

## September Public Comment Draft

### CHAPTER 16.60 - MOTOR VEHICLE FUELS

(Chapter added by Ordinance No. 180313, effective August 11, 2006.)

#### Sections:

- 16.60.010 Definitions.
- 16.60.020 Minimum Biofuel Content Requirements.
- ~~16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.~~
- 16.60.025 Carbon Intensity Requirements.
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#### 16.60.010 Definitions.

Amended by Ordinance Nos. 180671 and 189820, effective February 7, 2020.) As used in this Chapter, the following terms shall be defined as provided in this section:

- ~~A. "B5 Fuel" means a fuel mixture consisting of 5% Biodiesel and 95% Diesel Fuel.~~
- ~~B. "B10 Fuel" means a fuel mixture consisting of 10% Biodiesel and 90% Diesel Fuel.~~
- ~~C. "B20 Fuel" means a fuel mixture consisting of 20% Biodiesel and 80% Diesel Fuel.~~
- ~~D. "Biodiesel blend stock" means 100% biodiesel fuel utilized for the purpose of blending with diesel fuel.~~
- EA.** "Biodiesel" means a renewable alternative to diesel fuel that consists of mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency. Biodiesel blends up to 5% biodiesel are required to meet the requirements of ASTM D6751 and the final blend meets the requirements of D975. Biodiesel blends of 6% to 20 % biodiesel are covered by the ASTM D7467 standard. "Biodiesel fuel" means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM).
- FB.** "Biofuel" means any fuel that is derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM) as determined by the Director of the Bureau of Planning and Sustainability under Section 16.60.020.D. For the purposes of this Chapter, Biofuel shall include Biodiesel, Renewable Diesel, and Ethanol.

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- C.** “Blendstock” means any unfinished biofuel that is blended with other similar unfinished fuels to make a final refined product. For example, a final product of B20 is made from a blend of 80% petroleum-based diesel fuel and 20% B100 blendstock.
- D.** “Carbon intensity” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ) and as determined by the Oregon Department of Environmental Quality (DEQ) Clean Fuels Program. (DEQ) Program.
- GE.** “Diesel” means ~~petroleum-based~~petroleum-based liquid that is suitable for use as a fuel in diesel powered vehicles.
- HF.** “E10” means a fuel mixture of 10% ethanol and 90% gasoline.
- IG.** “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- JH.** “Feedstock” means the plant or animal matter from which a biofuel is derived.
- KI.** “Fuel” means all gasoline or diesel sold within the City of Portland for the purpose of operating motor vehicles on public roadways.
- LJ.** “Fuel distributor” means a person that causes the transportation or storage of fuel at any point between a refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer within the City of Portland.
- K.** “Fuel pathway” means a detailed description of all stages of fuel production and use for any particular transportation fuel, including feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each transportation fuel.
- L.** “Fuel pathway code” or “FPC” means the identifier used by DEQ in ~~DEQ~~the Oregon Fuels Reporting System that applies to a specific fuel pathway as approved or issued under Oregon Administrative Rules 340-253-0400 through 0470.
- M.** “Fuel pathway holder” means the entity that has applied for and received a FPC from DEQ, or who has a FPC from the California Air Resources Board that has been approved for use in Oregon by DEQ.
- NM.** “Gasoline” means any petroleum-based fuel sold for use in spark ignition engines.
- ON.** “Motor ~~V~~vehicle” means every inanimate vehicle which is self-propelled. For the purposes of this Chapter, the definition of motor vehicle shall not include aircraft, watercraft, or locomotives.

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- PO**. “Nonretail dealer” means any person who owns, operates, controls or supervises an establishment at which motor vehicles fuel is dispensed through a car or key-activated fuel dispensing device to nonretail customers.
- Q**. “Product transfer document” or “PTD” means a document, or combination of documents, that authenticates the transfer of fuel ownership between parties and must include all information as required under administrative rules developed by the Bureau of Planning and Sustainability. A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.
- R**. “Renewable Diesel” means a renewable alternative to diesel fuel that is produced through various thermochemical processes such as hydrotreating, gasification, and pyrolysis and is derived from plant or animal matter. Renewable diesel is chemically the same as petroleum diesel fuel. Renewable diesel meets the American Society for Testing and Materials (ASTM) specification ASTM D975 for petroleum diesel may be used in existing petroleum pipelines, storage tanks, and diesel engines.
- PS**. “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City of Portland.
- QT**. “Retail outlet” means any establishment within the City of Portland at which fuel is sold or offered for sale to the ultimate consumer for use in motor vehicles.
- RU**. “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City of Portland.
- SV**. “Wholesale purchaser-consumer” means any organization within the City of Portland that is an ultimate consumer of fuel, and which purchases or obtains diesel or gasoline from a fuel distributor or reseller for use in motor ~~vehicles, and~~ vehicles and receives delivery of that product into a storage tank or directly into a vehicle’s tank.

### 16.60.020 Minimum Biofuel Content Requirements.

(Amended by Ordinance Nos. 180671 and 189820, effective February 7, 2020.)

#### A. Biodiesel and Renewable Diesel

- ~~1. On and after July 1, 2007, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).~~
- ~~2. On and after August 15, 2007, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers within~~

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~~the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).~~

- ~~1. On and after January 15, 2023, all Diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 15% Biodiesel or Renewable Diesel.~~
- ~~2. On and after March 1, 2023, all Diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 15% Biodiesel or Renewable Diesel.~~

~~B.~~

- ~~1. On and after July 1, 2010, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).~~
- ~~2. On and after July 1, 2010, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).~~
- ~~3. On and after May 15, 2024, all Diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 35% Biodiesel or Renewable Diesel.~~
- ~~4. On and after July 1, 2024, all Diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 35% Biodiesel or Renewable Diesel.~~
- ~~5. On and after May 15, 2025, all Diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 65% Biodiesel or Renewable Diesel.~~
- ~~6. On and after July 1, 2025, all Diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 65% Biodiesel or Renewable Diesel.~~
- ~~7. On and after May 15, 2026, all Diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-~~

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consumers within the City of Portland shall contain a minimum blend of 99% Biodiesel or Renewable Diesel.

8. On and after July 1, 2026, all Diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 99% Biodiesel or Renewable Diesel.

### EB. Ethanol

1. On and after September 16, 2007, all gasoline sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.
2. On and after November 1, 2007, all gasoline sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.

DC. The Director of the Bureau of Planning and Sustainability shall establish, and revise as necessary, standards for biofuels sold in the City of Portland. The Director shall consult specifications established for biofuels by the American Society for Testing and Materials, the Oregon Department of Agriculture or similar specifications, in forming its standards.

ED. Biodiesel produced from a feedstock of virgin or recycled palm oil may not be used to satisfy the requirements of this Chapter.

FE. The Bureau of Planning and Sustainability shall study and monitor biodiesel and renewable diesel production, use and sales in Oregon and in the City of Portland during the implementation of 16.60.020.A. ~~When the production of biodiesel from Oregon grown feedstock and used cooking oil reaches a level of at least two million five hundred thousand gallons on an annualized basis for at least three months, the Bureau of Planning and Sustainability shall notify all fuel distributors, resellers, retailers, nonretail dealers and wholesale purchaser consumers that:~~

- ~~1. The production of biodiesel from Oregon grown feedstock and used cooking oil has reached the level described above; and~~
- ~~2. That three months from the date of the notice, all biodiesel used for the purposes of satisfying the requirements of this Chapter shall contain a minimum of 50% (by volume) of biodiesel produced from used cooking oil and/or feedstock from the Genera Brassica, Camelina, Helianthus or Carthamus.~~

GF. Fuel retailers shall be required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling

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guidelines or rules established by the Oregon Department of Agriculture or by the administrative rules adopted by the Director of the Bureau of Planning and Sustainability. ~~For example, B5 fuel shall be labeled “B5 Biodiesel Blend.”~~

### **16.60.025 — Additional Regulation in the 122<sup>nd</sup> Avenue Subdistrict.**

~~(Added by Ordinance No. 180372; amended by Ordinance 180671, effective January 12, 2007.) Effective July 1, 2007, in the 122<sup>nd</sup> Avenue subdistrict of the East Corridor plan district, all fuel vendors established under the provisions of Subsection 33.521.300. F. of Title 33, Planning and Zoning must sell a minimum blend of 20% Biodiesel (B20 fuel) at one or more pumps.~~

### **16.60.025 Biofuel Carbon Intensity Requirements.**

- A. All biodiesel and renewable diesel sold in the City of Portland to satisfy the requirements of this Chapter must have a carbon intensity equal to or less than 40 gCO<sub>2</sub>e/MJ as certified by DEQ’s Clean Fuels Program, Approved Carbon Intensity Values.
- B. Carbon Intensity Requirements apply to biofuel blendstock, not the final blended products, which may contain a portion of petroleum-based diesel fuel at a higher carbon intensity.
- C. All fuel retailers and nonretailer dealers dispensing fuel must maintain records for all biofuels, including documentation showing FPC identifiers used by DEQ in the Oregon Fuels Reporting System. Retailers and nonretailer dealers are responsible for obtaining a FPC from the fuel pathway holder or from fuel distributors or resellers.
- D. The Director of the Bureau of Planning and Sustainability shall establish, and revise as necessary, standards for carbon intensity of biofuels sold in the City of Portland.

### **16.60.030 Exemptions.**

(Amended by Ordinance Nos. 180671 and 189820, effective February 7, 2020.)

- ~~A. Any retailer who offers a biodiesel blend of 20% (B20 fuel) or greater shall be exempt from the requirements of Section 16.60.020 (A) and (B), and may also provide for sale, on the same site or a contiguous site, diesel fuel which does not contain biodiesel.~~
- B. The Director of the Bureau of Planning and Sustainability may temporarily suspend or modify the minimum biofuel content requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director’s determination shall be made by filing a report with the City Council.
- C. The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft, ~~or aircraft,~~ or emergency equipment.

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- D. Nothing in this Chapter is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using up to eighty-five percent ethanol fuel blends.

### 16.60.040 Enforcement and Notice of Violation.

(Amended by Ordinance Nos. 180671 and 189820, effective February 7, 2020.)

- A. The Director of the Bureau of Planning and Sustainability, or designee, upon determining that a violation of this code or regulations duly adopted pursuant to this Chapter has occurred, shall issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer identifying the violation and applicable penalty.
- B. The fuel distributor, reseller or retailer shall, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.
- C. A determination issued pursuant to Section 16.60.040.A may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

### 16.60.050 Penalties.

Violations of this Chapter may be punishable by fines as follows:

- A. A fine of up to \$5,000 for the first violation;
- B. A fine of up to \$10,000 for each subsequent violation.

### 16.60.060 Disclosure.

       (Amended by Ordinance No. 180671, effective January 12, 2007.)

- A. For all sales of biofuels blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or product transfer document ~~shipping manifest~~ disclosing biofuel content, stating volume percentage, gallons of biofuel per gallon base stock, or an “Bxx,” “Rxx”, or “Exx” designation where “xx” denotes the volume percent biofuel included in the blended product, and the feedstock from which the biofuel was derived.
- B. For all sales of biofuel blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or product transfer document disclosing the FPC identifier used by DEQ in the Oregon Fuels Reporting System.

### 16.60.070 Additional Regulations.

(Amended by Ordinance Nos. 180671 and 189820, effective February 7, 2020.)

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- A. The Bureau of Planning and Sustainability is authorized to promulgate administrative rules and take other actions reasonable and necessary to enforce this Chapter.

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