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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603  
DEPARTMENT OF AGRICULTURE

**FILED**

09/24/2021 12:13 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amending Ethanol blending requirements.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/29/2021 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Alex Thomas  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/20/2021

TIME: 2:00 PM

OFFICER: Judith Callens

ADDRESS: Oregon Department of  
Agriculture  
635 Capitol St NE  
Salem, OR 97301

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NEED FOR THE RULE(S):

These rule changes are needed to;

- incorporate changes to Oregon's motor fuel laws made during previous legislative sessions;
- bring the ASTM motor fuel quality standards referenced up to date;

- update references to obsolete or out of date sections of the code of federal regulations due to the EPA Fuels Regulatory Streamlining project.
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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

From: <https://www.oregonlegislature.gov>

- HB 3051 (2021)
- SB 19 (2017)
- HB 2445 (2015)
- ORS 646

From <https://www.ecfr.gov>

- 40 CFR Part 80
- 40 CFR Part 1090

From: Federal Register:

- 85 FR 78469 (Dec 4, 2020)

From: <https://astm.org> and available for inspection at the agency.

- 2021 ASTM Book of Standards Volume 05
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#### FISCAL AND ECONOMIC IMPACT:

The impact to state agencies is estimated to be approximately \$10,000 total to cover costs associated with developing administrative rules, preparing educational and training materials, and train ODA inspector staff on inspection and enforcement protocols. No significant impact to state or local governments are anticipated as these entities are generally not engaged in the marketing and selling of motor fuels either to businesses or to the consumer.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s):

State Agencies:

- Oregon Department of Agriculture is the agency responsible for enforcing these rules and so will need to train enforcement staff and develop educational material to distribute to affected businesses.
- Oregon Department of Environmental Quality operates fuel centered clean air programs including Clean Fuels and Green House Gas Reporting. These amendments will allow for an increase in the use of ethanol as a transportation fuel in Oregon and should thus further their goals of greenhouse gas reduction.
- Oregon Department of Transportation may have to account for E15 gasoline sales in fuel tax reporting.

Local Government:

- City of Portland Bureau of Planning and Sustainability. The City of Portland maintains its own gasoline blending requirements and may need to amend either city code or administrative rules should it wish to allow for E15 gasoline sales.

Members of the Public:

- Wholesale and retail gasoline and ethanol marketers operating in Oregon.
- Consumers purchasing fuel for gasoline powered vehicles and small engines.

(2) Effect on small businesses: (a) estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

a) Estimate the number of small business and types of businesses and industries with small businesses subject to the rule: Approximately 2,200 wholesale and retail fuel marketers including gas stations, equipment rental businesses, and airports are potentially affected by these amendments.

b) Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No significant increases in recordkeeping or administrative activities are anticipated. The scope and quantity of records required by these rules are unchanged by these amendments.

c) Equipment, supplies, labor and increased administration required for compliance: There will be no significant change in the cost of doing business as a result of these amendments. Some costs are always incurred when offering new fuels for sale because of the unique advertising and labeling requirements, and documentation requirements associated with each. If a retail gas station elects not to offer E15 gasoline for sale then there will be no significant change as the requirements in place for their existing fuel offerings are unchanged.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Oregon Fuels Association (OFA), the Renewable Energy Group (REG), the Western States Petroleum Association (WSPA), Sequential Biofuels, the Oregon Trucking Association (OTA), Northwest Grocer's Association (NWGA), AAA of Oregon, the Automobile Alliance, Kinder Morgan, the NW Propane and Gas Association and various fuel marketing companies doing business in Oregon are all members of the Weights and Measures Advisory Committee. These members were all contacted via email and notified of the proposed rule change and given opportunities to offer input and advice.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

603-027-0410, 603-027-0420, 603-027-0430, 603-027-0490

AMEND: 603-027-0410

RULE SUMMARY: Definitions relevant to ODA's motor fuel regulations.

CHANGES TO RULE:

## Definitions ¶¶

(1) "Accredited Laboratory" means a laboratory that is currently accredited by an independent laboratory accrediting body for analyzing motor fuels using American Society for Testing and Materials (ASTM) International test procedures and specifications. ¶¶

(2) "Alcohol" means a volatile flammable liquid having the general formula  $C_nH_{(2n+1)}OH$  used or sold for the purpose of blending or mixing with gasoline for use in propelling motor vehicles, and commonly or commercially known or sold as an alcohol, and includes ethanol or methanol. ¶¶

(3) "ASTM" means ASTM International, the international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge. ASTM when used in these rules shall mean the 2016 Annual Book of ASTM Standards, Section 5, Volumes 05.01 through 05.05. ¶¶

(4) "Antiknock Index (AKI)" means the arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON):  $AKI = (RON + MON) / 2$ . This value is called by a variety of names, in addition to antiknock index, including: Octane Rating, Posted Octane, (R+M)/2 Octane. ¶¶

(5) "Automotive Fuel Rating" means the automotive fuel rating determined under 16 CFR 306.5, required to be certified under 16 CFR 306.6 and 16 CFR 306.8, and required to be posted under 16 CFR 306.10. Under this Rule, sellers of liquid automotive fuels, including alternative fuels, must determine, certify, and post an appropriate automotive fuel rating. The automotive fuel rating for gasoline is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of ¶¶

(5) "Automotive Fuel Rating" means: ¶¶

(a) for gasoline, the octane rating: ¶¶

(b) for an alternative liquid automotive fuel other than biodiesel, biomass-based diesel, biodiesel blends, biomass-based diesel blends, and ethanol flex fuels, the commonly used name of the fuel along with a disclosure of the amount, expressed as at the minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as at the minimum percentage by volume, may be included, if desired.: ¶¶

(6c) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines and also for biomass-based diesel, biodiesel, biomass-based diesel blends with more than 5 percent biomass-based diesel, and biodiesel blends with more than 5 percent biodiesel, a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume: ¶¶

(d) for ethanol flex fuels, a disclosure of the ethanol commonly used in marine and non-automotive application ent, expressed as the percentage by volume and the text "Use Only in Flex-Fuel Vehicles/May Harm Other Engines." ¶¶

(76) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation gas spark-ignition internal combustion engine. ¶¶

(87) "Batch" and "Production Lot" means a homogenous production volume of finished biodiesel from one or more sources that is held in a single container where representative samples are taken and analyzed to provide an authentic certificate of analysis (COA) for the specific volume. ¶¶

(98) "Bulk Facility" means a facility, including pipelines terminals, refinery terminals, rail and barge terminals and associated underground and above ground tanks connected or separate, from which motor vehicle fuels are withdrawn from bulk and delivered to retail, wholesale or nonretail facilities or into a cargo tank or barge used to transport those products. ¶¶

(109) "Base Gasoline" means all components other than ethanol in a blend of gasoline and ethanol. ¶¶

(110) "Biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751. Biodiesel produced in or imported into Oregon for use as a blend stock shall comply

with B100 biodiesel requirements including ASTM International D6751 and the Certificate of Analysis.

(12) "Biodiesel Blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend other than palm oil.

(131) "Biomass" means organic matter that is available on a renewable or recurring basis and including agricultural products and waste material that is

(a) derived from:

(aA) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk, or;

(bB) Wood material from hardwood timber described in ORS 321.267(3), or;

(cC) Agricultural residues, or;

(dD) Offal and tallow from animal rendering, or;

(eE) Food wastes collected as provided under ORS Chapter 459 or 459A, or;

(fF) Yard or wood debris collected as provided under ORS Chapter 459 or 459A, or;

(gG) Wastewater solids; or

(hH) Crops grown solely to be used for energy, and or

(i) Biomass Municipal solid waste.

(b) but does not mean include wood that has been treated with creosote, pentachlorophenol, inorganic arsenic, or other inorganic chemical compounds.

(142) "Biomass-Based Diesel", also referred to as Other Renewable Diesel and Renewable Diesel, means a conventional diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the U.S. Environmental Protection Agency under the 2007-42 U.S.C. 7545, and includes fuel derived from biomass (Reference OAR 603-027-0410) and animal wastes, including poultry fats and poultry wastes, and other waste materials, or from municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater, except that the term does not include that is derived from biomass.

(13) "Certificate of analysis" means:

(a) A document verifying that B100 biodiesel has defined in OAR 603-027-0410, complies with ASTM International D975 Standard Specification for Diesel Fuel Oils or other applicable ASTM product specifications, can be used as a finished fuel or fuel blending component, and designated "100% Biomass-Based Diesel".

(15) "Biomass-Based Diesel Blend", also referred to as Other Renewable Diesel Blend and Renewable Diesel Blend, means a fuel comprised of a blend of biomass-based diesel fuel with conventional petroleum-based been analyzed and complies with the following specifications as they are defined in ASTM D6751, "Standard Specification for Biodiesel Fuel, designated "XX% Biomass-Based Diesel Blend", and complies with ASTM International D975. In the abbreviation, "XX%", the XX represents the volume percentage of biomass-based diesel in the blend.

(16) "Certificate of analysis" means:

(a) A document verifying that B100 biodiesel has been analyzed and complies with, at a minimum, the following ASTM D 6751 biodiesel fuel test methods and specifications Blend Stock (B100) for Middle Distillate Fuels":

(A) Flash point (ASTM D 93);

(B) Acid number (ASTM D 664);

(C) Cloud point (ASTM D 2500);

(D) Water and sediment (ASTM D 2709);

(E) Visual appearance (ASTM D 4176);

(F) Free glycerin (ASTM D 6584);

(G) Total glycerin (ASTM D 6584);

(H) Oxidation stability (EN 14112 as per ASTM D 6751); and

(I) Sulfur (ASTM D 5453 or ASTM D 7039).

(b) The ASTM International standards referenced in ORS 646.905(3) for free and total glycerin are incorrect. The

correct ASTM International standards reference for free and total glycerin is ASTM D 6584.

(17) "Cetane Index" means an approximation of the cetane number of distillate fuel, which does not take into account the effect of a cetane improver additive, calculated from the density and distillation measurements. (Ref. ASTM D 976.)

(18) "Cetane Number" means a numerical measure of the ignition performance; and

(l) Sulfur.

(14) "Cetane Number" the numerical representation of the combustion quality of a liquid compression-ignition fuel in a range from 0 - 100 as measured using test method ASTM D613 "Standard Test Method for Cetane Number of a Diesel Fuel obtained by comparing it to reference fuels in a standardized engine test. (Ref. ASTM D 613.)

(19) "Coordinating Research Council (CRC) Rating" means a standardized format for rating injector and engine deposits as developed by the CRC Oil.

(15) "Dealer" means any motor vehicle fuel retailer dealer, nonretail dealer or wholesale dealer.

(2016) "Co-solvent" means an alcohol other than methanol. "Denatured Fuel Ethanol" means ethyl-alcohol which is blended with either methanol or ethanol or both to minimize phase separation in gasoline.

(21) "Dealer" means any motor vehicle fuel retailer dealer, nonretail dealer or wholesale dealer. "Green denatured" means gasoline that is suitable as an automotive fuel additive yet unfit for human consumption.

(2217) "Director" means the Director of Agriculture.

(2318) "Diesel Fuel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

(2419) "Distillate." means any product obtained by condensing the vapors given off by boiling petroleum or its products.

(250) "EPA" means the United States Environmental Protection Agency.

(261) "E85 Fuel Ethanol" means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol (Ref. ASTM D 5798). "E0" means gasoline that contains no ethanol. E0 is also called neat gasoline and ethanol-exempt gasoline.

(272) "Ethanol" also known as "Denatured Fuel Ethanol", means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of Alcohol and Tobacco Tax and Trade Bureau (TTB) approved substances before blending with gasoline.

(28) "Ethanol facilities production capacity" means the designed and "as-constructed" rated capacity as verified by the Oregon Department of Agriculture, or the "10" means a gasoline-ethanol blend that contains at least 9 and no more than 10 volume percent denatured fuel ethanol.

(23) "E15" means a gasoline-ethanol blend that contains more than 10 and no more than 15 volume percent denatured fuel ethanol. "Ethanol facilities production capacity as determined by an independent Professional Engineer registered in the State of Oregon that is not the design 15 volume percent denatured fuel ethanol."

(24) "E85" means Ethanol flex fuel containing 51 to 83 volume percent ethanol.

(295) "Feedstock Ethanol" means the original biomass used in biofuel production. "Ethanol" means ethyl-alcohol.

(3026) "Gasoline" means any fuel sold for use in spark ignition engines whether leaded or unleaded.

(3127) "Gasoline-Oxygenate Blend" means a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent oxygen, or more than 0.15 mass oxygen if methanol is the only oxygenate) of one or more oxygenates.

(328) "Lead Substitute" means an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

(33) "Lead Substitute Engine Fuel" means a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

(3429) "Low Temperature Operability" means a condition which allows the uninterrupted operation of a diesel

engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures.¶

(350) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.¶

(361) "Methanol" means methyl alcohol, a flammable liquid having the formula CH<sub>3</sub>OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles.¶

(37) "M100 Fuel Methanol" means nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition combustion engine.¶

(38) "M85 Fuel Methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent and which meets the requirements of ASTM D 5797.¶

(39) "Motor Octane Number" means a numerical indication.¶

(32) "Motor Octane Number" the numerical representation of a liquid spark-ignition fuel's resistance to knock in a range from 0 - 120 as measured using test method ASTM D2700, "Standard Test Method for Motor Octane Number of a Spark-Ignition Engine Fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test Fuel".¶

(4033) "Motor Vehicles" means all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors.¶

(341) "Motor Vehicle Fuel" means gasoline, gasoline-ethanol blends, diesel, biomass-based diesel, biomass-based diesel blends, B100 Biodiesel, Biodiesel Blends, E85 Fuel Ethanol, M85 Fuel Methanol, or any other liquid product used for the generation of power in an internal combustion engine, except aviation jet fuels, liquefied petroleum gases or natural gases.¶

(4235) "Nonretail dealer" means any person who owns, operates, controls or supervises an establishment at which motor vehicle fuel is dispensed through a card or key-activated fuel dispensing device to nonretail customers.¶

(436) "Octane Rating" means the rating of the anti-knock characteristics of a grade or type of gasoline determined by dividing by two the sum of the research octane number and the motor octane number anti-knock index.¶

(4437) "Octane Rating Certification Documentation" means an invoice, bill of lading, delivery ticket, letter or other documentation that specifies the actual octane rating or a rounded rating that is the largest whole number or half of a number that is less than or equal to the number determined by or certified to the person transferring the gasoline.¶

(45) "Official Sample" means a motor fuel sample delivered via nozzle directly through a fuel pump, dispenser, or metering device from either a fuel delivery truck, tank wagon, above ground or below ground fuel storage tank into a suitable sealable, one litre or larger pressure-tight metal or glass container in the presence of, or drawn by, a department representative in the manner prescribed by department procedures. An official sample shall be appropriately sealed and labeled as to its identity, type, brand, grade, posted automotive fuel rating and the location, source, date, and name of official taking it at the time it is withdrawn from storage. A custody transfer receipt or record will be completed whenever an official sample changes hands enroute to a qualified motor fuel standards laboratory.¶

(4638) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.¶

(4739) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.¶

(48) "Premium Diesel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine and shall meet Standard Fuel Specifications OAR 603-027-0420.¶

(49) "Production" means the ability of a biofuel production facility to produce biofuel that is in compliance with applicable ASTM International specifications.¶

(50) "Production Lot" and "Batch" means a homogenous production volume of finished biodiesel from one or more sources that is held in a single container where representative samples are taken and analyzed to provide an authentic certificate of analysis (COA) for the specific volume.¶

(541) "Research Octane Number" means a numerical indication of a liquid spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized in a range from 0 - 120 as measured using test method ASTM D-2699 Research Method e, "Standard Test Method for Research Octane

Number of Spark-Ignition Engine testFuel".¶¶

(542) "Retail Dealer" means any person who owns, operates, controls or supervises an establishment at which motor vehicle fuel is or offered for sale to the public.¶¶

(543) "SAE" means the SAE International, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.¶¶

(54) "Sales" means volumes of biofuels measured in gallons per year, relevant consumer usage, demand, pricing, and other factors affecting sales.¶¶

(55) "Thermal Stability" means the ability of a fuel to resist the thermal stress which is experienced by the fuel when exposed to high temperatures in a fuel delivery system.¶¶

(5644) "Unleaded" in conjunction with "engine fuel" or "gasoline" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram phosphorus per liter (0.005 g phosphorus per U.S. gal).¶¶

(457) "Use" means the historic blending of biofuel in Oregon in areas using biofuel to meet Oregon's Renewable Fuel Standard (RFS) and other information relevant to industry blending of biofuel including the infrastructure capacity to blend and distribute biofuel.¶¶

(58) "Wholesale Dealer" means any person who sells motor vehicle fuel if the seller knows or has reasonable cause to believe that the buyer intends to resell the motor vehicle fuel in the same or an altered form to a retail dealer, a nonretail dealer, or another wholesale dealer.¶¶

(59) "Winter" or "Winterized" Diesel means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine which has been blended for low temperature operability and shall meet Standard Fuel Specifications OAR 603-027-0420.¶¶

(6046) "Withdrawn From Bulk" means removed from a bulk facility for delivery directly into a cargo tank or a barge to be transported to a location other than another bulk facility for use or sale in this state.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190, OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990

Statutes/Other Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990, ORS 183



AMEND: 603-027-0420

RULE SUMMARY: Defines fuel quality specifications and biofuel blending requirements for motor fuels sold or offered for sale in Oregon.

CHANGES TO RULE:

603-027-0420

## Standard Fuel Specifications ¶

(1) Gasoline and Gasoline-Oxygenate Blends, as defined in this regulation, shall meet the following requirements:¶

(a) The ASTM D-4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel;" (D4814) except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency (which includes those promulgated by Oregon and Federally approved State Implementation Plans (SIP's)). Gasoline blended with ethanol shall be blended under any of the following three options:¶

(A) ¶the base gasoline used in such blends shall meet the requirements of ASTM-D-4814; or¶

(B) ¶the blend shall meet the requirements of ASTM-D-4814; or¶

(C) ¶the base gasoline used in such blends shall meet all the requirements of ASTM-D-4814 except distillation, and the blend shall meet the distillation requirements of the ASTM-D-4814 specification.¶

(b) Blends of gasoline and ethanol shall not exceed the ASTM-D-4814 vapor pressure standard by more than 1.0 psi.¶

(c) Blends of gasoline and ethanol shall meet the volatility requirements of 40 CFR Part 1090.215¶

(d) Minimum Antiknock Index (AKI). The AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.¶

(de) Minimum Motor Octane Number. The minimum motor octane number must not be less than 82 for gasoline with an AKI of 87 or greater.¶

(ef) Lead Substitute Gasoline. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute additive which provides a level of protection against exhaust valve seat recession which is equivalent to the level of protection provided by a gasoline containing at least 0.026 gram of lead per liter (0.10 g per U.S. gal).¶

(2) Denatured Fuel Ethanol intended for blending with gasoline shall meet the requirements of ASTM D-4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."¶

(3) Gasoline-Ethanol Blends Required¶

(a) Consistent with ORS 646.912, the Oregon Department of Agriculture shall study and monitor ethanol fuel production, use, and sales in Oregon, and the ethanol component shall be derived from agricultural product, woody waste or residue.¶

(3) Gasoline-Ethanol Blends Required¶

(ba) Except as provided in OAR 603-027-0420(3)(eb), all retail dealers, nonretail dealers, or wholesale dealers may only sell or offer for sale gasoline that contains ten percent ethanol by volume at least 10 percent denatured fuel ethanol by volume. Gasoline containing at least 9.2 volume percent anhydrous ethanol is considered to meet this requirement.¶

(eb) A retail dealer, nonretail dealer, or wholesale dealer may sell or offer for sale gasoline that is not blended with ethanol if the gasoline;¶

(A) H has an octane rating, as defined in ORS 646.945, of 91 or above, or if it is for use in;¶

(BA) A an aircraft;¶

(i) W with a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles, or¶

(ii) issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is

intended for use in motor vehicles, ~~or;~~

~~(C) An aircraft that has been issued an experimental certificate, described in 14 C.F.R. FR 21.191, by the Federal Aviation Administration and that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles, ~~or;~~~~

~~(D) A light-sport aircraft, as defined in 14 C.F.R. FR 1.1, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles, ~~or;~~~~

~~(E) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles, ~~or;~~~~

~~(F) An antique vehicle, as defined in ORS 801.125, ~~or;~~~~

~~(G) A Class I all-terrain vehicle, as defined in ORS 801.190, ~~or;~~~~

~~(H) A Class III all-terrain vehicle, as defined in ORS 801.194, ~~or;~~~~

~~(I) A racing activity vehicle, as defined in ORS 801.404, ~~or;~~~~

~~(J) A snowmobile, as defined in ORS 801.490, ~~or;~~~~

~~(K) Tools, including but not limited to lawn mowers, leaf blowers, and chain saws; ~~or;~~~~

~~(L) A watercraft.~~

~~(d) Gasoline-ethanol blends shall contain not less than 9.2 percent by volume of agriculturally derived ethanol, exclusive of denaturants and permitted contaminants, that complies with~~

~~(A) OAR 603-027-0420(2) Ethanol ASTM D 4806 standards,~~

~~(B) Denatured as specified in 27 C.F.R. parts 20 and 21, and~~

~~(C) Complies with the volatility requirements specified in 40 C.F.R. part 80.~~

~~(e) The ethanol shall be derived from agricultural product, woody waste or residue.~~

~~(f) The gasoline and gasoline-ethanol blends shall comply with OAR 603-027-0420(1).~~

~~(g) It is prohibited to blend with casinghead gasoline, absorption gasoline, drip gasoline, or natural gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal a watercraft.~~

~~(4) Gasoline Additive Restrictions.~~

~~(a) Effective November 1, 2009, a wholesale dealer, retail dealer, or nonretail dealer may not sell or offer to sell any gasoline blended or mixed with:~~

~~(A) Ethanol unless the blend or mixture meets the specifications or registration requirements established by the United States Environmental Protection Agency pursuant to section 211 of the Clean Air Act, 42 U.S.C. section 7545 and 40 C.F.R. FR Part 79, and the ethanol complies with ASTM International specification ASTM D 4806 ~~its denaturants complies with the requirements in 603-027-0420(2);~~~~

~~(B) Methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume; ~~or;~~~~

~~(C) A total of all of the following oxygenates that exceeds one-tenth of one percent, by weight, of;~~

~~(i) Diisopropyl ether (DIPE),~~

~~(ii) Ethyl tert-butyl ether (ETBE),~~

~~(iii) Iso-butanol,~~

~~(iv) Iso-propanol,~~

~~(v) N-butanol,~~

~~(vi) N-propanol,~~

~~(vii) Sec-butanol,~~

~~(viii) propanol, including all structural isomers.~~

~~(iv) Tert-amyl methyl ether,~~

~~(ix) Tert-butanol (TAME),~~

~~(xv) Tert-pentanol or tert-amyl alcohol (TAA), and~~

~~(xvi) Any other additive that has not been approved by the California Air Resources Board or the United States Environmental Protection Agency.~~

~~(b) Nothing in this section shall prohibit transshipment through this state, or storage incident to the transshipment, of gasoline that contains methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume or any of the oxygenates listed in OAR 603-027-0420(4)(a)(C), provided,~~

- (A) ~~the gasoline is used or disposed of outside of this state; and~~
- (B) ~~the gasoline is segregated from gasoline intended for use within this state.~~
- (c) Notwithstanding the additives in OAR 603-027-0420(4)(a), a person may sell, supply, or offer to sell or supply gasoline in this state that contains any oxygenate other than ethanol, if the California Air Resources Board (CARB), California Environmental Policy Council (CEPC), or the United States Protection Agency (U.S. EPA) allow use of the oxygenate.
- (d) It is prohibited to blend gasoline and gasoline-oxygenate blends with casinghead gasoline, absorption gasoline, drip gasoline, or natural gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.
- (5) Diesel Fuel shall meet the requirements of ASTM D-975, "Standard Specification for Diesel Fuel Oils."
- (6) Winter or Winterized Diesel Fuel shall meet the requirements of ASTM D-975, "Standard Specification for Diesel Fuel Oils" (D975) and have a cold flow performance measurement which meets the ~~ASTM D-975 tenth percentile minimum ambient air temperature charts and maps by either ASTM D2500, "Standard Test Method D 2500 (for Cloud Point) of Petroleum Products and Liquid Fuels" or ASTM D4539, "Standard Test Method D-4539 (for Filterability of Diesel Fuels by Low-Temperature Flow Test; (LTFT)).~~ Winter or winterized diesel (low temperature operability) is only applicable October 1 - March 31 of each year.
- (7) Premium Diesel Fuel - All diesel fuels identified on retail and nonretail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier shall meet the requirements of ASTM D-975, "Standard Specification for Diesel Fuel Oils" (D975) and must conform to the following requirements:
- (a) Cetane Number - A minimum cetane number of 47.0 as determined by ASTM ~~D613, "Standard Test Method D 613 for Cetane Number of Diesel Fuel Oil";~~
- (b) Low Temperature Operability - A cold flow performance measurement which meets the ~~ASTM D-975 tenth percentile minimum ambient air temperature charts and maps by either ASTM D2500, "Standard Test Method D 2500 (for Cloud Point) of Petroleum Products and Liquid Fuels" or ASTM D4539, "Standard Test Method D-4539 (for Filterability of Diesel Fuels by Low-Temperature Flow Test; (LTFT)).~~ Low temperature operability is only applicable October 1 - March 31 of ~~each~~ the next year;
- (c) Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM ~~D6468, "Standard Test Method D-6468 for High Temperature Stability of Middle Distillate Fuels" (180 minutes, 150 OC);~~
- (d) Lubricity - A maximum wear scar diameter of 520 microns as determined by ASTM D-6079, "Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High-Frequency Reciprocating Rig (HFRR)". If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this part.
- (8) Biodiesel; B100 Biodiesel and Biodiesel intended for blending with diesel fuel must,**
- (a) Meet the requirements of ASTM D-6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels";
- (b) Be analyzed and issued a Certificate of Analysis for each batch or production lot produced in or imported into Oregon prior to blending, sale, or offer for sale in Oregon. The Certificates of Analysis expire 45 days following the date the biodiesel sample was obtained.
- (c) Biodiesel must be analyzed for and comply with the visual appearance test (ASTM D-4176, "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)") upon its first receipt at a wholesale facility and prior to commingling with existing product.
- (d) Prior to blending, sale, or offer for sale in Oregon, biodiesel must be analyzed and the Certificate of Analysis issued by:
- (A) An accredited motor fuel laboratory, or
- (B) A non-accredited motor fuel laboratory that meets all of the following requirements;
- (i) The laboratory facilities must house and allow proper operation of all required equipment in accordance with the applicable test procedures,
- (ii) The laboratory must use personnel trained to perform and analyze ASTM ~~International D-6751~~ D6751,

"Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels" biodiesel fuel tests and other required tests.¶

(iii) The laboratory must use testing equipment that has been calibrated or verified to meet the requirements of each ASTM International test procedure used.¶

(iv) The laboratory must participate in an ASTM International proficiency program or similar national proficiency program for at least three times per year with appropriate results, and¶

(v) The laboratory must maintain current documentation of personnel qualifications, equipment verification, and proficiency results for at least one year. These records shall be available for inspection and reproduction upon request by the Director.¶

(9) Biodiesel Blends;¶

(a) Biodiesel blends through B5 must meet the requirements of ASTM D-975, "Standard Specification for Diesel Fuel Oils".¶

(b) Biodiesel blends of B6 through B20 must meet the requirements of ASTM D-7467, "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6-B20)".¶

(c) Blends of biodiesel and diesel fuels greater than B20 must meet the following requirements:¶

(A) The base diesel fuel must meet the requirements of ASTM D-975, "Standard Specification for Diesel Fuel Oils; and"¶

~~(B) The biodiesel blend stock must meet:~~¶

~~(i) The requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, and~~¶

~~(ii) The requirements in OAR 603-027-0420(8).~~¶

~~(d) Exception; B~~ except that biodiesel may be blended with diesel fuel whose sulfur, lubricity, or aromatic levels are outside specification ASTM D-975, "Standard Specification for Diesel Fuel Oils", grades 1-D, or 2-D provided the finished mixture meets pertinent national and local specifications and requirements for these properties, and¶

~~(B) The biodiesel blend stock must meet the requirements in OAR 603-027-0420(8).~~¶

(10) Biomass-Based Diesel, also referred to as Other Renewable Diesel and Renewable Diesel, must meet the registration requirements for fuels and fuel additives established by the U.S. Environmental Protection Agency under the 2007 42 U.S.C. 7545, comply with ASTM International D975, "Standard Specification for Diesel Fuel Oils" or other applicable ASTM product specifications, can be used as a finished fuel or fuel blending component, and designated "100% Biomass-Based Diesel".¶

(11) Biomass-Based Diesel Blends must comply with ASTM D975, "Standard Specification for Diesel Fuel Oils".¶

(12) Biodiesel Blends, Biomass-Based Blends, or a Combination of Biodiesel and Biomass-Based Diesel Blends Required.¶

(a) Except as provided in subsection (d) of this section, a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing;¶

~~(i) A~~ at least five percent biodiesel by volume, or¶

~~(ii) As of January 2, 2012, B)~~ biomass-based diesel with at least five percent renewable component by volume, or¶

~~(iii) C) F~~ five percent or less biodiesel by volume and five percent or less biomass-based diesel by volume provided the combined total of biodiesel and biomass-based diesel is at least five percent by volume.¶

(b) Biodiesel blends and biomass-based diesel blends shall contain the volume percent stated to the nearest;¶

(A) 1 volume percent for blends through 5 volume percent, and¶

(B) 2 volume percent for blends greater than 5 volume percent through 20 volume percent.¶

~~(c) Diesel fuel containing more than five percent biodiesel by volume or biomass-based diesel with more than five percent renewable component by volume must be labeled as required in OAR 603-027-0430.~~¶

~~(d) Exemption. The minimum biodiesel fuel content requirements in OAR 603-027-0420(12)(a) do not apply to diesel fuel:~~¶

~~(A) S~~ old or offered for sale for use by railroad locomotives, marine engines, or home heating, or facilities that store more than 50 gallons of diesel fuel for use in emergency power generation; or¶

~~(B) T~~ hat otherwise meets the requirements in OAR 603-027-0420 this section but to which there have been

added substances to prevent congealing or gelling of diesel fuel containing biodiesel or biomass-based diesel. This exception applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year. This exemption applies to blends of grade No. 1 diesel fuel and grade No. 2 diesel fuel as they are defined in ASTM D975, "Standard Specification for Diesel Fuel Oils" where the grade No. 1 component (commonly referred to as kerosene) provides enhanced cold weather performance and the grade No. 2 component meets the blending requirement in OAR 603-027-0420(12)(a).

(13) Aviation Gasoline, shall meet the requirements of:

(a) ASTM D910, "Standard Specification Leaded for Aviation Gasolines.", or

(b) ASTM D6227, "Standard Specification for Unleaded Aviation Gasoline Containing a Non-hydrocarbon Component.", or

(c) ASTM D9107547, "Standard Specification for Hydrocarbon Unleaded Aviation Gasoline:"

(14) E85 ethanol Flex Fuel, - Ethanol shall meet the requirements of flex fuel is covered by one of two ASTM standards based on the ethanol concentration of blend:

(a) Ethanol flex fuel containing 51 to 83 volume percent ethanol (commonly called E85) shall meet ASTM D-5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."

(15) M85 Fuel Methanol shall meet the requirements of ASTM D 5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines."

[Publications: Publications referenced are available from the agency.] Ethanol Fuel Blends for Flexible Fuel Automotive Spark-Ignition Engines"; and

(b) Ethanol flex fuel containing 16 to 50 volume percent ethanol shall be blended, stored, delivered and offered for consumption in accordance with ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible Fuel Vehicles with Automotive Spark-Ignition Engines."

(15) M85 Fuel Methanol shall meet the requirements of ASTM D 5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines."

(16) All ASTM documents incorporated by reference in this rule are those versions found in the 2020 Annual Book of ASTM Standards unless noted otherwise. Documents include:

(a) ASTM 7547, "Standard Specification for Hydrocarbon Unleaded Aviation Gasoline"

(b) ASTM D 5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines."

(c) ASTM D2500, "Standard Test Method for Cloud Point of Petroleum Products and Liquid Fuels"

(d) ASTM D4176, "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)"

(e) ASTM D4539, "Standard Test Method for Filterability of Diesel Fuels by Low-Temperature Flow Test (LTFT)"

(f) ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."

(g) ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel"

(h) ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible Fuel Automotive Spark-Ignition Engines"

(i) ASTM D6079, "Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High-Frequency Reciprocating Rig (HFRR)"

(j) ASTM D613, "Standard Test Method for Cetane Number of Diesel Fuel Oil"

(k) ASTM D6227, "Standard Specification for Unleaded Aviation Gasoline Containing a Non-hydrocarbon Component."

(l) ASTM D6468, "Standard Test Method for High Temperature Stability of Middle Distillate Fuels"

(m) ASTM D6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels"

(n) ASTM D7467, "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6-B20)"

(o) ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible Fuel Vehicles with Automotive Spark-Ignition Engines."

(p) ASTM D910, "Standard Specification Leaded for Aviation Gasolines."

(q) ASTM D975, "Standard Specification for Diesel Fuel Oils."

Statutory/Other Authority: ORS 561.190, 646.905 - 646.990, 1997 OL Ch. 310 (SB 414)

Statutes/Other Implemented: 646.905 - 646.990, ~~483~~, 1997 OL Ch. 310 (SB 414), ORS 183

AMEND: 603-027-0430

RULE SUMMARY: Defines requirements for product transfer documents required for wholesale fuel transactions and motor fuel dispenser advertising and labeling requirements.

CHANGES TO RULE:

603-027-0430

Classification and Method of Sale of Petroleum Products ¶¶

(1) General Considerations:¶¶

(a) Documentation.¶¶

(A) When gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol; E85 and E100 fuel ethanol; B100 biodiesel and biodiesel blends; biomass-based diesel and biomass-based diesel blends; diesel fuel; winter or winterized diesel fuel; premium diesel fuel; or aviation gasoline motor vehicle fuels are sold, an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a sale by a retail or nonretail dealer. ~~¶ and this document must identify the:~~¶¶

(i) Quantity,¶¶

(ii) The name of the product,¶¶

(iii) The ~~particular~~ grade of the product,¶¶

(iv) The word "Winter" or "Winterized" diesel if applicable,¶¶

(v) The word "Premium" diesel if applicable,¶¶

(vi) The volume percent biodiesel and biomass-based diesel used to meet requirements in 603-027-0420(12),¶¶

(vii) The applicable automotive fuel rating,¶¶

(viii) The name and address of the seller and buyer,¶¶

(ix) The date and time of the sale,¶¶

(x) For gasoline, including gasoline-oxygenate blends, information complying with the requirements of 40 CFR Part 1090.1110,¶¶

(xi) For diesel fuel, information complying with the requirements of 40 CFR Part 1090.1115,¶¶

(xii) For gasoline-oxygenate and gasoline-alcohol blends which contain more than 1.5 mass percent oxygen, the documentation shall state the oxygenate type and oxygenate content, in volume percent, to the nearest 0.5 volume percent, and¶¶

(xiii) For non-ethanol blended gasoline the documentation shall state that the gasoline is non-ethanol blended.¶¶

(B) Each operator of a bulk facility and each person who imports motor vehicle fuels into this state for sale in this state shall keep, for at least one year, at the person's registered place of business complete and accurate records of any motor vehicle fuels sold if sold or delivered in this state.¶¶

(C) Each biodiesel producer, each operator of a biodiesel bulk facility and each person who imports biodiesel into Oregon for sale in this state shall keep, on a monthly basis for at least one year, at the person's registered place of business the certificate of analysis and the analysis records for visual appearance tests that are performed upon first receipt at a wholesale facility prior to commingling with existing product for each batch or production lot of biodiesel sold or delivered in Oregon.¶¶

~~(D) Each biodiesel producer in Oregon shall keep, on a monthly basis for at least one year, at the person's registered place of business, documentation declaring the producer's name, location address, date, and quantity of biodiesel production and sales. This documentation shall be completed on a form provided by the Department of Agriculture and mailed on a quarterly basis to the Department in Salem, Oregon.¶¶~~

~~(E) All retail dealers, nonretail dealers, and wholesale dealers in Oregon are required to provide, upon request of the Department, evidence of a certificate of analysis for the biodiesel received.¶¶~~

~~(F) Each ethanol production facility in Oregon shall keep, on a monthly basis for at least one year, at the person's registered place of business, documentation declaring the production facility's name, location address, net ethanol production capacity, the date that the net ethanol capacity was attained, quantity of ethanol produced, and sales in Oregon. This documentation shall be completed on a form provided by the Department of Agriculture and~~

mailed on a quarterly basis to the Department in Salem, Oregon. ¶

("NON-ETHANOL BLENDED GASOLINE FOR EXEMPTED USE ONLY (ORS 646.913)" in capital letters and type at least 12.7 millimeters (1/2 inch) Retail dealers and nonretail dealers shall maintain at their facilities the octane rating certification or motor vehicle fuel delivery documentation for the three most recent deliveries to the facility for each grade of gasoline, fuel ethanol, fuel methanol, biodiesel, biodiesel blends, diesel fuel, biomass-based diesel fuel, and biomass-based diesel fuel blends sold or offered for sale. ¶

(b) Retail and Nonretail Gasoline Dispenser Labeling. All retail and nonretail gasoline motor vehicle fuel dispensing devices must identify conspicuously on each face of the dispenser(s), ¶

(A) The type of product, ¶

(B) The particular (except gasoline and gasoline-oxygenate blends), ¶

(B) The grade of the product, and ¶

(C) Type of oxygenate contained if applicable, ¶

(i) Including the specific volume percent of ethanol in gasoline-ethanol blends stating, for example, "THIS PRODUCT has the automotive fuel rating if applicable. ¶

(c) Grade Name. The sale of any product under any posted grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade indicated in the posted grade name must be consistent with the applicable standard specified in OAR 603-027-0420 "Standard Fuel Specifications". ¶

(2) Automotive Gasoline and Automotive Gasoline-Oxygenate Blends: ¶

(a) Posting of Antiknock Index Required. All automotive gasoline and automotive gasoline- oxygenate blends shall post the antiknock index in accordance with 16 CFR Part 306. ¶

(b) Posting of Oxygenate required: ¶

(A) if the gasoline offered for sale is E10 then ¶

(i) the gasoline dispenser must be labeled with an oxygenate label stating "CONTAINS 10% ETHANOL", or other similar language. If a gasoline dispenser offers additional gasoline products other than E10 then the label placement must make is clear which start buttons correspond to E10 gasolines, and ¶

(ii) the oxygenate label(s) must be in type at least 12.7 millimeters (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type) located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the driver's position, ¶

(ii) Prohibited terms and phrases include but are not limited to normal customer position while fueling, and ¶

(iii) the oxygenate label may not say, "Contains Up To 10% Ethanol", "May Contain Ethanol", or any other similar language, suggesting that the gasoline offered for sale may contain lesser quantities of ethanol. ¶

(B) The applicable automotive fuel rating, and if the gasoline offered for sale is E15 then an oxygenate label must be placed on the dispenser meeting all of the requirements of 40 CFR Part 1090.1510. ¶

(C) otherwise the oxygenate label must include both the type of oxygenate contained and the specific volume percent of the oxygenate in the gasoline-oxygenate blend in a type at least 12.7 millimeters (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type) located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the normal customer position while fueling. ¶

(E) If non-ethanol blended gasoline, other than 91 octane or above, in compliance with OAR 603-027-0420, the dispensers shall be labeled, ("NON-ETHANOL BLENDED GASOLINE FOR EXEMPTED USE ONLY (ORS 646.913)" in capital letters and type at least 12.7 millimeters (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type) located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous to the consumer normal customer position while fueling. ¶

(e) Posting of Exceptions for Non-Ethanol Blended Gasoline. The exceptions for non-ethanol blended gasoline, other than 91 octane or above (ref 603-027-0420(3)(b)(A)), shall be posted at a business that sells or offers for sale non-ethanol blended gasoline in a position that is clear and conspicuous to the consumer. The exceptions shall be posted; ¶

(A) in capital letters and type at least 6.4 millimeters (1/4 inch) in height, 1 millimeter (1/32 inch) stroke (width of type), followed by, ¶

"NON-ETHANOL BLENDED GASOLINE FOR USE IN THE FOLLOWING APPLICATIONS ONLY;" ¶



(B) and in capital letters and type at least 6.43 millimeters (1/48 inch) in height, 40.4 millimeter (1/3264 inch) stroke (width of type), followed by:

"AIRCRAFT WITH A SUPPLEMENTAL TYPE CERTIFICATE APPROVED BY THE FEDERAL AVIATION ADMINISTRATION THAT ALLOWS THE AIRCRAFT TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AIRCRAFT ISSUED A TYPE CERTIFICATE BY AN AIRCRAFT ENGINE MANUFACTURER THAT ALLOWS THE AIRCRAFT TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AN AIRCRAFT THAT HAS BEEN ISSUED AN EXPERIMENTAL CERTIFICATE, DESCRIBED IN 14 C.F.R. 21.191, BY THE FEDERAL AVIATION ADMINISTRATION AND THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

A LIGHT-SPORT AIRCRAFT, AS DEFINED IN 14 C.F.R. 1.1, THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

A VINTAGE AIRCRAFT, AS DEFINED BY THE OREGON DEPARTMENT OF AVIATION BY RULE, THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AN ANTIQUE VEHICLE, AS DEFINED IN ORS 801.125;

A CLASS I ALL-TERRAIN VEHICLE, AS DEFINED IN ORS 801.190;

A CLASS III ALL-TERRAIN VEHICLE, AS DEFINED IN ORS 801.194;

A RACING ACTIVITY VEHICLE, AS DEFINED IN ORS 801.404;

A SNOWMOBILE, AS DEFINED IN ORS 801.490;

TOOLS, INCLUDING BUT NOT LIMITED TO LAWN MOWERS, LEAF BLOWERS, AND CHAIN SAWS; OR A WATERCRAFT

(Reference ORS 646.913) in capital letters and type at least 3 millimeters (1/8 inch) in height, 0.4 millimeter (1/64 inch) stroke (width of type).

(d) Grade Name. The sale of any product under any posted grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade indicated in the posted grade name must be consistent with the applicable standard specified in OAR 603-027-0420 "Standard Fuel Specifications".

(2) Automotive Gasoline and Automotive Gasoline-Oxygenate Blends:

(a) Posting of Antiknock Index Required. All automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with 16 CFR Part 306.

(e) Use of Lead Substitute Must Be Disclosed. Each dispensing device from which gasoline or gasoline oxygenate blend containing a lead substitute is dispensed shall display the grade name followed by "With a Lead Substitute" (e.g. "Unleaded With a Lead Substitute"). The lettering of the lead substitute declaration shall not be less than 12.7 millimeters (1/2 in) in height and 1.5 centimeters (1/16 in) stroke (width of type). The color of the lettering shall be in definite contrast to the background color to which it is applied.

(ef) Prohibition of Terms. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum antiknock index requirement shown in Table 1.

TABLE 1. MINIMUM ANTIKNOCK INDEX REQUIREMENTS

The minimum antiknock index for Premium, Super, Supreme and High Test gasoline grade as:

(A) premium, super, supreme and high test or similar unless it has an octane rating of at least 91, or

(B) midgrade or mid-grade or similar unless it is 91

The minimum antiknock index for Mid Grade and Plus is 89

The minimum antiknock index for Unleaded with a Lead Substitute is 88

The minimum antiknock index for Regular and Unleaded (alone) is has an octane rating of at least 89, or

(C) regular, unleaded, or similar unless it has an octane rating of at least 87.

(3) Diesel Fuel:

(a) Labeling of Product and Grade Required. Diesel fuel shall be identified by "Diesel" and grades "No. 1-D-", "No.

2-D". Each retail or nonretail dispenser of diesel fuel shall be labeled "Diesel" and the grade being dispensed.

(b) Location of Label. These labels shall be located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the driver's position, in a type at least 12.7 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

(4) Winter or Winterized Diesel Fuel:

(A) a) Labeling of Product and Grade Required. The dispensers of winterized diesel fuel must be labeled as required in OAR 603-027-0430(3) and include the words "WINTERIZED DIESEL" or "WINTER DIESEL" (e.g. "WINTERIZED DIESEL No. 2-D").

(B) b) Location of Winterized Diesel Fuel Label. The location of the winterized diesel label shall be as required in OAR 603-027-0430(3)(b) or on a "pump topper" mounted on top of each winterized diesel dispenser with lettering as specified in OAR 603-027-0430(3)(b) and must be in a position that is clear and conspicuous from the driver's position.

(5) Premium Diesel Fuel:

(a) Labeling of Premium Diesel Required. In addition to labeling requirements specified in OAR 603-027-0430(3), all retail and nonretail dispensers of premium diesel shall be labeled "Premium Diesel" (e.g. "Premium Diesel No. 2-D").

(b) Location of Premium Diesel Fuel Label. The location of the premium diesel fuel label shall be located on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the driver's position, in a type at least 12.7 millimeter (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type).

(6) Biodiesel and Biomass-Based Diesel:

(a) Identification of Product:

(A) Biodiesel and biodiesel blends must be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel. (Examples: B10; B20; B100)

(B) Biomass-based diesel and biomass-based diesel blends must be identified by the numerical value representing the volume percentage of biomass-based diesel immediately followed by the percentage symbol (%) and then the term "Biomass-Based Diesel" or "Biomass-Based Diesel Blend". (Examples: "10% Biomass-Based Diesel Blend"; "20% Biomass-Based Diesel Blend"; "70% Biomass-Based Diesel Blend"; "100% Biomass-Based Diesel".)

(b) Labeling of Retail and Non-Retail Dispensers Containing Between 5% and Up To and Including 20% Biodiesel or Biomass-Based Diesel:

(A) If containing biodiesel, the dispenser(s) must be labeled with either:

(i) The capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend" (Examples: "B10 Biodiesel Blend"; "B20 Biodiesel Blend"); or

(ii) The phrase, "Biodiesel Blend Between 5% and 20%" or similar words; or

(iii) The Federal Trade Commission (FTC) 2011 16 CFR Part 306 approved label "Biodiesel Blend" that is appropriate for blends from 5% to 20% biodiesel, or "B20 Biodiesel Blend" that is appropriate for 20% biodiesel blends only.

(B) If containing biomass-based diesel, the dispenser(s) must be labeled with either:

(i) "XX% Biomass-Based Diesel Blend" where the abbreviation "XX" represents the volume percentage of biomass-based diesel in the blend; or

(ii) The phrase, "Biomass-Based Diesel Blend Between 5% and 20%" or similar words; or

(iii) The Federal Trade Commission (FTC) 2011 16 CFR Part 306 approved label that is appropriate for biomass-based diesel blends from 5% to 20% biomass-based diesel.

(c) Labeling of Retail and Non-Retail Dispensers Containing More Than 20% Biodiesel or More Than 20% Biomass-Based Diesel:

(A) If containing more than 20% biodiesel, the dispenser(s) must be labeled:

(i) "Consult Vehicle Manufacturer Fuel Recommendations", posted on the dispenser front panels in a position clear and conspicuous from the driver's position in block letter type at least 6 mm (1/4 inch) in height by 0.8 mm (1/32) stroke (width of type) and the color must be in definite contrast to the background color to which it is applied; and in addition,

(ii) Separately labeled with the capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "Biodiesel" or "Biodiesel Blend" (Examples: "B100 Biodiesel"; "B60 Biodiesel Blend"); or¶

(iii) The Federal Trade Commission (FTC) 2011 16 CFR Part 306 approved label for biodiesel blends greater than 20% biodiesel.¶

(B) If containing more than 20% biomass-based diesel, the dispenser(s) must be labeled with:¶

(i) The numerical value representing the volume percentage of biomass-based diesel immediately followed by the percentage symbol (%) and then the term "Biomass-Based Diesel" or "Biomass-Based Diesel Blend" (Examples: "100% Biomass-Based Diesel"; "70% Biomass- Based Diesel Blend"); or¶

(ii) The Federal Trade Commission (FTC) 2011 16 CFR Part 306 approved label for biomass- based diesel blends greater than 20% biomass-based diesel.¶

(d) Documentation for Biodiesel, Biodiesel Blends, Biomass-Based Diesel, and Biomass-Based Diesel Blends. The operator of retail and non-retail dispensers must be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel, biomass-based diesel, or any combination thereof on an invoice, bill of lading, shipping paper, or other document in compliance with OAR 603-027-0430(1)(a).¶

(e) Exemption.¶

(A) Biodiesel blends containing 5% or less biodiesel by volume, 5% or less biomass-based diesel by volume, or a combination of 5% or less biodiesel by volume and 5% or less biomass-based diesel by volume, are exempted from the dispenser labeling requirements in OAR 603-027- 0430(6) except,¶

(B) If a dispenser is labeled with any reference to biodiesel or biomass-based diesel and the fuel contains 5% or less biodiesel, 5% or less biomass-based diesel, or 5% or less biodiesel by volume and 5% or less biomass-based diesel by volume, then it must be labeled as appropriate either: ¶

(i) With the capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend" (Example: "B5 Biodiesel Blend"); or¶

(ii) With the numerical value representing the volume percentage of biomass-based diesel immediately followed by the percentage symbol (%) and then the term "Biomass-Based Diesel Blend" (Example: "5% Biomass-Based Diesel Blend"); or¶

(iii) If a combination of biodiesel and biomass-based diesel not exceeding five percent by volume of each product, "Contains Minimum 5% Renewable Fuel" or similar language.¶

(f) Size of Labeling Type. Except for the FTC 2011 16 CFR Part 306 approved labels and the "Consult Vehicle Manufacturer Fuel Recommendations" labels as specified, all labeling required in OAR 603-027-0430(6), must be in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type).¶

(7) Aviation Gasoline: Labeling of Grade Required. Aviation gasoline ~~and dispensers~~ shall be identified by ~~and~~ labeled with ~~Grade 80, Grade 100, or Grade 100LL.~~ ¶

~~(8) E85 Fuel Ethanol:¶~~

~~(a) How to Identify E85 Fuel Ethanol. Fuel ethanol shall be identified as E85. (Example: E85)¶~~

~~(b) Retail or Nonretail E85 Fuel Ethanol Dispenser Labeling.¶~~

~~(A) Fuel ethanol dispensers shall be labeled with its automotive fuel rating in accordance with 16 Code of Federal Regulations Part 306.¶~~

~~(B) A label shall be posted which states, "For Use in Flexible Fuel Vehicles (FFV) Only". This information shall be posted on the upper 50% of the dispenser front panels in a position clear and conspicuous from the driver's position, in a type at least 12.7 mm (1/2 inch) in height, 1.5 mm (1/16 inch) stroke (width of type) the grade terms contained in the ASTM Standard Specifications identified in 602-027-0420(13). (See also EI 1542, "Identification Markings for Dedicated Aviation Fuel Manufacturing and Distribution Facilities, Airport Storage and Mobile Fueling Equipment".) ¶~~

~~(8) Ethanol Flex Fuel:¶~~

~~(a) How to Identify Ethanol Flex Fuel. - Ethanol flex fuel shall be identified as Ethanol Flex Fuel or EXX Flex Fuel, or E85.¶~~

~~(c) A label must be posted that states, "Consult Vehicle Manufacturer Fuel Recommendations". This label must~~

be posted on the dispenser front panels in a position clear and conspicuous from the driver's position in block letter type at least 6 mm (1/4 inch) in height by 0.8 mm (1/32 inch) stroke (width of type) and the color must be in definite contrast to the background color to which it is applied. FTC Labeling Requirements. - Ethanol flex fuel shall be identified and labeled in accordance with the Federal Trade Commission, Automotive Fuel Ratings, Certification and Posting, 16 CFR 306. ¶

(9) Fuel Methanol: ¶

(a) Identification of Fuel Methanol. Fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (Example: M85) ¶

(b) Retail or Nonretail Dispenser Labeling. Each retail or nonretail dispenser of fuel methanol shall be labeled in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type) with the capital letter M followed by the numerical value volume percent methanol and ending with the word "methanol". (Example: M85 Methanol). ¶

(c) Additional Labeling Requirements. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306. ¶

(10) Liquefied Natural Gas (LNG). ¶

(a) How Liquefied Natural Gas is to be Identified. - For the purposes of this regulation, liquefied natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG." ¶

(b) Labeling of Retail Dispensers of Liquefied Natural Gas Sold as a Vehicle Fuel. ¶

(A) Identification of Product. - Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas." ¶

(B) Automotive Fuel Rating. - LNG automotive fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR 306.

Statutory/Other Authority: ORS 561.190, ORS 646.905 - 646.990, ORS 646.945-- 646.963

Statutes/Other Implemented: ORS ~~183,561.190~~, ORS 646.905 - 646.990, ~~561.190~~ ORS 183

AMEND: 603-027-0490

RULE SUMMARY: Defines penalties for violations of ODA's motor fuel regulations.

CHANGES TO RULE:

603-027-0490

Enforcement Proceedings; Civil Penalties ¶¶

(1) Consolidation of Proceedings: Notwithstanding that each and every violation of any provision of ORS 646.947, 646.949 or 646.953, rules adopted under ORS 646.957 or orders issued under ORS 646.953 is a separate and distinct act and in cases of continuing violations, each day's continuance is a separate and distinct violation, proceedings for a Stop Use, Hold and/or Removal Order, or for the assessment of civil penalties arising from the same conduct or failure to act may be consolidated into a single proceeding.¶¶

(2) The Director or the Director's designate shall prescribe a reasonable time for the elimination of the violation prior to imposing a civil penalty, except that if a party fails to abide by the terms of any Stop Use, Hold and/or Removal Order, the Director or the Director's designate may immediately impose a civil penalty in addition to any other remedies provided by law.¶¶

(3) Violations occurring after the time prescribed for the elimination of the violation shall be considered repeat violations.¶¶

(4) Civil penalties shall be due and payable when the person incurring the penalty receives a Civil Penalty Assessment Notice in writing from the Director or the Director's designate.¶¶

(5) A Civil Penalty Assessment Notice, Stop Use Order, Hold Order and/or Removal Order shall be in writing. In addition to the posting providing for by OAR 603-2027-0470 for Stop Use, Hold and Removal Orders, these documents shall be served on the owner or operator of the facility by registered mail, certified mail, or in person. The notice shall include, but not be limited to:¶¶

(a) A reference to the particular section of the statute and/or administrative rule involved and;¶¶

(b) A short and plain statement of the matters asserted or charged;¶¶

(c) A statement of the amount of the penalty or penalties imposed, if any;¶¶

(d) A statement of the person's right to request a hearing if such request is made within ten days of mailing of the notice and an explanation of how a hearing may be requested;¶¶

(e) A statement that the notice becomes a final order unless the person upon whom the Stop Use, Hold and/or Removal Order, and /or civil penalty is assessed makes a written request for a hearing within ten days from the date of the mailing of the notice.¶¶

(6) A civil penalty imposed under the applicable statutes or these regulations may be remitted or reduced at the Director's discretion upon such terms and conditions that are proper and consistent with public safety and welfare.¶¶

(7) Hearing Procedures: All hearings shall be conducted pursuant to the applicable contested case procedures as outlined in ORS 183.310 to 183.550, and the Attorney General's Uniform and Model Rules of Procedure (OAR chapter 137).¶¶

(8) Entry of Order and Appeal Rights: If a person notified of the Stop Use, Hold, and/or Removal Order and/or civil penalty fails to request a hearing as specified in OAR 603-027-0490(5)(e), or if after the hearing the person is found to be in violation of the provisions of these rules, a final order may be entered by the Department as follows:¶¶

(a) The order shall be signed by the Director or the Director's designate;¶¶

(b) If the order is not appealed, or if it is appealed and the order is sustained on appeal, the order shall constitute a judgment and may be recorded with the county clerk in any county of this state. Any penalty provided in the order so recorded becomes a lien upon the title of any interest and real property in the county owned by the person against whom the order is entered.¶¶

(9) Penalty schedule: In addition to any other penalty provided by law, the Director may assess a civil penalty for violation of any provision of ORS 646.947, 646.949 or 646.953, rules adopted under ORS 646.957 or orders

issued under ORS 646.953. The amount of any civil penalty shall be determined using the following table per the schedule in 603-027-0490(10) and shall not exceed \$10,000. In establishing penalty assessments within the table (Table 2), the department will consider factors such as, the Director will consider the gravity of the violation; the scope of the violation; the cause(s) of the violation, the economic impact on fuel purchasers, prior history of violations, repetition of past history of the person incurring the penalty; and in the case of a penalty to be imposed on a retail dealer or nonretail dealer, both the degree of knowledge by the dealer of the violations, and the degree of demonstrated cooperativeness of the fuel seller. [Table not included. See ED. NOTE.]

(10) The commission of each violation has been categorized as to its magnitude of violation as follows: shown by the dealer to cure the violation.

(10) Civil penalty schedule:

(a) Gravity 1 (Minor):

(A) Labeling of Dispenser(s) (Ref. OAR 603-027-0430):

(i) Gasoline dispenser(s) not labeled with the identity of the product dispensed;

(ii) Gasoline dispenser(s) not labeled with the identity of the grade dispensed;

(iii) Gasoline dispenser(s) not labeled with the identity of oxygenates;

(iv) Gasoline-ethanol blend dispensers not labeled that the product contains 10% by 1st violation, Notice of Non-Compliance:

(B) 2nd violation, Notice of Violation:

(C) 3rd violation, civil penalty not less than \$100 and not more than \$500:

(b) Gravity 2 (Moderate):

(A) 1st violation, Notice of Violation:

(B) 2nd violation, civil penalty not less than \$501 and not more than \$1000:

(C) 3rd violation, civil penalty not less than \$1001 and not more than \$5000:

(vc) Gasoline dispenser(s) of non-ethanol blended gasoline, other than 91 octane or above, not labeled for exempted use only in compliance with OAR 603-027-0430.

(vi) Exceptions for non-ethanol blended gasoline, other than 91 octane or above, not posted in compliance with OAR 603-027-0430.

(vii) Use of Prohibited Terms. Prohibited terms used to describe the grade of gasoline or gasoline-oxygenate blends.

(A) 1st violation, civil penalty of \$500:

(B) 2nd violation, civil penalty not less than \$501 and not more than \$2500:

(C) 3rd violation, civil penalty not less than \$2501 and not more than \$5000.

(11) The commission of each violation has been categorized as to its magnitude of violation as follows:

(a) Gravity 1 (Minor):

(A) Labeling of Dispenser(s) (Ref. OAR 603-027-0430):

(viii) Gasoline dispenser(s) not labeled with the Antiknock Index (AKI) number;

(ix) Gasoline and Gasoline-Oxygenate Blend dispenser(s) for lead substitute motor vehicle fuels not properly identified not labeled in compliance with OAR 603-027-0430(2);

(xii) Diesel dispenser not labeled with either the identity of the product and/or grade dispensed;

(xi) Location of either the diesel product and/or grade label not on each face and on the upper 50 percent of the dispenser front panels in compliance with OAR 603-027-0430(3);

(xiii) Winter or winterized diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430;

(4);

(iv) Premium diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430(5);

(xiv) Aviation gasoline dispenser(s) not labeled with the identity of the grade dispensed;

(xv) Fuel ethanol dispenser(s) not labeled with the correct automotive fuel rating, "For Use In compliance with OAR 603-027-0430(7);

(vi) Ethanol Flexible Fuel Vehicles (FFV) Only", or "Consult Vehicle Manufacturer Fuel Recommendations"

dispenser(s) not labeled in compliance with OAR 603-027-0430(8);¶

~~(xvii) Fuel methanol dispenser(s) not labeled with the correct automotive fuel rating and the identity of the product dispensed in compliance with OAR 603-027-0430(9);¶~~

~~(xviii) Biodiesel, biodiesel blend, biomass-based diesel, or biomass-based diesel blend fuel dispenser(s) not labeled in compliance with OAR 603-027-0430(6);¶~~

(ix) Liquefied Natural Gas (LNG) dispenser(s) not labeled in compliance with OAR 603-027-0430(10);¶

(B) Storage Tank(s); Motor vehicle fuel storage tank(s);¶

(i) Not correctly identified as to the product contained;¶

(ii) Not correctly identified that the product contained therein is non-ethanol blended gasoline. (Ref. OAR 603-027-0440)¶

(C) Documentation; Wholesale Dealer and Bulk Facility (Ref. OAR 603-027-0430);¶

(i) Incorrect, incomplete, or no documentation of motor vehicle fuels provided to the retail dealer or nonretail dealer at the time of motor vehicle fuel delivery;¶

(ii) Motor vehicle fuel delivery documentation not maintained for at least one year at the person's registered place of business.¶

(D) Certificate of Analysis Documentation; Biodiesel Producer, Operator of a Biodiesel Bulk Facility, and each Person Who Imports Biodiesel not keeping on a monthly basis for at least one year, at the person's registered place of business the certificate of analysis for each batch or production lot of biodiesel sold or delivered in Oregon (Ref. OAR 603-027-0430);¶

(E) Visual Appearance Analysis Documentation; Biodiesel Producer, Operator of a Biodiesel Bulk Facility, and each Person Who Imports Biodiesel not keeping on a monthly basis for at least one year, at the person's registered place of business the analysis records for visual appearance tests that are performed upon first receipt at a wholesale facility prior to commingling with existing product for each batch or production lot of biodiesel sold or delivered in Oregon (Ref. OAR 603-027-0430);¶

~~(F) Documentation; Biodiesel Production Facility not keeping, on a monthly basis for at least one year, at the person's registered place of business, documentation declaring the producer's name, location address, date and quantity of biodiesel production and sales (Ref. OAR 603-027-0430);¶~~

~~(G) Documentation not delivered on a quarterly basis to the Oregon Department of Agriculture declaring the biodiesel producer's name, location address, date and quantity of biodiesel production and sales in compliance with OAR 603-027-0430;¶~~

~~(H) Documentation; Retail Dealer, Nonretail Dealer, and Wholesale Dealer not providing, upon request of the Department, evidence of a certificate of analysis for the biodiesel received (Ref. OAR 603-027-0430);¶~~

~~(I) Documentation; Ethanol Production Facility not keeping, on an annual basis by month, at the person's registered place of business, documentation declaring the production facility's name, location address, net ethanol production capacity, the date that the net ethanol capacity attained, quantity of ethanol produced, and sales in Oregon.¶~~

~~(J) Documentation declaring the ethanol facility's name, location address, net ethanol production, date, quantity of ethanol produced, and sales in Oregon not delivered to the Oregon Department of Agriculture on a quarterly basis in compliance with OAR 603-027-0430;¶~~

~~(K) Retail Dealer, Nonretail Dealer, and Wholesale Dealer not providing, upon request of the Department, evidence of a certificate of analysis for the biodiesel received (Ref. OAR 603-027-0430);¶~~

(G) Documentation; Retail Dealer and Nonretail Dealer (Ref. OAR 603-027-0430); Octane rating certification or motor vehicle fuel delivery documentation not maintained at their facilities for the three most recent deliveries to the facility for each grade of gasoline, fuel ethanol, fuel methanol, biodiesel, biodiesel blends, diesel fuel, biomass-based diesel fuel, and biomass-based diesel fuel blends sold or offered for sale.¶

(b) Gravity 2 (Moderate):¶

~~(A) Storage Tank(s);¶~~

~~(i) Water phase in motor vehicle fuel storage tank(s) for gasoline-alcohol blends, B100 Biodiesel, Biodiesel Blends, E85 fuel ethanol, M85 fuel methanol, and aviation fuel exceed allowable limits (Ref. OAR 603-027-0440);¶~~

- (#B) Water phase in motor vehicle fuel storage tank(s) for gasoline, diesel, biomass-based diesel, biomass-based diesel blends, gasoline-ether, and other fuels exceed allowable limits (Ref. OAR 603-027-0440).¶
- (c) GRAVITY 3 (Major):¶
- (A) Automotive fuel rating of the gasoline does not meet the minimum antiknock index (AKI) posted on the dispenser or certified on the invoice, bill of lading, shipping paper, or other documentation. (Ref. OAR 603-027-0420 and 603-027-0430);¶
- (B) Gasoline minimum motor octane number is less than 82 for gasoline with an AKI of 87 or greater;¶
- (C) Gasoline does not meet ASTM standards (Ref. OAR Gasoline sold or offered for sale by a wholesale dealer, retail dealer, or nonretail dealer does not meet the requirements of 603-027-0420(1));¶
- (B) Gasoline-Oxygenate blend does not meet the requirements of 603-2027-0420(1);¶
- (DC) Gasoline sold or offered for sale with a lead substitute that does not meet requirements for a lead substitute gasoline. (Ref. OAR by a wholesale dealer, retail dealer, or nonretail dealer contains one or more prohibited additives specified in 603-027-0420(4));¶
- (ED) Ethanol Gasol intended for blending with gasoline does not meet the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel". (Ref. OAR E-Oxygenate blend sold or offered for sale by a wholesale dealer, retail dealer, or nonretail dealer contains one or more prohibited additives specified in 603-027-0420(4));¶
- (FE) Gasoline sold or offered for sale does not meet gasoline-ethanol blend Denatured fuel ethanol intended for blending with gasoline does not meet the requirements (Ref. OAR of 603-027-0420(2));¶
- (GF) Gasoline Additive Restrictions: A sold or offered for sale by wholesale dealer, retail dealer, or nonretail dealer selling or offering for sale does not meet gasoline-ethanol blended or mixed with prohibited additives. (Ref. OAR requirements in 603-027-0420(3));¶
- (HG) Diesel fuel sold or offered for sale does not meet ASTM standards (Ref. OAR 603-027-0420);¶
- (I) Winter or Winterized diesel fuel offered for sale by wholesale dealer, retail dealer, or nonretail dealer does not meet Standard Fuel Specifications (Ref. OAR the requirements of 603-027-0420(5));¶
- (JH) Premium d Winter or Winterized Diesel fuel sold or offered for sale does not meet Standard Fuel Specifications (Ref. OAR 603-027-0420);¶
- (K) Biodiesel intended for blending with diesel fuel does not meet ASTM Standard Fuel Specifications (Ref. OAR by wholesale dealer, retail dealer, or nonretail dealer does not meet the requirements of 603-027-0420(6));¶
- (L) Biodiesel blend offered for sale does not meet fuel specifications (Ref. OAR 603-027-0420);¶
- (M) Each batch or production lot of biodiesel produced in or imported into Oregon not analyzed and issued a Certificate of Analysis prior to blending, sale, or offered for sale in Oregon. (Ref. OAR Premium Diesel fuel sold or offered for sale by wholesale dealer, retail dealer, or nonretail dealer does not meet the requirements of 603-027-0420(7));¶
- (NJ) Biodiesel Certificate of Analysis expired prior to blending, sale, or offer for sale in Oregon. (Ref. OAR 603-027-0420);¶
- (O) Biodiesel not analyzed for and complying with the visual appearance test (ASTM D 4176) upon its first receipt at a wholesale facility and prior to commingling with existing product. (Ref. OAR intended for blending with diesel fuel does not meet the requirements of 603-027-0420(8));¶
- (PK) Biodiesel not analyzed and the Certificate of Analysis issued by a motor fuel laboratory complying with OAR 603-027-0420 prior to blending, sale, or offer for sale in Oregon. (Ref. OAR blend fuel sold or offered for sale does not meet requirements of 603-027-0420(9));¶
- (QL) Biomass-based diesel fuel sold or offered for sale does not meet fuel specifications (Ref. OAR requirements of 603-027-0420(10));¶
- (RM) Biomass-based diesel blends fuel sold or offered for sale does not meet fuel specifications (Ref. OAR requirements of 603-027-0420(11));¶
- (SN) Diesel fuel sold or offered for sale does not meet diesel-biodiesel and biomass-based diesel blend requirements. (Ref. OAR of 603-027-0430(129));¶
- (TO) Biodiesel, biodiesel blends, biomass-based diesel, biomass-based diesel blends, or any combination thereof



content not to nearest 1 volume percent for blends through 5 percent by volume or not to nearest 2 volume percent for blends greater than 5 percent by volume through 20 percent by volume (Ref. OAR 603-027-0420);¶  
(U) Aviation gasoline does not meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasolines". (Ref. OAR Aviation gasoline sold or offered for sale does not meet the requirements of 603-027-0420 (13));¶

(VP) E85 Fuel Ethanol/Flex Fuel sold or offered for sale does not meet ASTM Standard Fuel Specifications (Ref. OAR the requirements of 603-027-0420(14));¶

(WQ) M85 Fuel Methanol sold or offered for sale does not meet ASTM Standard Fuel Specifications (Ref. OAR 603-027-0420).¶

[ED. NOTE: Tables referenced are available from the agency.]the requirements of 603-027-0420(15).

Statutory/Other Authority: ORS 561.190, OL 1997, Ch. 310 (SB 414), RS 646.905 - 646.990

Statutes/Other Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990, ORS 183