

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, and kerosene. 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, reformat, 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.
  - (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.
  - (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).)