispensed. (1995, c. 390, s. 3; 2002-108, s. 17; 2007-527, s. 16(e).)

§ 105-449.118A. Civil penalty for refusing to allow the taking of a motor fuel sample.

A person who refuses to allow the taking of a motor fuel sample is subject to a civil penalty of one thousand dollars ($1,000). The penalty is payable to the agency that assessed the penalty. If the refusal is for a sample to be taken from a vehicle, the penalty is payable by the person in whose name the vehicle is registered. If the refusal is for a sample to be taken from any other storage tank or container, the penalty is payable by the owner of the container. (1995 (Reg. Sess., 1996), c. 647, s. 41; 2007-527, s. 16(f).)

§ 105-449.119. Review of civil penalty assessment.

A person who denies liability for a penalty imposed under this Part may request the Secretary to waive the penalty. The Secretary may reduce or waive a penalty as provided in Article 9 of this Chapter. (1995, c. 390, s. 3; 1999-337, s. 44; 2007-491, s. 41; 2014-3, s. 9.8(b).)

§ 105-449.120. Acts that are misdemeanors.

(a) Class 1. – A person who commits any of the following acts is guilty of a Class 1 misdemeanor:

(1) Fails to obtain a license required by this Article.

(2) Willfully fails to file a return required by this Article.

(3) Willfully fails to pay a tax when due under this Article or under former Article 36 or 36A of this Chapter. Failure to comply with a requirement of a supplier to remit tax payable to the supplier by electronic funds transfer is considered a failure to make a timely payment.

(3a) Repealed by Session Laws 2006-162, s. 17, effective January 1, 2007, and applicable to motor fuel purchased on or after that date.

(4) Makes a false statement in an application, a return, or a statement required under this Article.
(5) Makes a false statement in an application for a refund.
(6) Fails to keep records as required under this Article.
(7) Refuses to allow the Secretary or a representative of the Secretary to examine the person's books and records concerning motor fuel.
(8) Fails to disclose the correct amount of motor fuel sold or used in this State.
(9) Fails to file a replacement bond or an additional bond as required under this Article.
(10) Fails to show or give a shipping document as required under this Article.
(11) Willfully refuses to allow a licensed distributor, a licensed exporter, or a licensed importer to defer payment of tax to the supplier, as required by G.S. 105-449.91.
(12) Willfully refuses to allow a licensed distributor or a licensed importer to take the discount allowed by G.S. 105-449.93 when remitting tax to the supplier.

(b) Class 2. – A person who commits any of the following acts is guilty of a Class 2 misdemeanor:
(1) Knowingly dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle.
(2) Knowingly allows non-tax-paid fuel to be dispensed into the supply tank of a highway vehicle. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 42; 1997-60, s. 20; 2006-162, s. 17.)

§ 105-449.121. Record-keeping requirements; inspection authority.

(a) What Must Be Kept. – A person who is subject to audit under subsection (b) of this section must keep a record of all shipping documents or other documents used to determine information the person provides in a return or to determine the person's motor fuel transactions. The records must be kept for the applicable period of statute of limitations as set forth in Article 9 of this Chapter. If the records apply to a transaction not required to be reported in a return, the records must be kept for three years from the date of the transaction.

(b) Inspection. – The Secretary or a person designated by the Secretary shall have the right at any reasonable time to inspect the records subject to audit under this subsection and may do any of the following to determine tax liability under this Article:
(1) Audit a person who is required to have or elects to have a license under this Article.
(2) Audit a distributor, a retailer, a bulk end-user, or a motor fuel user that is not licensed under this Article.
(3) Examine a tank or other equipment used to make, store, or transport motor fuel, diesel dyes, or diesel markers.
(4) Take a sample of a product from a vehicle, a tank, or another container in a quantity sufficient to determine the composition of the product.
(5) Stop a vehicle for the purpose of taking a sample of motor fuel from the vehicle. (1995, c. 390, s. 3; 1995 (Reg. Sess., 1996), c. 647, s. 43; 2000-173, s. 18; 2008-134, s. 52; 2009-445, s. 37; 2023-12, s. 3.18(a).)

§ 105-449.122. Equipment requirements.

(a) Metered Pumps. – All motor fuel dispensed at retail must be dispensed from metered pumps that indicate the total amount of fuel measured through the pumps. Each pump must be marked to indicate the type of motor fuel dispensed.

(b) Truck Equipment. – A highway vehicle that transports diesel fuel in a tank that is separate from the fuel supply tank of the vehicle may not have a connection from the transporting tank to the motor or to the supply tank of the vehicle. (1995, c. 390, s. 3; 1997-60, s. 21.)

§ 105-449.123. Marking requirements for dyed fuel storage facilities.

(a) Requirements. – A person who is a retailer of dyed motor fuel or who stores both dyed and undyed motor fuel for use by that person or another person must mark the storage facility for the dyed motor fuel as provided in this subsection and in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle. The marking requirements are:

(1) The storage tank of the storage facility must be marked if the storage tank is visible.
(2) The fillcap or spill containment box of the storage facility must be marked.
(3) The dispensing device that serves the storage facility must be marked.
(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

(a1) Penalty. – A person who fails to mark the storage facility as required by subsection (a) of this section is subject to a civil penalty of two hundred fifty dollars ($250.00). Each inspection that results in a finding of noncompliance constitutes a separate and distinct offense.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable. (1997-60, s. 22; 2001-205, s. 7; 2003-349, s. 10.11; 2004-170, s. 31; 2005-435, s. 18; 2021-180, s. 42.13E(n).)

§ 105-449.124. Reserved for future codification purposes.

Part 7. Use of Revenue.

§ 105-449.125. Distribution of tax revenue among various funds and accounts.

(a) Distribution to Funds. – The Secretary shall allocate the amount of revenue collected under this Article from an excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the percentages indicated:

Fund or Account	Amount
Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund	Sixty-two and one-half percent (62.5%)
Water and Air Quality Account	Twenty-eight and one-tenth percent (28.1%).

(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) Seventy-five percent (75%) to the Highway Fund.

(2) Twenty-five percent (25%) to the Highway Trust Fund.

(c) Accounting. – The Secretary shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis. (1995, c. 390, s. 3; 2015-241, s. 29.27B(a), (b); 2016-5, s. 4.11(a), (b); 2016-94, s. 14.3; 2020-91, s. 4.6(a)-(c).)

§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources Fund and Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund.

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on a quarterly basis. The Secretary must make the distribution within 45 days of the end of each quarter.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund one percent (1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund on a quarterly basis. The Secretary must make the distribution within 45 days of the end of each quarter. (1995, c. 390, s. 3; c. 507, s. 18.16; 2013-360, s. 14.22(g); 2014-100, s. 14.18(a); 2015-241, s. 29.4(a); 2016-94, s. 14.12(d).)

§ 105-449.127: Repealed by Session Laws 2006-162, s. 12(c), effective July 24, 2006.

§ 105-449.128. Reserved for future codification purposes.

§ 105-449.129. Reserved for future codification purposes.