

CHAPTER 6-12 FUEL DELIVERY

6-12-1 Title—Purpose

(a) This Chapter shall be known as the Fuel Delivery Chapter of the Colville Tribal Law and Order Code.

(b) To implement and regulate the terms of the Consent Decree of Confederated Tribes of the Colville Reservation v. Washington Department of Licensing, et al., regarding sale of gasoline within the Colville Reservation; and to provide recordkeeping requirements.

6-12-2 Definitions

As used in this Chapter, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context is clearly indicated.

(a) “Tribes” means the Confederated Tribes of the Colville Reservation.

(b) “Council” means the Colville Business Council.

(c) “Tribal member” means an enrolled member of the Colville Confederated Tribes.

(d) “Tribal business” means a business that is wholly-owned and operated by the Tribes.

(e) “Colville business” means a business that is:

(1) wholly-owned and operated by an enrolled member or members of the Tribes; and

(2) possesses a federal Indian trader's license allowing the business to operate on the Colville Reservation.

(Amended 3/21/96, Resolution 1996-127)

(f) “Filling station” means a licensed business operated within the Colville Reservation for the purpose of delivering to the general public motor vehicle fuel or special fuel into the fuel tanks of motor vehicles and into portable containers.

(g) “Motor vehicle” means every self-propelled vehicle designed for operation upon land utilizing motor vehicle fuel or special fuel for propulsion.

(h) “Motor vehicle fuel” means gasoline or any other inflammable gas, or liquid, by whatsoever name such as gasoline, gas or liquid may be sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

(i) “Special fuel” means all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in section 6-12-2 (h).

(j) “Operator” means a person who holds a filling station license.

(k) “State” means the State of Washington.

(l) “Tribal Court” means the Tribal Court of the Colville Confederated Tribes.

6-12-3 Establishment of Filling Stations

The Council may license one or more filling stations within the Colville Reservation as the Council in its sole discretion deems necessary to provide adequate service to members of the Tribes.

6-12-4 Application for Filling Station License

Any enrolled member of the Confederated Tribes of the Colville Reservation, 18 years of age or older may apply for a filling station license. The application shall, at minimum, state the applicant's name, enrollment

number, physical address of the applicant and filling station, and other information the Council deems appropriate, and be signed by the applicant.

6-12-5 Filling Station License

Upon approval of an application, the Council shall issue the applicant a filling station license for a three (3) year period which shall entitle the operator to establish and maintain one filling station on the Colville Reservation. The license shall be renewable in such manner as the Council shall prescribe and shall be nontransferable.

6-12-6 Trader's License

No filling station license shall be issued until the operator has obtained a federal Indian trader's license from the superintendent of the Colville Indian Agency. Revocation of the federal Indian trader's license shall be grounds for revocation of the operator's filling station license.

6-12-7 Fuel Purchases

Filling stations on the Reservation shall purchase fuel only from a distributor, special fuel dealer or supplier possessing a valid distributor's license from the state.

6-12-8 Records of Fuel Purchases

Filling stations on the Reservation shall maintain records of all of their purchases of motor vehicle fuel and special vehicle fuel showing, for each transaction:

- (a) The identity of the distributor, dealer, or supplier from whom the fuel was purchased;
- (b) Whether the fuel involved is motor vehicle fuel or special fuel;
- (c) The number of gallons involved; and
- (d) The price paid to the distributor or special fuel dealer or supplier.

6-12-9 Records of Fuel Sales

Filling stations licensed by the Tribes to sell fuel at retail on the Reservation shall maintain records of each sale of fuel showing, for each transaction:

- (a) Whether the fuel involved is motor vehicle fuel or special vehicle fuel;
- (b) The number of gallons involved;
- (c) The price paid per gallon of fuel and total purchase price paid per transaction;
- (d) Whether the purchaser is the Tribes, a Colville business, a tribal business, a tribal member, or a non-Tribal member; and
- (e) Whether the fuel was deposited directly into the fuel tank of a motor vehicle. The records maintained in sections 6-12-8 and 6-12-9 shall be submitted to the Tribes on a quarterly basis, or as directed by the Council.

6-12-10 Sale and Delivery Collection

Filling stations on the Reservation shall collect at the pump an amount equal to the State's motor vehicle fuel tax or special fuel tax, as applicable, upon each gallon of such fuel sold or delivered.

6-12-11 Transfer of Fuel

No tribal member, tribal business or Colville business that purchases fuel from a filling station shall resell or transfer the fuel to any other person or entity.

6-12-12 Records Inspection/Audit

The records described in sections 6-12-8 and 6-12-9 shall be made available for inspection during normal business hours by the Tribes provided at least forty-eight (48) hours notice is given to the operator.

6-12-13 Sovereign Immunity

An operator shall not attempt or be authorized to waive the sovereign immunity of the Tribes from suit, nor shall such operator attempt or be authorized to create any liability on behalf of the Tribes.

6-12-14 Violations/Remedies

The Tribal Court is empowered to revoke the filling station license of any operator who shall be found in violation of this Chapter. In addition the Tribal Court may impose a fine of not more than \$5000 per violation or jail for a period of not more than six (6) months, or both.

(Chapter 6-12 Adopted 10/12/95, Resolution 1995-685)