

EXHIBIT A

CHAPTER 16.60 - MOTOR VEHICLE FUELS

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

Sections:

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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 meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM). “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 Subsection 16.60.020_ DC. 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 used for the purpose of blending with petroleum-based diesel fuel to make a final refined product. For example, a final product of B20 is made from a blend of 80 percent petroleum-based diesel fuel and 20 percent 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 (gCO₂e/MJ), as determined by the Oregon Department of Environmental Quality (DEQ) Clean Fuels Program.
- E. “City” means the City of Portland.
- GF. “Diesel” means ~~petroleum-based~~ petroleum-based liquid that is suitable for use as a fuel in diesel powered motor vehicles.
- G. “Director” means the Director of the Bureau of Planning and Sustainability or the Director’s authorized representative, designee or agent.
- H. “E10” means a fuel mixture of 10% percent ethanol and 90% percent gasoline.
- I. “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- J. “Feedstock” means the plant or animal matter from which a biofuel is derived.
- K. “Fuel” means all gasoline or diesel sold within the City of ~~Portland~~ for the purpose of operating motor vehicles on public roadways.
- L. “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~~.
- M. “Gasoline” means any petroleum-based fuel sold for use in spark ignition engines.
- N. “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.
- O. “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.
- P. “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.

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- Q.** “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.
- PR.** “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City of Portland.
- QS.** “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.
- RT.** “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City of Portland.
- SU.** “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.

16.60.015 Authority of Director.

- A.** The Director is authorized to administer and enforce the provisions of this Chapter.
- B.** The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
- C.** The Director is authorized to adopt, amend and repeal rules, procedures and forms to implement the provisions of this Chapter.
- 1.** Before adopting, amending or repealing a rule, the Director must notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Program’s website, must be published at least 4 weeks before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed rule.
- 2.** During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held, as determined in the Director’s sole discretion. Unless otherwise stated, all

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rules are effective upon adoption by the Director. Copies of all current rules will be posted on the Renewable Fuel Standard Program's website.

3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule to temporarily suspend or modify the minimum biofuel content requirements, biofuel carbon intensity requirements, and exemptions of this Chapter based on the determination that such requirements are temporarily infeasible due to economic or technical circumstances. Interim rule may be adopted without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 calendar days. The Director may extend the interim rule past the 180 calendar days for good cause, as determined in the Director's sole discretion.

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 the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).~~
1. 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 shall contain a minimum blend of 15 percent biodiesel or renewable diesel.
2. On and after July 1, 2024, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers, or purchased by wholesale purchaser consumers within the City shall contain a minimum blend of 15 percent 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).~~

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- ~~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, 2026, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers, or wholesale purchaser-consumers within the City shall contain a minimum blend of 50 percent biodiesel or renewable diesel.
4. 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 shall contain a minimum blend of 50 percent biodiesel or renewable diesel.
5. On and after May 15, 2030, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers, or wholesale purchaser-consumers within the City shall contain a minimum blend of 99 percent biodiesel or renewable diesel.
6. On and after July 1, 2030, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers, or purchased by wholesale purchaser-consumers within the City shall contain a minimum blend of 99 percent 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% percent 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% percent 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.

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- E. Biodiesel used to satisfy the requirements of this Chapter must not exceed 20 percent in any final diesel fuel blends. The foregoing does not limit voluntary sales of higher blends of biodiesel, as long as those blends are properly labeled in accordance with state or federal guidelines.
- F. The Bureau of Planning and Sustainability must study and monitor biodiesel and renewable diesel production, use, and sales in Oregon and in the City of Portland through 2030. 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.
- G. Fuel retailers are required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling guidelines or rules established by the Oregon Department of Agriculture or by the administrative rules adopted by the Director. For example, B5 fuel shall be labeled "B5 Biodiesel Blend."

16.60.025 — Additional Regulation in the 122nd Avenue Subdistrict.

~~(Added by Ordinance No. 180372; amended by Ordinance 180671, effective January 12, 2007.) Effective July 1, 2007, in the 122nd 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 to satisfy the requirements of this Chapter must have a carbon intensity equal to or less than 40 gCO₂e/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. The Director must establish and revise as necessary standards for carbon intensity of biofuels sold in the City and rules for enforcement and reporting procedures.

16.60.030 Exemptions.

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(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.
- A. The requirements of Subsection 16.60.020 A.1. through 4. do not apply to any retailer offering a renewable diesel blend of 99 percent (R99 fuel) if such retailer, as of January 1, 2023, has: (1) a minimum of 120,000 gallons of onsite storage; and (2) a minimum of nine truck fueling lanes. Such retailer may also offer, on the same site or a contiguous site, diesel fuel that does not contain biofuels. This exemption expires on July 1, 2030.
- ~~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.
- CB. The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft, or aircraft, or emergency equipment.
- C. The requirements of this Chapter do not apply to any fuel used for vehicle test operations. For the purposes of product validation engineering, any reasonable market fuel required for validation may be procured at the sole discretion of the vehicle test operators, including any mix of ultra-low sulfur diesel, biodiesel, renewable diesel, or ethanol required for testing and in compliance with state and federal law.
- D. The minimum biofuel content requirements in Subsections 16.60.020 A.1. and 2. do not apply to Portland-based vehicle manufacturing operations. On and after July 15, 2030, all Portland-based vehicle manufacturing operations must meet the requirements of this Chapter.
- DE. 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~~ 85 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 Chapter or associated administrative rules regulations duly adopted pursuant to this Chapter has occurred, shall will issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer. The notice will identify the violation and applicable penalty.

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- 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 Subsection 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 ~~\$105,000~~ for the first violation;
- B. A fine of up to ~~\$150,000~~ 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~~ finished fuel, 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. Fuel retailers and nonretailer dealers dispensing fuel must maintain records for all biofuels sold in the City. Those records will be made available to the Bureau of Planning and Sustainability for the purposes of enforcement and reporting, as determined through rules adopted by the Director.

~~16.60.070 Additional Regulations.~~

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

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