

§ 75-81. Definitions.

The following terms shall have the meanings ascribed to them in this section unless otherwise stated and unless the context or subject matter clearly indicates otherwise:

- (1) "Person" shall mean any person, firm, association, organization, partnership, business trust, joint stock company, company, corporation or legal entity.
- (2) "Sale" shall mean selling, offering for sale or advertising for sale.
- (3) "Motor Fuel" means motor fuel, as defined in G.S. 105-449.60, and alternative fuel, as defined in G.S. 105-449.130.
- (4) "Cost" or "Costs" shall mean as follows:
 - a. For a refiner or terminal supplier, costs shall be presumed to be the refiner's or terminal supplier's prevailing price to the wholesale class of trade at the terminal used by the refiner or terminal supplier to obtain the motor fuel in question or the lowest prevailing price within 10 days prior to a sale alleged to be in violation of G.S. 75-82 hereof plus all transportation expenses including freight expenses (incurred and not otherwise included in the cost of the motor fuel), and motor fuel taxes. If a refiner or terminal supplier does not regularly sell to the wholesale class of trade at the terminal in question, then such refiner or terminal supplier shall use as the prevailing price either (i) the lowest price to the wholesale class of trade of those other refiners or terminal suppliers at the same terminal who regularly sell to the wholesaler class or (ii) a price determined by using standard functional accounting procedures.
 - b. For all other sellers, cost includes the invoice or replacement cost, whichever is less, of the grade, brand or blend, of motor fuel within 10 days prior to the date of sale, in the quantity or quantities last purchased, less all rebates and discounts received including prompt payment discounts and plus all applicable State, federal and local taxes, and transportation expenses including freight expenses, incurred and not otherwise included in the cost of the motor fuel.
- (5) "Prompt Payment Discounts" shall mean any allowance for payment within a specified time, but shall not include discounts for cash made to the motoring public at motor fuel outlets.
- (6) "Affiliate" shall mean any person who (other than by means of a franchise) controls, is controlled by or is under common control with, any other person.
- (7) "Motor Fuel Merchant" is any person selling motor fuel to the public.
- (8) "Motor Fuel Outlet" is any retail facility selling motor fuel to the motoring public.
- (9) "New Retail Outlet" shall mean a new retail facility constructed from the ground or an existing retail facility that is offering motor fuel to the motoring public for the first time.
- (10) "Refiner" shall mean any person engaged in the production or refining of motor fuel, whether such production or refining occurs in this State or elsewhere, and includes any affiliate of such person or firm.
- (11) "Terminal Supplier" shall mean any person engaged in selling or brokering motor fuel to wholesalers or retailers from a storage facility of more than 2,000,000 gallons capacity and such person has an ownership interest in or control of the storage facility. (1985 (Reg. Sess., 1986), c. 972, s. 1;

1991 (Reg. Sess., 1992), c. 1007, s. 36; 1995, c. 390, s. 12;
1997-456, s. 27.)