

The Department of Agriculture filed a letter of clarification about this rule filing on 11/4/14. The Department indicated that the language in the rule filing 09-06-14 is correct and that the redline version should not be considered when amending Chapter 0080-05-12. Go to page 54 to see the clarification letter.

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Rulemaking Hearing Rule(s) Filing Form

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0080-05-12	Kerosene and Motor Fuels Quality Inspection Regulations
Rule Number	Rule Title
0080-05-12-.01	Definitions
0080-05-12-.02	Standard Specifications
0080-05-12-.03	Classification and Method of Sale
0080-05-12-.04	Water in Retail Tanks and Dispenser Filters
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Chapter 0080-05-12
 Kerosene and Motor Fuels Quality Inspection Regulations

Amendments

Rule 0080-05-12-.01 Definitions is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) "ASTM" (Formerly The American Society for Testing and Materials) 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.
- (2) "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.

- (3) "Automotive Fuel Rating" or "fuel rating" means the automotive fuel rating required under the amended Octane Certification and Posting Rule (or as amended, the Fuel Rating Rule), 16 CFR Part 306. 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 and gasoline blending stock is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired. For non-liquid alternative fuels not covered under 16 CFR Part 306, those covered under 16 CFR Part 309 shall be covered under this fuel rating definition.
- (4) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines generally containing small amounts of fuel additives and also commonly used in marine and nonautomotive applications.
- (5) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.
- (6) "Aviation Turbine Fuel" means a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.
- (7) "Biodiesel" (Biodiesel Fuel Blend Stock) means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.
- (8) "Biodiesel Blend" means a fuel comprised of a blend of more than five percent by volume or more biodiesel with petroleum-based diesel fuel, that may contain fuel additives.
- (9) "Butanol" means butyl alcohol, the chemical compound C_4H_9OH , a colorless substance existing in four isomeric forms.
- (10) "CBOB" means Conventional Blendstock for Oxygenate Blending, gasoline blendstock which could become a conventional gasoline-oxygenate blend solely upon the addition of an oxygenate.
- (11) "Cetane Number" means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
- (12) "Commissioner" means the Commissioner of the Tennessee Department of Agriculture or a departmental employee designated by the Commissioner to act as his representative for purposes of these rules.
- (13) "Compressed Natural Gas (CNG)" means natural gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel.
- (14) "Conventional-Fuel Vehicle" means a vehicle designed to operate on spark-ignition engine fuel that complies with ASTM D4814 standards.

Note: This definition is for the purpose of these regulations. Diesel vehicles may operate on conventional compression-ignition engine fuel. Diesel fuel and diesel engines are outside the scope of this definition.
- (15) "Denatured Fuel Ethanol" means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.
- (16) "Department" means the Tennessee Department of Agriculture.

- (17) "Diesel Fuel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine that may contain fuel additives.
- (18) "Ethanol Flex Fuel" means a blend of ethanol and hydrocarbons restricted for use as fuel in ground vehicles equipped with ethanol flexible-fuel spark-ignition engines.
- (19) "Engine Fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine that meets the applicable product specification.
- (20) "EPA" means the United States Environmental Protection Agency.
- (21) "Ethanol" also known as denatured fuel ethanol and ethyl alcohol, means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.
- (22) "Flexible-Fuel Vehicle" means a vehicle designed to operate on either unleaded gasoline or ethanol flex fuel blends or mixtures or both. Flexible-Fuel Vehicles may also be designed to run on M85 Fuel Methanol.
- (23) "Fuel Additive" means a material added to a fuel in small amounts not to exceed 1.0 percent by volume to impart or enhance desirable properties or to suppress undesirable properties.
- (24) "Fuel Oil" means refined oil middle distillates, heavy distillates, or residues of refining, or blends of these, suitable for use as a fuel for heating or power generation that may contain fuel additives.
- (25) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of fuel additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (26) "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 percent oxygen if methanol is the oxygenate) of one or more oxygenates not to exceed the total oxygen content permitted by applicable laws and regulations.
- (27) "Hydrogen Fuel" means a fuel composed of the molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.
- (28) "Internal Combustion Engine" means a device used to generate power by converting chemical energy bound in the fuel via spark-ignition or compression ignition engine combustion into mechanical work to power a vehicle or other device.
- (29) "Kerosene (or Kerosine)" means refined oil intended for heating or illuminating use.
- (30) "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.
- (31) "Lead Substitute Engine Fuel" means, for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute".
- (32) "Leaded" means, for labeling purposes, any gasoline or gasoline-oxygenate blend which contains more than 0.013 gram lead per liter (0.05 g lead per U.S. gal).
- NOTE: EPA defines leaded fuel as one which contains more than 0.0013 gram phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.
- (33) "Liquefied Natural Gas (LNG)" means natural gas that has been liquefied at -162 °C (-260 °F) and stored in insulated cryogenic tanks for use as an engine fuel.

- (34) "Liquefied Petroleum Gas (LPG)" means a mixture of normally gaseous hydrocarbons, predominantly propane, that has been liquefied by compression or cooling, or both to facilitate storage, transport, and handling for use as a motor fuel.
- (35) "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. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.
- (36) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.
- (37) "M85 Fuel Methanol" means automotive spark-ignition engine fuel blends of methanol and hydrocarbons, for use in ground vehicles equipped with M85 flexible-fuel spark-ignition engines.
- (38) "Motor Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D2700 Motor Method engine test.
- (39) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.
- (40) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.
- (41) "Person" means an individual, partnership, corporation, company, firm, association or other business entity.
- (42) "Racing Gasoline" means a specialty product similar in nature to automotive gasoline except that it is typically of lower volatility, has a narrower boiling range and a higher antiknock index, and is generally free of significant amounts of oxygenates. It is designed for use in vehicles with high compression engines, generally for racing purposes.
- (43) "Refinery" means any facility, including but not limited to, a plant, tanker truck or vessel where gasoline or diesel fuel is produced, including any facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.
- (44) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D2699 Research Method engine test.
- (45) "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. Such stress can lead to formation of insoluble gums or organic particulates. Insolubles (gums or organic particulates) can clog fuel filters and contribute to injector deposits.
- (46) "Total Oxygenate" means the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Chapter.
- (47) "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 phosphorus per U.S. gal.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.02 Standard Specifications is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Gasoline and Gasoline-Oxygenate Blends (as set forth in this regulation) shall meet the following requirements:

- (a) The most recent version of ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" except for the permissible offsets for ethanol blends as provided in section 0080-5-12-.02 (1)(b).
- (b) Gasoline-Ethanol Blends - When gasoline is blended with ethanol, the ethanol shall meet the latest version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Fuel" and the final blend shall meet the latest version of ASTM D4814 "Standard Specification for Automotive Spark-Ignition Engine Fuel" with the following permissible exceptions. The maximum vapor pressure shall not exceed the ASTM D4814 limits by more than:
 - 1. 1.0 psi for blends containing 9 to 10 volume percent ethanol from June 1 through September 15, in accordance with 40 CFR Part 80.27(d);
 - 2. 1.0 psi for blends containing one or more volume percent ethanol for volatility Classes A, B, C and D from September 16 through May 31;
 - 3. 0.5 psi for blends containing one or more volume percent ethanol for volatility Class E from September 16 through May 31;
 - 4. The vapor pressure exemptions in subsections 0080-5-12-.02 (1)(b)1-3 will remain in effect until May 1, 2016 or until ASTM incorporates changes to or confirms the current limits to the vapor pressure maximums for ethanol blends, whichever occurs first.
- (c) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall be those permitted by EPA under Section 211 of the Clean Air Act and applicable waivers. All conditions stipulated in the EPA waivers also apply. Gasoline-oxygenate content specifications based on vehicle performance and operability that are stipulated within ASTM D4814 will govern when those limits are more restrictive than those established by EPA for purposes of controlling emissions and the durability of emissions related equipment.
- (d) Minimum Antiknock Index - 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.
- (e) Minimum Motor Octane Number - the minimum motor octane number shall not be less than 82 for gasoline or gasoline-oxygenate blends.
- (f) Minimum Lead Content to Be Termed (Leaded) - gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).
- (g) Lead Substitute Gasoline - gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).
 - 1. Documentation of Exhaust Valve Seat Protection - upon the request of the Commissioner, the lead substitute additive manufacturer shall provide documentation to the Commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g/gal) lead.
 - 2. The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:
 - (i) Test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act, or;
 - (ii) Until such a time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear,

test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

- (h) Blending - Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.
- (2) Diesel Fuel shall meet the most recent version of ASTM D975, "Standard Specification for Diesel Fuel Oils".
- (a) Diesel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25°C (77°F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply.
 - (b) Premium Diesel Fuel - All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers or other documentation with terms such as premium, super, supreme, plus or premier must conform to the following requirements:
 - 1. Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D613.
 - 2. Low Temperature Operability - A cold flow performance measurement which meets the ASTM D975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D2500 (Cloud Point) or ASTM Standard Test Method D4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
 - 3. Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D6468 (180 minutes, 150 °C [302 °F]).
 - 4. Lubricity - A maximum wear scar diameter of 520 microns as determined by ASTM D6079. If an enforcement jurisdiction's 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.
- (3) Aviation Turbine Fuels shall meet the most recent version of the following standards, as applicable:
- (a) ASTM D1655, "Standard Specification for Aviation Turbine Fuels".
 - (b) ASTM D7223, "Standard Specification for Aviation Certification Turbine Fuel".
 - (c) ASTM D7566, "Standard Specification for Aviation Turbine Fuel Containing Synthesized Hydrocarbons".
 - (d) ASTM D6615, "Standard Specification for Jet B Wide-Cut Aviation Turbine Fuel".
- (4) Aviation Gasoline shall meet the most recent version of the following standards, as applicable:
- (a) ASTM D910, "Standard Specification for Aviation Gasoline".
 - (b) ASTM D6227, "Standard Specification for Grades UL82 and UL87 Unleaded Aviation Gasoline".
 - (c) ASTM D7547, "Standard Specification for Unleaded Only Aviation Gasoline".
- (5) Fuel Oils shall meet the most recent version of ASTM D396, "Standard Specification for Fuel Oils".
- (6) Kerosene (Kerosine) shall meet the most recent version of ASTM D3699, "Standard Specification for Kerosine".

- (7) Ethanol intended for blending with gasoline shall meet the most recent version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel".
- (8) Liquefied Petroleum (LP) Gases Intended for Use as Motor Fuel shall meet ASTM D1835, "Standard Specification for Liquefied Petroleum (LP) Gases".
- (9) Ethanol Flex Fuel blends are covered by one of two ASTM standards based upon the ethanol concentration of the blend:
 - (a) Ethanol Flex Fuel blends containing 51 to 83 volume percent ethanol shall meet the latest version of ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines"; and
 - (b) Ethanol Flex Fuel Blends containing 16 to 50 volume percent ethanol shall be blended, stored and conveyed for consumption in accordance with the recommendations and requirements included in the latest version of ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible-Fuel Vehicles with Automotive Spark-Ignition Engines". ASTM D4814 does not apply to this classification of fuel.
- (10) M85 Fuel Methanol shall meet the most recent version of ASTM D5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark-Ignition Engines".
- (11) Racing Gasoline shall meet the following requirement:
 - (a) Minimum Antiknock Index - 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.
 - (b) The minimum product specifications shall be those as declared by the manufacturer's product specifications. Upon the request of the Commissioner, each conveyor of racing gasoline shall provide the Department with a copy of the manufacturer's product specifications.
- (12) Biodiesel (Biodiesel Fuel Blend Stock) intended for blending with diesel fuel shall meet the most recent version of ASTM D6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels." All biodiesel blend stock shall be at least 99% biodiesel (no more than 1% diesel fuel). Any blend stock less than 99% biodiesel shall not be used as a commercial blend stock for biodiesel blends without the permission of the Commissioner.
- (13) Biodiesel Blends and Diesel Fuel Containing Biodiesel - All blends of biodiesel and diesel fuels shall be blended with biodiesel blend stock that meets the requirement of 0080-05-12-.02 (12), and also shall meet the following requirements:
 - (a) Blends that contain less than or equal to 5 % by volume biodiesel must meet the latest version of ASTM D975, "Standard Specification for Diesel Fuel Oils" and shall be sold as diesel fuel. In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;
 - (b) Blends greater than 5 % by volume biodiesel and less than or equal to 20 % by volume biodiesel shall meet the most recent edition of ASTM D7467 "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)". In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;

- (c) Biodiesel Conveyed at Public Retail Sale Points - Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20 % by volume.
- (14) Hydrogen Fuel for Fuel Cell Vehicles shall meet the most recent edition of SAE J2719 "Hydrogen Fuel Quality for Fuel Cell Vehicles". At such time that ASTM establishes a standard for Hydrogen fuel, the most recent edition of the ASTM standard specification(s) shall replace SAE J2719 as the Standard Specification for Hydrogen Fuel Quality.
- (15) Compressed Natural Gas shall meet the most recent edition of SAE J1616, "Recommended Practice for Compressed Natural Gas Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (16) Liquefied Natural Gas Vehicle Fuel shall meet the most recent edition of SAE J2699 "Liquefied Natural Gas (LNG) Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (17) Butanol for Blending with Gasoline shall meet the most recent edition of ASTM D7862, "Standard Specification for Butanol Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel".
- (18) Dimethyl Ether for Fuel Purposes shall meet the most recent edition of ASTM D7901 "Standard Specification for Dimethyl Ether for Fuel Purposes."
- (19) Fuel Additives applied to products included in these regulations must be used in accordance with the definition of a fuel additive as stated in Section 0080-05-12-.01 Definitions.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.03 Classification and Method of Sale is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) General Considerations
 - (a) Documentation - when products regulated by this rule are sold, product transfer documents such as an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a retail sale. This document must identify the quantity, the name of the product, the particular grade of the product, the automotive fuel rating (fuel rating), as applicable, the manganese or MMT content when applicable, the oxygenate type and content when applicable, the name and address of the seller and buyer, and the date and time of the sale. Documentation must be retained at the retail establishment for a period not less than 30 days.
 - (b) Retail Dispenser Labeling - all retail gasoline and gasoline-oxygenate blend dispensing devices must be labeled or otherwise decaled in such a manner that the type of product being offered is clear and conspicuous to the potential customer and must be labeled with the particular grade of the product, and the applicable automotive fuel rating. All retail dispensing devices of other products covered by this regulation must be labeled with the name of the product (e.g., diesel), the particular grade of the product (with exceptions noted within these rules) and the automotive fuel rating (fuel rating), as applicable.
 - (c) Grade Name - the sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or grade indicated in the grade name is consistent with the value and meets the requirements of 0080-05-12-.02, Standard Fuel Specifications.
 - (d) Each retail dispenser must be identified by a number, other than or in addition to a serial number, permanently affixed to the dispenser.
 - (e) Dispenser Nozzle Grip Guard Colors - all retail ethanol flex-fuel dispensers shall be equipped with yellow grip guards; no other product nozzles shall be equipped with yellow grip guards. All dispensers must be compliant with this requirement by May 1, 2016.

- (f) Nozzle Requirements for Fuel Dispensers - each retail dispensing device from which fuel products are sold shall be equipped with a nozzle spout having a diameter that conforms to the latest version of SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark-Ignition and Compression Ignition Engines." All dispensers must be compliant with this requirement by May 1, 2016.

(2) Automotive Gasoline, Automotive Gasoline-Oxygenate Blends, and Racing Gasoline

- (a) Posting of Antiknock Index Required - all dispensing devices of automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.

- (b) When the Term "Leaded" May be Used - the term "leaded" shall only be used when the fuel meets specification requirements of 0080-05-12-.02 (f).

- (c) 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 following legend: "Contains Lead Substitute". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height and 1.5 millimeter (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.

(d) Gasoline and Gasoline-Oxygenate Blend Grade Terms:

1. It is prohibited to use the following terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the following minimum antiknock index requirement:
 - (i) Premium, Super, Supreme, High Test, Premier, Ultra, Ultimate must be a minimum of 91 AKI;
 - (ii) Midgrade, Plus, Extra, or other approved terms, must be a minimum of 89 AKI;
 - (iii) Regular, Leaded must be a minimum of 89 AKI;
 - (iv) Regular, Unleaded must be a minimum of 87 AKI;
 - (v) Unleaded Subgrade - CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;
 - (vi) Premium Subgrade - CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;
2. The use of any other term not listed above in (2)(d) to describe a grade of gasoline must be approved by the Commissioner.
3. Additional Unleaded Subgrade - CBOB Requirements: The grade terms "Unleaded Subgrade - CBOB" and "Premium Subgrade - CBOB" are grades that are approved for conveying from supplier terminal level to wholesalers. These fuel grades are not approved as grade terms and fuel ratings for retail sales.
4. In addition to the requirements of 0080-05-12-.03 (2)(d) 1.(v) - (vi), each of the subgrades/CBOBs must declare the minimum AKI that the fuel will provide after the addition of a specified volume of ethanol. Other oxygenates and octane extender declarations may supplement the ethanol AKI declaration. The requirements of 0080-05-12-.03 (2)(d) 1.(v) - (vi) are applicable when conveying from the supplier terminal to wholesalers or from wholesaler to another wholesaler. Such reporting is not subject to enforcement under these rules for conveyances from pipelines to supplier terminals.
5. When fuels containing greater than 10 % by volume ethanol for use in conventional-fuel vehicles are offered for sale, the grade terms listed above or otherwise approved by the Commissioner must be followed by the term "EXX". For example, "Regular E15";

"Plus E15", "Premium E15".

6. When gasoline or gasoline-oxygenate blends are conveyed through a fuel dispenser, the grade terms must be posted accurately on both the fuel dispenser and street pricing signs, where applicable. This includes the grade extension of EXX where applicable.
 7. When gasoline or gasoline-oxygenate blends are conveyed through wholesale bulk metering systems, each grade and associated automotive fuel rating at each fuel loading facility shall be posted or otherwise accurately certified to potential customers and to the Commissioner when performing inspections and sampling.
- (e) Method of Retail Sale: Type of Oxygenate Must be Disclosed - all automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold, at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE". The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers" or alternatively post the phrase "contains MTBE or other ethers". In addition, gasoline methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol along with the statement "CHECK OWNER'S MANUAL". This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). Racing gasoline being kept, offered, or exposed for sale, or sold at retail containing any amount of oxygenates shall be identified as "with" or "containing" (or similar wording) the particular oxygenate or oxygenates in the engine fuel, along with the volume percent of the oxygenate, the type and stroke being consistent with this paragraph. Where mixtures of only ethers are present, the retailer may post the volume percent of the predominant oxygenate followed by the phrase "or other ethers".
- (f) Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation:
1. Information that complies with 40 CFR § 80.1503 when the fuel contains ethanol.
 2. For fuels that do not contain ethanol, information that complies with 40 CFR § 80.1503 and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers."
 3. Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol.
 4. For Racing Gasoline, the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the concentration of the oxygenate or oxygenates present in the fuel to allow for accurate dispenser labeling.
- (g) EPA Labeling Requirements Also Apply - Retailers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10% by volume and up to 15% by volume under CFR § 80.1501.
- (h) Method of Retail Sale: Posting of Manganese Additives Must be Disclosed - all gasoline or gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail that contain any Manganese or any compound containing Manganese, including, without limitation, MMT, shall be labeled as follows:

1. WARNING: Read Label Before Dispensing Fuel. This Fuel Contains Manganese, Manganese Compound, or MMT. Recommend Vehicle Operator Consult Owner's Manual Before Using This Fuel.
2. This label shall:
 - i. Be legible and conspicuous, placed on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position.
 - ii. Consist of black lettering on a white background.
 - iii. Be written in font at least 8 millimeters (5/16 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - iv. Be affixed to the applicable pump or other device for dispensing gasoline or gasoline-oxygenate blends (1) at the time gasoline or gasoline-oxygenate blends containing manganese or any compound containing manganese, including, without limitation, MMT, is loaded into or otherwise placed in a storage tank from which the dispenser or other device for dispensing gasoline or automotive gasoline-oxygenate blends draws its supply of fuel; (2) before the dispenser or other device for dispensing motor vehicle fuel may be used to dispense such fuel; (3) for 6 months immediately after the time the intentional addition of manganese or any compound containing manganese, including, without limitation, MMT is discontinued.
3. As used in these rules, MMT means methylcyclopentadienyl manganese tricarbonyl.
 - (i) Documentation for Dispenser Labeling Purposes - Notification to Fuel Distributors and Retailers
 1. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.
 2. The retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation a declaration of Manganese or any compound containing Manganese, including, without limitation, MMT.
 3. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will no longer contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.
 - (3) Diesel Fuel
 - (a) Labeling of Grade Required - Diesel Fuel shall be identified by grades No. 1-D, No. 2-D, or No. 4-D. For grades other than No. 2-D, each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed.
 - (b) Location of Label - these labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - (c) All conveyors of diesel fuel shall also comply with the EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(4) Aviation Turbine Fuel

- (a) How to Identify Aviation Turbine Fuels - aviation turbine fuels shall be identified by the grade terms contained within the applicable ASTM Standard Specifications.
- (b) Labeling of Grade Required - each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled conspicuously as to identify the product being sold as classified above.

(5) Aviation Gasoline

- (a) How to Identify Aviation Gasoline - aviation gasoline shall be identified by the grade terms contained within the applicable ASTM Standard Specifications.
- (b) Labeling of Grade Required - each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled conspicuously as to identify the product being sold as classified above.

(6) Fuel Oils

- (a) How to Identify Fuel Oils - fuel oil shall be identified by the term Fuel Oil along with the grades of No. 1 S500, No. 1 S5000, No. 2 S500, No. 2 S5000, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.
- (b) Labeling of Grade Required - each retail dispenser or delivery truck dispensing fuel oil shall be labeled conspicuously as to identify the product being sold as classified above. In addition, retail Fuel Oil dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K Kerosene". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeter (1/16 in) stroke (width of type); block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(7) Kerosene (Kerosine)

- (a) How to Identify Kerosene - kerosene shall be identified by the grades No. 1-K or No. 2-K.
- (b) Labeling Requirements - each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K. In addition, No. 2-K dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1- K". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) stroke (width of type); block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(8) Ethanol Flex Fuel

- (a) How to Identify Ethanol Flex Fuel - ethanol flex fuel shall be identified by the term Ethanol Flex-Fuel or EXX Ethanol Flex Fuel.
- (b) Retail Dispenser Labeling - each retail dispenser of ethanol flex fuel shall be labeled under the following alternatives:
 - 1. Ethanol Flex Fuel blends with an ethanol concentration no less than 51 and no greater than 83 percent by volume shall be labeled "Ethanol Flex Fuel, minimum 51% ethanol" or "EXX Ethanol Flex Fuel", where XX is the target ethanol concentration in volume percent and the actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;
 - 2. Ethanol Flex Fuel blends with an ethanol concentration less than or equal to 50 volume percent shall be labeled "EXX Ethanol Flex Fuel", where the XX is the target ethanol

concentration in volume percent. The actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;

3. A label shall be posted which states "For Use in Flexible Fuel Vehicles (FFV) Only". This information shall be clearly and conspicuously posted on the upper 50% of the dispenser front panel in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). The label shall also state "CHECK OWNER'S MANUAL" in a type at least 6.5 millimeters (¼ in) in height and 1 millimeter (3/64 in) stroke. The color of the wording shall be in definite contrast to the background color to which it is applied.

(9) Fuel Methanol

- (a) How to Identify 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 Dispenser Labeling - each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent 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. Additionally, a label shall be posted which states "CHECK OWNER'S MANUAL - For Use in Methanol Variable Fuel Vehicles (VFV) Only". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

(10) Liquefied Petroleum Gas (LPG):

- (a) How to Identify Liquefied Petroleum Gas - liquefied petroleum gases intended for use as a motor fuel shall be identified by grades Commercial Propane or Special-Duty Propane (HD5).
- (b) Retail Dispenser Labeling - each retail dispenser of liquefied petroleum gases intended for use as a motor fuel shall be labeled as "Commercial Propane" or "Special-Duty Propane (HD5)".
- (c) Additional Labeling Requirements - liquefied Petroleum Gas intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(11) Racing Gasoline

- (a) How to Identify Racing Gasoline - racing gasoline shall be identified as Racing Gasoline.
- (b) Posting of Antiknock Index Required - all dispensing devices of racing gasoline shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (c) Method of Retail Sale - Type of Oxygenate Must be Disclosed - all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 percent by mass oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in.) in height and 1.5 millimeter (1/6") stroke (width of type).
- (d) Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel.

(12) Biodiesel and Biodiesel Blends

- (a) How to Identify Biodiesel - Biodiesel shall be identified by the term "Biodiesel" with the

designation "B100" or "B99". Biodiesel blends containing more than 5 percent by volume shall be identified by the term "Biodiesel Blend".

- (b) Labeling of Dispensers Containing more than Five Percent (5 %) and Up to Twenty Percent (20 %) Biodiesel
 - 1. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20 % by volume shall be identified with either 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 the phrase "Biodiesel Blend between 5% and 20%" or similar words.)
 - 2. Labeling of Grade Required
 - (i) Biodiesel shall be identified by the grade terms specified in ASTM D6751.
 - (ii) Biodiesel Blends shall be identified by the grade terms contained within ASTM D7467. Additionally, the diesel grade component as contained within ASTM D975 for grades other than No. 2-D shall also be identified except the sulfur extension designations are not required (sulfur declarations are required under 0080-05-12-.03 (12)(c).
 - 3. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20% by volume biodiesel shall display a label that reads "CHECK OWNER'S MANUAL". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at 6.5 millimeters (1/4 in) in height and 1 millimeter (3/64 in) stroke.
 - (c) All conveyors of biodiesel blends fuel shall also comply with the EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.
 - (d) Automotive Fuel Rating - Biodiesel and biodiesel blends shall be certified and labeled with its automotive fuel rating in accordance with 16 CFR Part 306.
 - (e) Documentation of Biodiesel Content on Product Transfer Documents - When biodiesel blends contain more than 5% by volume biodiesel, the retailer shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on product transfer documents such as an invoice, bill of lading, shipping paper or other document.
- (13) Compressed Natural Gas
- (a) How to Identify Compressed Natural Gas - Compressed natural gas shall be identified by the term "Compressed Natural Gas" or "CNG".
 - (b) Retail Dispenser Labeling
 - 1. Each retail dispenser of CNG shall be labeled as "Compressed Natural Gas".
 - 2. Each retail dispenser of CNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.
- (14) Liquefied Natural Gas
- (a) How to Identify Liquefied Natural Gas - Liquefied natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG".
 - (b) Retail Dispenser Labeling
 - 1. Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas".

2. Each retail dispenser of LNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(15) Dimethyl Ether

- (a) How to Identify Dimethyl Ether – dimethyl ether intended for use as a motor fuel in engines specifically designed or modified for DME and for blending with liquefied petroleum gas (LPG) shall be identified Dimethyl Ether (DME).
- (b) Retail Dispenser Labeling - each retail dispenser of DME intended for use as a motor fuel shall be labeled as “Dimethyl Ether” or “DME”
- (c) Additional Labeling Requirements – Dimethyl Ether intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.04 Water in Retail Tanks and Dispenser Filters is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Water in Retail Storage Tanks containing Gasoline-Alcohol Blends, Biodiesel, Biodiesel Blends, Ethanol Flex Fuel, Aviation Gas, and Aviation Turbine Fuel - no water phase greater than 6 millimeters (1/4 in) as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, ethanol-flex fuel, aviation gasoline, and aviation turbine fuel.
- (2) Water in Retail Storage Tanks Containing Gasoline, Diesel, and Other Fuels - water shall not exceed 38 millimeters (1.5 in) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends, fuel oils, and kerosene sold at retail.
- (3) Dispenser Filters
 - (a) All gasoline, gasoline-oxygenate blends, Ethanol Flex Fuel, and M85 methanol dispensers shall have a 10 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
 - (b) All kerosene, diesel, biodiesel, and biodiesel blend dispensers shall have a 30 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
 - (c) Fuel delivery of aviation turbine fuel and aviation gasoline into aircraft shall be filtered through a fuel filter/separator conforming to API 1581, “Specification and Qualification Procedures for Aviation Jet Fuel Filter/Separators” and ATA Specification 103 “Standard for Jet Fuel Quality Control at Airports”, as applicable.
 - (d) All Aviation Gasoline dispensing systems shall be equipped as follows:
 1. At inlets to storage and on fueller loading racks (and hydrant delivery lines), a 5 micron (nominal) or finer Microfilter meeting EI 1590, or a filter water separator.
 2. Where receipts are by gravity into underground tankage, a 100 micron mesh strainer.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.05 Retail Product Storage Identification is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Fill Connection Labeling - the fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained by means of:

- (a) A permanently attached tag or label and;
 - (b) American Petroleum Institute color codes as specified and published in "API Recommended Practice 1637".
- (2) Volume of Product Information - each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the inspector upon request.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.06 Condemned Product is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Stop-Sale Order - a stop-sale order may be issued as a Class One stop-sale order or a Class Two stop-sale order. When a stop-sale order is placed on a terminal or bulk storage plant, the terminal or bulk storage plant operators shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to the product(s) to specification. A list of all parties contacted by the supplier must be provided to the Commissioner. A release from a stop-sale order will be awarded only after final disposition has been agreed upon by the Commissioner. Confirmation of disposition of products shall be made available in writing to the Commissioner.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.08 Test Methods, Reproducibility and Conformance to Specifications is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) The test methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes. When no ASTM methods exist, accepted industry test methods specified in rule shall be used to determine compliance.
- (2) Premium Diesel - The following test methods shall be used to determine compliance with the applicable premium diesel parameters:
 - (a) Lubricity - ASTM D6079;
 - (b) Cetane Number - ASTM D613;
 - (c) Low Temperature Operability - ASTM D4539 or ASTM D2500 (according to marketing claim);
 - (d) Thermal Stability - ASTM D6468 (180 minutes, 150 °C [302°F]).
- (3) Conformance to Specifications:
 - (a) Conformance to Specifications - The most recent version of ASTM D3244 "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications" shall be used in determining the compliance of a test value to the specification limits except that no allowance shall be made for the precision of test methods for aviation gasoline and aviation turbine fuels or other product specifications whereby the limit as been determined to be a critical specification limit.
 - (b) AKI Limits - when determining the antiknock index (AKI) acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D4814 shall be acknowledged when determining conformance to the specification using ASTM D3244.
 - (c) Tests Other Than AKI - the reproducibility limits of the ASTM or other accepted standard test method used for each test performed shall be acknowledged for determining conformance to the specification using ASTM D3244, except as indicated in 0080-5-12-.08 (2)(a) and in 0080-05-12-.02 (2)(b)4.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.09 Sampling of Petroleum Products is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Samples of petroleum products collected for testing shall be pumped, pulled, drawn or otherwise procured in accordance with the most recent version of any of the following standard procedures:

- (1) ASTM D4057, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products".
- (2) 40 CFR Part 80, Appendix D or subsequent EPA sampling instructions;
- (3) ASTM D5842, "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement".
- (4) NCWM Publication 21, "Petroleum Products Sampling Procedures and Safety Manual".

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.10 Disposition of Sample Retains is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

All unused portions of samples remaining after testing shall be disposed of either by use in official state vehicles or through proper disposal procedures. If the unused portions of samples are used in official state vehicles, the state or contract laboratory shall be responsible for storing and dispensing product to authorized vehicles. A log of all product transfers shall be maintained by the state or contract laboratory.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 04/25/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/09/14

Rulemaking Hearing(s) Conducted on: (add more dates). 02/28/14

Date: August 11, 2014

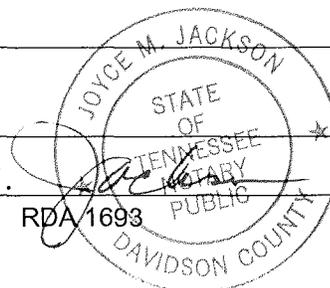
Signature: Julius Johnson

Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: August 11, 2014

Notary Public Signature: Joyce M. Jackson



My commission expires on: 09/11/2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Robert E. Cooper, Jr.
Attorney General and Reporter

9-2-14
Date

Department of State Use Only

2014 SEP 4 AM 2:09
SECRETARY OF STATE

Filed with the Department of State on: 9-4-14

Effective on: 12-3-14


Tre Hargett
Secretary of State

Public Hearing Comments

The Department of Agriculture held a rulemaking hearing on February 28, 2014. Both the comments received during the public hearing as well as written comments are summarized below along with the Departmental responses.

Mr. Matt King, King Public Strategies, representing Afton Chemical Company, provided oral testimony on behalf of Afton Chemical Company regarding Proposed Rule Section 0080-05-12-.02 (1) (i) which prohibits the use of metallic additives in gasoline and gasoline-oxygenate blends. Additionally, Afton Chemical Company submitted written comments in the form of a letter that was accompanied by technical data for Departmental review regarding Proposed Rule Section 0080-5-12-.02 (1) (i).

Mr. King stressed that he would only summarize his client's position as they have more than 200 pages of information to submit for review. Mr. King provided a non-technical outline on his company's position on mmt® (a metallic additive). Mr. King stated that mmt® is an EPA approved fuel additive under a 1995b waiver and has not been used in Tennessee. Afton Chemical opposes the proposed moratorium on mmt® and believes that Tennessee does not have the authority to enact metallic additive restrictions because the current version of ASTM D4814, Standard Specification for Automotive Spark-Ignition Engine Fuel, makes no references to mmt® and because Afton believes that the Federal waiver that permits mmt® preempts states from taking such action. Mr. King expressed that mmt® will not cause or contribute to engine problems or void warranties.

The Afton written comments suggest that the rule was proposed without technical justification and is neither warranted nor necessary. The comments suggest that the Department does not have legal authority to adopt this rule and that a federal EPA waiver preempts any state action adopted for the purpose of motor vehicle emission control. In addition to the comments, Afton provided many pages of technical data for Departmental review.

Departmental Response: The statutory framework for consideration of this issue begins with the legislative intent for the Kerosene and Motor Fuels Quality Inspection Act as expressed in Tenn. Code Ann. § 47-18-1302: "It is the intent of the general assembly, through this enactment, to promote and protect the public health, safety and welfare by ensuring that kerosene and motor fuels: (1) Are adequately labeled and posted; and (2) Meet or exceed certain minimum standards of quality." To carry out this intent the department is given broad authority to promulgate the necessary rules and regulations. The Tennessee Department of Agriculture's general rulemaking authority is derived from Tenn. Code Ann. § 4-3-203. "The department of agriculture has the power to: ... (10)(A) Promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. Such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title, except as otherwise provided by law." The department is given more specific authority in Tenn. Code Ann. § 47-18-1309 which states in part that: "(a) In accordance with the

provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the department shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of this part. (b) Such rules shall include, but shall not necessarily be limited to: (3) Identification and statement of current, applicable ASTM standards or federal standards, compliance with which is mandated by 47-18-1304; ...” In addition, Tenn. Code Ann. § 47-18-1304 mandates that: “(b) Kerosene and motor fuels conveyed for consumption in Tennessee shall meet the standards established for such products in the annual book of ASTM standards, and supplements thereto; provided, that by duly promulgated rule: (2) The department shall adopt as a substitute standard any provision of federal law which imposes requirements in conflict with an ASTM standard.” Afton’s questioning of the department’s authority to prohibit mmt® is based on its interpretation of § 47-18-1304 (b) (2). That section requires the department to “adopt as a substitute standard any provision of federal law which imposes requirements in conflict with an ASTM standard.” Before that subsection can be used as authority to promulgate a rule, a federal standard that imposes a requirement that is in conflict with an ASTM standard must be found. The applicable ASTM standard to this situation is D4814 (Standard Specification for Automotive Spark-Ignition Fuel). An examination of that standard, as you point out, contains no mention of mmt®.

The Environmental Protection Agency granted a limited waiver of its air quality rules, 60 Fed. Reg. 36,414 (July 17, 1995), to allow the use of mmt® in some fuels. That waiver cannot be considered to impose a requirement that mmt® must be used or must not be used. It can only be considered that the use of 0.03125 grams of manganese per gallon of conventional unleaded gasoline does not violate the air quality rules of EPA. The EPA waiver cannot be considered as “imposing a requirement”. Neither can it be considered “in conflict” with ASTM D4814 because that standard does not even mention mmt®. Tenn. Code Ann. § 47-18-1304 (b) (2) cannot be used as a prohibition of a rule prohibiting the use of mmt®. If the department determines that mmt®, or any other additive, may be harmful for any reason, it has an affirmative duty to take whatever action is necessary to carry out the legislative intent of the act to protect the public health, safety, and welfare under § 47-18-1302. The department may use its general rulemaking authority under § 4-3-203 to promulgate rules to effectuate its duties and responsibilities. In addition, under § 47-18-1309(b), such rules as may be necessary to efficiently and effectively administer and enforce the program, “shall include, but not necessarily be limited to: ... (3) Identification and statement of current, applicable ASTM standards or federal standards, compliance with which is mandated by 47-18-1304”. This section allows the department to go beyond ASTM and federal standards to protect the public.

The U.S. Clean Air Act expressly preempts any effort by states to regulate fuels for the purposes of motor vehicle emissions control. (§ 211(c)(4)). The department is not proposing this rule based upon vehicle emission concerns; the proposed rule is based upon vehicle component durability and operability concerns. Afton’s argument that the department’s proposal is federally preempted is not persuasive.

The ASTM International Committee D02 on Petroleum Products, Liquid Fuels, and Lubricants along with the National Conference on Weights and Measures agreed to form a joint Task Group in June 2013 to study organometallic additives and make a determination on the need to place limits into the applicable fuel specification documents. This Task Group has been formed because of concerns expressed by automakers, major oil companies, and regulators. These concerns include but are not limited to, possible metallic additive’s contribution to catalytic converter plugging, exhaust back pressure increase, decreases in oxygen storage capacity of the catalyst, and deposits on spark-plugs, combustion chambers, and oxygen sensors. The Task Group is in the process of accumulating data for review. Much data, including information provided by Afton Chemical - a participant on the Task Group - has been posted and made available for Task Group member review. The Department has reviewed much of the data, including the technical input provided by Afton Chemical, and takes the position that the introduction of metallic additives into Tennessee gasoline poses a potential detrimental risk to Tennessee consumers. Considering the fact that ASTM International and the National Conference on Weights and Measures has a functioning task force addressing organometallic additives, at this time the Department of Agriculture feels that it is prudent to amend these regulations by incorporating product transfer document notification and fuel dispenser labeling requirements. Should vehicle performance issues due to manganese or other metallic additives surface in Tennessee, the Department of Agriculture will consider the need to amend these regulations again at a future date.

Mr. Mike Williams, Tennessee Petroleum Council representing the American Petroleum Institute, provided a brief statement informing the Department that the American Petroleum Institute would be submitting written comments for review and thanked the Department for the openness of our rulemaking process.

Departmental Response: The Department appreciates the comments provided by Mr. Williams and the support for the rulemaking process.

Mr. Mick Henderson, Commonwealth Agri-Energy, provided brief comments supporting the changes being proposed that will create a market for more ethanol blending in Tennessee.

Departmental Response: The Department appreciates the comments and agrees that the proposed rules will provide for greater consumer choices in selecting the ethanol blends that meet their needs.

Kristy Moore, Renewable Fuels Association, presented both oral and written testimony. Specific comments related to Proposed Rule 0080-05-12-.03 (h) regarding submission of a marketing plan for fuels containing more than 10% by volume ethanol are addressed under a separate paragraph where Marathon Petroleum submitted similar comments. Ms. Moore also suggested that some of the labeling requirements being proposed for E15, without being specific, were novel and beyond what has been required in other states.

Departmental Response: The Department appreciates the support that the Renewable Fuels Association has provided. However, at this time the Department's position is that the proposed labeling requirements are appropriate for E15 fuels due to the fact that the fuel has vehicle type use restrictions. Departmental responses to all other points raised by the Renewable Fuels Association are detailed below and discussed in other sections where similar comments are grouped.

Mr. Jim Ellerbe, Marathon Petroleum Company, provided comments based upon a letter that was submitted. Mr. Ellerbe conveyed Marathon's support for many parts of the rule. Departmental responses to all points raised by Marathon Petroleum Company are detailed and discussed in other sections where similar comments are grouped. Mr. Dan Horton, ExxonMobil U.S. Downstream Refining Supply and Chemicals, provided comments based upon a letter that was submitted. Mr. Horton conveyed ExxonMobil's support for the comments that were to be submitted by the American Petroleum Institute.

Departmental responses to all other points raised by ExxonMobil are detailed and discussed in other sections where similar comments are grouped

A joint statement from the auto industry was delivered by Stuart Johnson, Volkswagen America, on behalf of the Alliance of Automobile Manufacturers and the Association of Global Automakers (The Alliance is a trade association of twelve car and light truck manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars, Toyota, Volkswagen Group and Volvo Cars. The Global Automakers is a trade association of twelve automakers including Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, McLaren, Nissan, Subaru, Suzuki, and Toyota). Mr. Johnson complimented Tennessee on our commitment to protecting consumers and their vehicles. Comments are summarized as follows:

Proposed Section 0080-05-12-.02 (1) (b) 1. should clarify that the EPA waiver referenced is the allowance of an additional 1 pound per square inch (to 10 psi) Reid Vapor Pressure per the Clean Air Act regulations at 40 U.S. Code of Federal Regulations (CFR) Part 80.27(d), which should be clearly distinguished from the de facto EPA ethanol waiver allowing the sale of 0% to 10% ethanol gasoline blends.

Departmental Response: The department agrees and the language has been amended accordingly.

The group was supportive of proposed Section 0080-5-12-.02 (1) (i) regarding metallic additives but offered alternative language that does not influence the intent of the proposed rule. The group affirmed that the industry was in agreement that metallic additives pose risks of damage to the vehicle engine, catalyst and other equipment that reduce durability and performance. The group believes that these risks should be considered from a consumer standpoint.

Departmental Response: At this time the Department agrees and has updated language based upon the suggested revisions. However, as discussed under the departmental response to the Afton Chemical Comments, the Department's position is that it is prudent to place a temporary moratorium on the use of metallic additives in gasoline rather than a permanent prohibition as originally proposed and supported by the group.

The group suggested several additional labeling requirements for biodiesel blends containing more than 5% biodiesel, gasoline-ethanol blends containing more than 10% ethanol, and Fuel Methanol.

Departmental Response: The Department agrees with the suggestions for biodiesel blends greater than 5% by volume and with comments on Fuel Methanol. Appropriate changes have been made. At this time the Department disagrees with the request to add additional labeling to gasoline-ethanol blends greater than 10% ethanol. Gasoline-ethanol blends containing more than 10% ethanol will have mandatory labeling that will clearly distinguish this product from other products. At this time, the Department's position is that adding additional labeling to these dispensers would be distracting and reduce the effectiveness of the primary labels that will be mandated.

The group commented that Product Transfer Documents should declare the actual biodiesel content regardless of the concentration in order to assist potential downstream blenders. The group suggested that this was important and could prevent over-blending of biodiesel. The Tennessee Fuel and Convenience Store Association also provided comments consistent with this position. The Tennessee Fuel and Convenience Store Association believes that eliminating the requirement for biodiesel at concentrations less than or equal to 5% on Product Transfer Documents will lead to less downstream blending.

Departmental Response: At this time the Department disagrees with these comments and maintains the position that it is best not to amend the current proposed rule. This issue was extensively debated at the National Conference on Weights and Measures and was withdrawn from consideration. Pipelines distribute fuel into Tennessee on a fungible basis. By definition, diesel fuel may contain up to 5% biodiesel. Fuel terminals may at times receive product that contains biodiesel and at other times has no biodiesel. Testing each batch for exact biodiesel content then having computer systems reprogrammed to print the varying amounts of biodiesel that may be in the fuel would disrupt what is already a "just in time" delivery system. The Department's position is that the proposed regulation will increase the demand of biodiesel overall and will permit pipeline deliveries into the state that previously has been somewhat hindered by an outdated regulation. Therefore, the Department does not support this suggestion.

Comments from Nissan North America, Ford Motor Company, the Tennessee Automotive Association and the Tennessee Fuel and Convenience Store Association were issued in strong support of proposed Section 0080-5-12-02 (1) (i) which prohibits the use of metallic additives in gasoline and gasoline-oxygenate blends. It was emphasized that from a technology standpoint, today's automobile is the most sophisticated piece of equipment owned by most consumers. Vehicles are extremely complex products that are asked to function in the harshest climates and road conditions, under a wide range of speeds and driving styles. Nissan emphasized that in addition to their corporate headquarters, they have over 10,000 jobs in the state, including an engine plant, and that they were very much in support of the rules being put forth by the Department.

Departmental Response: At this time the Department agrees and has updated language based upon the suggested revisions. However, as discussed under the departmental response to the Afton Chemical Comments, the Department's position is that it is prudent to place a temporary moratorium on the use of metallic additives in gasoline rather than a permanent prohibition as originally proposed and supported by the group.

Mr. Scott Fenwick, National Biodiesel Board, provided comments based upon written letters that were submitted. The National Biodiesel Board generally supports the proposed. Comments recommending changes are discussed in other sections where similar comments are grouped together.

Emily LeRoy, Tennessee Fuel and Convenience Store Association, provided comments based upon a letter that she submitted to the Department for review. Ms. LeRoy began by complimenting the Department for going over and aboveboard to make sure that our process was open and fair to all stakeholders. Comments suggesting changes to the proposed rule are discussed in other sections where similar comments were made. Additionally, Ms. LeRoy asked for a written response from the Department regarding street side price postings when various ethanol blends are offered for sale by a single retail location.

Departmental Response: The request for a written response from the Department regarding street side price postings when various ethanol blends are offered for sale by a single retail location is outside the scope of the proposed rules and the Association should direct this question to the Department under a separate heading.

The American Petroleum Institute, Colonial Pipeline, Shell Oil Products US, Marathon Petroleum Company LP, ExxonMobil Refining and Supply, Phillips 66 the National Biodiesel Board, and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.02 (2)(a) regarding low temperature operability of diesel fuel. The opposition to the proposed rule is based upon the fact that the language being considered references a non-mandatory section of the ASTM specification for diesel fuel and would redefine this section as being mandatory for fuels conveyed for consumption in Tennessee. Comments note that the proposal conflicts with existing pipeline diesel fuel specifications and that historically, fuel suppliers have successfully adjusted the use of additives and blending of lighter distillates as the weather dictates. Therefore, it is felt that the regulation is unnecessarily restrictive and could impact the price and availability of diesel fuel. The National Biodiesel Board emphasized that because diesel fuel would be the primary component of biodiesel blends and therefore the major contributor to cold flow operability of such fuels, they would oppose any special restrictions on fuels that contained biodiesel.

Departmental Response: The Department has considered the comments from these stakeholders. At this time, the Department agrees to amend the proposed regulation for all diesel fuel and place this restriction only on fuels marketed as Premium Diesel, a requirement that Tennessee has historically adopted in rule and is consistent with nationally recognized standards for Premium Diesel. The Department will continue to monitor the suitability of winter diesel and if low temperature operability issues are observed, the Department will revisit this topic and consider amending the rule accordingly.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply, Phillips 66 and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.02 (2)(a) regarding diesel fuel haze rating and the phrase "clear and bright". Comments focus on the opinion that the requirement, if adopted, should only apply to points downstream of the distribution terminal. Comments also suggested that the phrase "clear and bright" may not be appropriate as some may interpret a haze rating of 2 to be less stringent than "clear and bright" may imply. Comments also suggested that this requirement may hinder delivery of fuel into the state.

Departmental Response: At this time, the Department agrees that the current wording, which includes the phrase "clear and bright" coupled with the haze rating requirement, can be revised. The primary concern regarding delivery of fuel into the state and the fact that a supplier may be holding fuel that is not being offered for sale that does not meet the haze rating requirement can be alleviated by amending the section in a manner that better clarifies the intent. The Department disagrees with the suggestion that the requirement should only apply to retail. It would be unfair to permit a supplier or refiner to legally provide a retailer with fuel that does not meet retail standards. The Department does not currently perform haze ratings on diesel on a routine basis; however, we have had numerous events in the past whereby consumers sustained severe damage and costly repairs to diesel engines and the fuel samples collected at retail had only one unusual characteristic; the sample was hazy. The Department has amended this section in a manner that we believe will ensure protection to the consumer and at the same time is fair to all industry stakeholders.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply, Shell Oil Products US. Marathon Petroleum Company LP Phillips 66 and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.03 (2)(d) regarding gasoline and gasoline-oxygenate blend grade terms. Comments focus on the proposed requirement that an antiknock index (AKI), commonly referred to as octane, be declared on product transfer documents for Subgrade/Conventional Blendstock for Oxygenate Blending (CBOB) products. Commenters believe that the supplier should only be required to declare an AKI that the fuel will possess after the addition of the appropriate oxygenate (example: ethanol). Requiring additional information on the blendstock could influence pipeline supplies. It was also recommended that if the Department proceeds with this requirement, to clarify that our enforcement will only be downstream of pipeline receipts.

Departmental Response: It has been the understanding of the Department that the fuel products in question are considered "automotive fuel" and thus is subject to the requirements for declaring the Automotive Fuel Rating under 16 C.F.R. Part 306. This understanding is based upon a letter dated August 12, 2011 from the FTC staff attorney that was in charge of the rule at that time. However, in order to provide more time for this to be fully examined and resolved on a national level by industry, at this time the Department agrees to amend the language in the proposed regulation so that the requirement will only reference existing federal law. The Department also agrees that the Tennessee rule will only be enforced from the supplier terminal to the wholesalers. Language in the proposed rules has been amended accordingly. By making this change, Tennessee is clearly not an island and no "boutique" fuel will be required as our requirement will be consistent with federal requirements.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.08 regarding Test Methods, Reproducibility and Conformance to Specifications. The comments received suggested that it is more appropriate to recognize the full reproducibility of a test method in determining the conformance to the specification limits contained in each product specification. Comments suggested that the use of ASTM D3244 "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications" was not supported from a national perspective.

Departmental Response: At this time, the Department disagrees with these comments. ASTM D3244 is widely recognized as the technically correct method for determining compliance with a specification. The standard is referenced in nationally recognized publications, such as the National Institute of Standards and Technology Handbook 130. ASTM D3244 is widely accepted throughout the fuel production and supply industry as the de facto standard for purposes of specification conformance; therefore, the Department's position is that this standard should be the formal basis for our fuel quality program.

The American Petroleum Institute, Shell Oil Products US, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.01(34) regarding the definition of Liquefied Natural Gas (LNG). The comments point out an error in the defined temperature at which LNG is liquefied.

Departmental Response: The Department concurs and had previously made this change in the proposed regulation.

The American Petroleum Institute, Shell Oil Products US, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.04 (3)(c) and (d) regarding filtration systems at airport fueling facilities. The comments suggested that although the Joint Inspection Group is well recognized internationally, their standards are not adopted within the United States. In the United States, the Airlines for America trade association has adopted relevant standards for filtration and our rules should be based on those as opposed to the standards developed by the Joint Inspection Group.

Departmental Response: The Department investigated the recommendations and has made appropriate edits to the section regarding filtration systems at airport fueling facilities.

BP Products North America Inc., The American Petroleum Institute, the Tennessee Fuel and Convenience Store Association, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted comments on the following proposed rule:

Proposed Rule 0080-05-12-.03 (1)(e) regarding dispenser nozzle grip guard colors. The proposed rule would require that diesel and biodiesel blend dispenser nozzles are equipped with green grip guards and ethanol flex fuel dispenser nozzles be equipped with yellow grip guards. BP believes that this requirement is too restrictive and that the consumer should be responsible for reading the labeling on the dispenser before assuming anything about the fuel, and that the requirement for colored grip guards would not in the end lead to more misfueling as consumers travel from state to state.

Departmental response: At this time, the Department partially agrees with the comments received. After consideration of the comments, the Department's position is that it is currently acceptable to remove the requirement for diesel dispenser nozzles to be equipped with green grip guards. The Department will monitor misfueling events whereby the consumer attributes the misfueling to the color of the grip guard, and will revisit this

topic in the future should recurring misfuelings of gasoline into diesel vehicles occur. The Department disagrees with the recommendation regarding the requirement for yellow grip guards. Since the introduction of high lever ethanol blend fuel, industry has voluntarily institutionalized the use of yellow grip guards on fuels that are only suitable for use in ethanol flexible fuel vehicles. Therefore, the Department's position is that it is appropriate to preserve yellow grip guards for use with ethanol flex fuels only.

The Renewable Fuels Association (RFA) and Marathon Petroleum Company LP submitted comments on the following proposed rule:

Proposed rule 0080-05-12-.03 (h) regarding submission of a marketing plan for fuels containing more than 10% by volume ethanol. The comments suggested that the marketing plan requirement for all fuels greater than 10% by volume is not necessary as consumers are already sensitive to ethanol flex fuel that is in the market and through labeling and other precautions. It was pointed out that the requirements of the proposed marketing plan are already required by law and enforced by various state Departments, and indeed apply to every fuel in the marketplace. The detailed labeling requirements required by other sections in the rule coupled with the mandatory EPA labeling and misfueling mitigation plan submission make this proposal redundant and will not be effective. It was also noted that enforcement of this component in a consistent manner would be dependent on the continued leadership and cooperation from the Department; therefore, it was recommended that this section be removed.

Departmental Response: At this time the Department agrees to remove this section of the proposed rule. The Department will monitor the market as the inevitable introduction of higher level ethanol blends are marketed in Tennessee. Should the Department believe that consumers are misfueling due to confusion at the retail dispenser, the Department will revisit this topic and consider reintroducing this requirement at a later date.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Wholesalers and retailers of engine and heating fuels.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are approximately 260 fuel wholesalers. There are approximately 4578 retail outlets. Based upon industry estimates, wholesalers own 60% of the retail fuel outlets.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The department does not project any additional recordkeeping will be required as a result of these amended rules.

- (4) Statement of the probable effect on impacted small businesses and consumers:

The proposed rules will have a positive impact on both small business and consumers. The rules include expanding the range of gasoline-ethanol blends that can be offered to Tennessee consumers by recognizing gasoline that contains up to 15% ethanol for use in certain conventional vehicles, allowing mid-level ethanol blends for flexible-fuel vehicles, and overall housekeeping that updates our rules in order to be more consistent with the National Conference on Weights and Measures uniform engine fuel regulation. This uniformity will make it easier for companies that do business in multiple states and also assist consumers in making informed choices.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

The Department has not identified any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist. Tennessee Code Annotated § 47-18-1309 (a) mandates that the Department of Agriculture shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of the Kerosene and Motor Fuels Quality Inspection Act. This State law established quality inspection standards for petroleum products. Tennessee Code Annotated § 47-18-1309 (b) provides guidance as to the minimum content of the rules. Additionally, Tennessee Code Annotated § 4-3-203 (10)(A) provided the department with the power to promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. The Department has worked closely with all regulated stakeholders and feels that the updated rules are appropriate and acceptable to industry.

- (6) Comparison of the proposed rule with any federal or state counterparts:

There are no other federal or state counterparts that encompass all the elements contained within these proposed rules.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

T.C.A. 47-18-1305(b)(1) stipulates that "The department shall, at least once each year, inspect and collect at least one (1) sample for testing from each location from which a person conveys kerosene or motor fuel for consumption in Tennessee. Subject to availability of resources, the department may inspect any such location more frequently than once each year and may test a greater number of samples. If transactions occurring at a particular location total an average of less than three hundred (300) gallons per month, then annual inspection and testing of the location shall not be required.

While this section does not specifically exempt a location with average transactions of less than 300 gallons per month, it does provide regulatory flexibility. A consumer's vehicle is one of the most expensive purchases that a typical person will ever purchase; therefore, the department believes that all businesses that convey fuel should be responsible for providing a fit-for-purpose material that will not adversely impact the performance or durability of a vehicle.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed updated rules will have no direct impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rules provide detailed definitions, standard fuel specifications, classification, and method of sale requirements for kerosene and motor fuels that are conveyed for consumption in Tennessee. For each product covered under the rule, citing the formal ASTM International standard specification designation and any deviations thereof provides direct reference to the applicable requirement. Additionally, all blending, labeling, invoice markings, and identification requirements are clearly identified by the rules. Relevant changes from the

current rules include expanding the range of gasoline-ethanol blends that can be offered to Tennessee consumers by recognizing gasoline that contains up to 15% ethanol for use in certain conventional vehicles, allowing mid-level ethanol blends for flexible-fuel vehicles, product transfer document declarations and fuel dispenser labeling for gasoline products containing manganese bearing additives, and overall housekeeping that updates our rules in order to be more consistent with the National Conference on Weights and Measures uniform engine fuel regulation.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated § 47-18-1309 (a) mandates that the Department of Agriculture shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of the Kerosene and Motor Fuels Quality Inspection Act. This state law established quality inspection standards for petroleum products. Tennessee Code Annotated § 47-18-1309 (b) provides guidance as to the minimum content of the rules. Additionally, Tennessee Code Annotated § 4-3-203 (10)(A) provided the department with the power to promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Tennessee Petroleum Council (American Petroleum Institute and various member companies including BP America, ExxonMobil, Phillips 66, Shell Oil Products) – Generally Supports as majority of comments have been addressed.

Tennessee Fuel and Convenience Store Association – Generally supports as majority of comments have been addressed.

National Biodiesel Board – Supports

Renewable Fuels Association – Generally supports as majority of comments have been addressed.

Alliance of Automobile Manufacturers and the Association of Global Automakers (The Alliance is a trade association of twelve car and light truck manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars, Toyota, Volkswagen Group and Volvo Cars. The Global Automakers is a trade association of twelve automakers including Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, McLaren, Nissan, Subaru, Suzuki, and Toyota). Generally supports the proposed rules but has emphasized that both associations recommend and support a ban or moratorium on the use of metallic additives, including manganese or any compound containing manganese, including, without limitation, MMT in gasoline rather than a notification on product transfer documents and retail dispenser label.

Afton Chemical Company – Generally supports the rule but feels that the requirements for notification of manganese or any compound containing manganese, including, without limitation, MMT, is not warranted.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None at this time.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None anticipated.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Randy Jennings – Tennessee Department of Agriculture

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jimmy Hopper and Randy Jennings

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (J) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rules provide detailed definitions, standard fuel specifications, classification, and method of sale requirements for kerosene and motor fuels that are conveyed for consumption in Tennessee. For each product covered under the rule, citing the formal ASTM International standard specification designation and any deviations thereof provides direct reference to the applicable requirement. Additionally, all blending, labeling, invoice markings, and identification requirements are clearly identified by the rules. Tennessee Code Annotated § 47-18-1309 (a) mandates that the Department of Agriculture shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of the Kerosene and Motor Fuels Quality Inspection Act. This State law established quality inspection standards for petroleum products. Tennessee Code Annotated § 47-18-1309 (b) provides guidance as to the minimum content of the rules. Additionally, Tennessee Code Annotated § 4-3-203 (10)(A) provided the department with the power to promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. Relevant changes from the current rules include expanding the range of gasoline-ethanol blends that can be offered to Tennessee consumers by recognizing gasoline that contains up to 15% ethanol for use in certain conventional vehicles, allowing mid-level ethanol blends for flexible-fuel vehicles, product transfer document declarations and fuel dispenser labeling for gasoline products containing manganese bearing additives, and overall housekeeping that updates our rules in order to be more consistent with the National Conference on Weights and Measures uniform engine fuel regulation.

- (K) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated § 47-18-1309 (a) mandates that the Department of Agriculture shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of the Kerosene and Motor Fuels Quality Inspection Act. This state law established quality inspection standards for petroleum products. Tennessee Code Annotated § 47-18-1309 (b) provides guidance as to the minimum content of the rules. Additionally, Tennessee Code Annotated § 4-3-203 (10)(A) provided the department with the power to promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department..

- (L) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Tennessee Petroleum Council (American Petroleum Institute and various member companies including BP America, ExxonMobil, Phillips 66, Shell Oil Products) – Generally supports adoption as majority of comments have been addressed.

Tennessee Fuel and Convenience Store Association – Generally supports adoption as majority of comments have been addressed.

National Biodiesel Board – Supports adoption

Renewable Fuels Association – Generally supports adoption as majority of comments have been addressed.

Alliance of Automobile Manufacturers and the Association of Global Automakers (The Alliance is a trade association of twelve car and light truck manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars, Toyota, Volkswagen Group and Volvo Cars. The Global Automakers is a trade association of twelve automakers including Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, McLaren, Nissan, Subaru, Suzuki, and Toyota). Generally supports adoption of the proposed rules but has emphasized that both associations recommend and support a ban or moratorium on the use of metallic additives, including manganese or any compound containing manganese, including, without limitation, MMT in gasoline rather than a notification on product transfer documents and retail dispenser label.

Afton Chemical Company – Generally supports adoption of the rule but feels that the requirements for notification of manganese or any compound containing manganese, including, without limitation, MMT, is not warranted.

- (M) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None at this time.

- (N) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None anticipated.

- (O) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Randy Jennings – Tennessee Department of Agriculture

- (P) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jimmy Hopper and Randy Jennings

- (Q) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF MARKETS**

**CHAPTER 0080-5-12
KEROSENE AND MOTOR FUELS QUALITY INSPECTION REGULATIONS**

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0080-5-12-.01 DEFINITIONS.

- (1) "ASTM" (Formerly The American Society for Testing and Materials) means ASTM International, the international voluntary consensus standards organization scientific and technical organization formed for the development of standards on characteristics and performance of materials, products, systems, and services and the promotion of related knowledge.
- (2) "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.
- (3) "Automotive Fuel Rating" or "fuel rating" means the automotive fuel rating required under the amended Octane Certification and Posting Rule (or as amended, the Fuel Rating Rule), 16 CFR Part 306. 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 and gasoline blending stock is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired. For non-liquid alternative fuels not covered under 16 CFR Part 306, those covered under 16 CFR Part 309 shall be covered under this fuel rating definition.
- (4) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines generally containing small amounts of fuel additives and also commonly used in marine and nonautomotive applications.
- (5) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.
- (6) "Aviation Turbine Fuel" means a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

- (7) ~~“Base Gasoline” means all components other than ethanol in a blend of gasoline and ethanol.~~
- (87) “Biodiesel” (Biodiesel Fuel Blend Stock) means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.
- (98) “Biodiesel Blend” means a fuel comprised of a blend of more than five percent by volume or more biodiesel fuel with petroleum-based diesel fuel, that may contain fuel additives designated BXX. In the abbreviation BXX, the XX represents the liquid volume percentage of biodiesel fuel in the blend.
- (9) ~~“Butanol” means butyl alcohol, the chemical compound C₄H₉OH, a colorless substance existing in four isomeric forms.~~
- (10) ~~“CBOB” means Conventional Blendstock for Oxygenate Blending, gasoline blendstock which could become a conventional gasoline-oxygenate blend solely upon the addition of an oxygenate.~~
- (40 11) “Cetane Number” means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
- (44 12) “Commissioner” means the Commissioner of the Tennessee Department of Agriculture or a departmental employee designated by the Commissioner to act as his representative for purposes of these rules.
- (13) ~~“Compressed Natural Gas (CNG)” means natural gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel.~~
- (14) ~~“Conventional-Fuel Vehicle” means a vehicle designed to operate on spark-ignition engine fuel that complies with ASTM D4814 standards.~~
- Note: This definition is for the purpose of these regulations. Diesel vehicles may operate on conventional compression-ignition engine fuel. Diesel fuel and diesel engines are outside the scope of this definition.
- (15) ~~“Denatured Fuel Ethanol”, means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.~~
- (42 16) “Department” means the Tennessee Department of Agriculture.
- (43 17) ~~“Diesel Fuel” means refined oils commonly used in internal combustion engines where ignition occurs by pressure and not by electric spark, the classification of which shall be defined by the American Society for Testing and Materials, a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine that may contain fuel additives.~~
- (44 18) ~~“E85 Fuel Ethanol Flex Fuel” means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 85 to 75 volume percent denatured fuel ethanol, restricted for use as fuel in ground vehicles equipped with ethanol flexible-fuel spark-ignition engines.~~

- (15 19) "Engine Fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine that meets the applicable product specification.
- (16 20) "EPA" means the United States Environmental Protection Agency.
- (17 21) "Ethanol" also known as denatured fuel ethanol and ethyl alcohol, means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels. means ethyl alcohol, the chemical compound C₂H₅OH
- (22) "Flexible-Fuel Vehicle" means a vehicle designed to operate on either unleaded gasoline or ethanol flex fuel blends or mixtures or both. Flexible-Fuel Vehicles may also be designed to run on M85 Fuel Methanol.
- (23) "Fuel Additive" means a material added to a fuel in small amounts not to exceed 1.0 percent by volume to impart or enhance desirable properties or to suppress undesirable properties.
- (18 24) "Fuel Oil" means a refined oil middle distillates, heavy distillates, or residues of refining, or blends of these, suitable for use as a fuel for heating or power generation that may contain fuel additives, the classification of which shall be defined by ASTM D396.
- (19 25) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of fuel additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (20 26) "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 percent oxygen if methanol is the oxygenate) of one or more oxygenates not to exceed the total oxygen content permitted by applicable laws and regulations.
- (27) "Hydrogen Fuel" means a fuel composed of the molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.
- (28) "Internal Combustion Engine" means a device used to generate power by converting chemical energy bound in the fuel via spark-ignition or compression ignition engine combustion into mechanical work to power a vehicle or other device.
- (24 29) "Kerosene (or Kerosine)" means a refined oil intended for heating or illuminating use , the classification of which shall be defined by the American Society of Testing and Materials.
- (22 30) "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.
- (23 31) "Lead Substitute Engine Fuel" means, for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."
- (24 32) "Leaded" means, for labeling purposes, any gasoline or gasoline-oxygenate blend which contains more than 0.013 gram lead per liter (0.05 g lead per U.S. gal).

NOTE: EPA defines leaded fuel as one which contains more than 0.0013 gram phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

- (33) "Liquefied Natural Gas (LNG)" means natural gas that has been liquefied at -162 °C (-260 °F) and stored in insulated cryogenic tanks for use as an engine fuel.
- (25 ~~34~~) "Liquefied Petroleum Gas (LPG)" means a mixture of normally gaseous hydrocarbons, predominantly propane, that has been liquefied by compression or cooling, or both to facilitate storage, transport, and handling for use as a motor fuel, ~~the classification of which shall be defined by the American Society of Testing and Materials.~~
- (26) ~~"Low Sulfur" means low sulfur diesel fuel that meets ASTM D 975 (e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D) standards. Diesel fuel containing higher amounts of sulfur for off-road use is defined by EPA regulations.~~
- (27 ~~35~~) "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. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.
- (28 ~~36~~) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.
- (29 ~~37~~) ~~"M85 Fuel Methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.~~ means automotive spark-ignition engine fuel blends of methanol and hydrocarbons, for use in ground vehicles equipped with M85 flexible-fuel spark-ignition engines.
- (30 ~~38~~) "Motor Octane Number" means a numerical indication 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.
- (31 ~~39~~) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.
- (32 ~~40~~) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.
- (34 ~~41~~) "Person" means an individual, partnership, corporation, company, firm, association, or other business entity.
- (33 ~~42~~) "Racing Gasoline" means a specialty product similar in nature to automotive gasoline except that it is typically of lower volatility, has a narrower boiling range, and a higher antiknock index, and is generally free of significant amounts of oxygenates. It is designed for use in vehicles with high compression engines, generally for racing purposes.
- (43) "Refinery" means any facility, including but not limited to, a plant, tanker truck, or vessel where gasoline or diesel fuel is produced, including any facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.
- (35 ~~44~~) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D-2699 Research Method engine test

- ~~(36) "Substantially Similar" means the EPA's "Substantially Similar" rule, Section 211 (f) (1) of the Clean Air Act [42 U.S.C. 7545 (f) (1)].~~
- (37 45) "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. Such stress can lead to formation of insoluble gums or organic particulates. Insolubles (gums or organic particulates) can clog fuel filters and contribute to injector deposits.
- (38 46) "Total Oxygenate" means the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Chapter.
- (39 47) "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).
- ~~(40) "Wholesale Purchaser Consumer" means any person who is an ultimate consumer of products covered under this regulation who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.~~

Authority: T.C.A. §4-3-203 and §47-18-1309.

0080-5-12-.02 STANDARD FUEL SPECIFICATIONS.

- (1) Gasoline and Gasoline-Oxygenate Blends. - (as set forth in this regulation) shall meet the following requirements:
- (a) The most recent version of ASTM D-4814, "Standard Specification for Automotive Spark Ignition Engine Fuel" except for the permissible offsets for ethanol blends as provided in section 0080-5-12-.02 (1)(b). Gasoline blended with ethanol at concentrations up to ten percent by volume shall be blended under any of the following three options:
1. ~~The base gasoline used in such blends meets the requirements of ASTM D 4814 and the ethanol meets the requirements of ASTM D 4806. The finished blend meets ASTM D 4814 with the following permissible exceptions;~~
 - (i) ~~The distillation minimum temperature at the 50 volume percent evaporated point shall not be less than 66 °C (150°F).~~
 - (ii) ~~The Minimum Test Temperature at which the Vapor/Liquid Ratio is equal to 20 shall be as follows for the applicable vapor lock protection class:~~
 - Class 1 shall be 51.5 °C (125 °F)
 - Class 2 shall be 49.0 °C (120 °F)
 - Class 3 shall be 45.0 °C (113 °F)
 - Class 4 shall be 41.5 °C (107 °F)
 - Class 5 shall be 37.0 °C (99 °F)

Class 6 shall be 35.0 °C (95 °F)

2. ~~The blend meets the requirements of ASTM D 4814.~~
 3. ~~The base fuel used in such blends meets all the requirements of ASTM D 4814 except distillation, and the blend meets the distillation requirements of ASTM D 4814.~~
- (b) Gasoline-Ethanol Blends – When gasoline is blended with ethanol, the ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Fuel” and the final blend shall meet the latest version of ASTM D4814 “Standard Specification for Automotive Spark-Ignition Engine Fuel” with the following permissible exceptions. Blends of gasoline and ethanol shall meet the following vapor pressure requirements: The maximum vapor pressure shall not exceed the ASTM D4814 limits by more than : During the period between June 1 and September 15 of each calendar year, blends containing a minimum of 9 percent ethanol by volume and a maximum of 10 percent ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 p.s.i. All other blend concentrations shall meet the ASTM D 4814 vapor pressure limits.
1. 1.0 psi for blends containing 9 to 10 volume percent ethanol from June 1 through September 15, in accordance with 40 CFR Part 80.27(d);
 2. 1.0 psi for blends containing one or more volume percent ethanol for volatility Classes A, B, C and D from September 16 through May 31;
 3. 0.5 psi for blends containing one or more volume percent ethanol for volatility Class E from September 16 through May 31.
 4. The vapor pressure exemptions in subsections 0080-5-12-.02 (1)(b)1–3 will remain in effect until May 1, 2016 or until ASTM incorporates changes to or confirms the current limits to the vapor pressure maximums for ethanol blends, whichever occurs first.
- (c) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall be those permitted by the EPA under Section 211 of the Clean Air Act and applicable waivers. All conditions stipulated in the EPA waivers also apply. Gasoline oxygenate content specifications based on vehicle performance and operability that are stipulated within ASTM D4814 will govern when those limits are more restrictive than those established by the EPA for purposes of controlling emissions and the durability of emissions related equipment. Blends of gasoline and ethanol shall contain no more than 10 volume percent ethanol.
- (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;
- (e) “Minimum Motor Octane Number” – the minimum motor octane number shall not be less than 82 for gasoline or gasoline-oxygenate blends with an AKI of 87 or greater;

- (f) "Minimum Lead Content to Be Termed (Leaded)" - gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal);
- (g) "Lead Substitute Gasoline" - gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).
1. "Documentation of Exhaust Valve Seat Protection" - upon the request of the Commissioner, the lead substitute additive manufacturer shall provide documentation to the Commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g/gal) lead. ~~The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:~~
 2. The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:
 - (i) Test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act, or;
 - (ii) Until such a time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.
- (h) "Blending," - Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.
- (2) Diesel Fuel shall meet the most recent version of ASTM D-975, "Standard Specification for Diesel Fuel Oils."
- (a) Diesel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25°C (77°F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply.
- (ab) Premium Diesel Fuel - All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements:
1. Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D-613.

2. 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 Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D-4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
 3. Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D-6468 (180 minutes, 150 °C [302_°F]).
 4. Lubricity – A maximum wear scar diameter of 520 microns as determined by ASTM D-6079. If an enforcement jurisdiction's 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.
- (3) Aviation Turbine Fuels shall meet the most recent version of ASTM D1655, "Standard Specification for Aviation Turbine Fuels." the following standards, as applicable:
- (a) ASTM D1655, "Standard Specification for Aviation Turbine Fuels".
 - (b) ASTM D7223, "Standard Specification for Aviation Certification Turbine Fuel".
 - (c) ASTM D7566, "Standard Specification for Aviation Turbine Fuel Containing Synthesized Hydrocarbons".
 - (d) ASTM D6615, "Standard Specification for Jet B Wide-Cut Aviation Turbine Fuel".
- (4) Aviation Gasoline shall meet the most recent version of ASTM D 910, "Standard Specification for Aviation Gasoline." the following standards, as applicable:
- (a) ASTM D910, "Standard Specification for Aviation Gasoline".
 - (b) ASTM D6227, "Standard Specification for Grades UL 82 and UL87 Unleaded Aviation Gasoline".
 - (c) ASTM D7547, "Standard Specification for Unleaded Only Aviation Gasoline".
- (5) Fuel Oils shall meet the most recent version of ASTM D-396, "Standard Specification for Fuel Oils".
- (6) Kerosene (Kerosine) shall meet the most recent version of ASTM D-3699, "Standard Specification for Kerosine".
- (7) Ethanol intended for blending with gasoline shall meet the most recent version of ASTM D-4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel".
- (8) Liquefied Petroleum (LP) Gases Intended for Use as Motor Fuel shall meet ASTM D 1835, "Standard Specification for Liquefied Petroleum (LP) Gases".
- (9) E85 Fuel Ethanol shall meet the most recent version of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines." Ethanol Flex Fuel blends are covered by one of two ASTM standards based upon the ethanol concentration of the blend:

- (a) Ethanol Flex Fuel blends containing 51 to 83 volume percent ethanol shall meet the latest version of ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines"; and
 - (b) Ethanol Flex Fuel Blends containing 16 to 50 volume percent ethanol shall be blended, stored and conveyed for consumption in accordance with the recommendations and requirements included in the latest version of ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible-Fuel Vehicles with Automotive Spark-Ignition Engines". ASTM D4814 does not apply to this classification of fuel.
- (10) M85 Fuel Methanol shall meet the most recent version of ASTM D-5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark-Ignition Engines."
- (11) Racing Gasoline shall meet the following requirement:
- (a) "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.
 - (b) The minimum product specifications shall be those as declared by the manufacturer's product specifications. Upon the request of the Commissioner, each conveyor of racing gasoline shall provide the Department with a copy of the manufacturer's product specifications.
- (12) Biodiesel (Biodiesel Fuel Blend Stock) —~~All Biodiesel blend stock~~ intended for blending with diesel fuel shall meet the most recent version of ASTM D-6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels." All biodiesel blend stock shall be at least 99% biodiesel (no more than 1% diesel fuel). Any blend stock less than 99% biodiesel shall not be used as a commercial blend stock for biodiesel blends without the permission of the Commissioner.
- ~~(13) Biodiesel Blends — Blends of biodiesel and diesel fuels shall meet the following requirements: the base diesel fuel shall meet the most current requirements of ASTM D 975, Standard Specification for Diesel Fuel Oils; the biodiesel blend stock shall meet the most current requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, with the following exception: 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, low sulfur 1-D, 2-D, or low sulfur 2-D, limits provided the finished mixture meets pertinent national and local specifications and requirements for these properties~~
- (13) Biodiesel Blends and Diesel Fuel Containing Biodiesel – All blends of biodiesel and diesel fuels shall be blended with biodiesel blend stock that meets the requirement of 0080-05-12-.02 (12), and also shall meet the following requirements:
- (a) Blends that contain less than or equal to 5 % by volume biodiesel must meet the latest version of ASTM D975, "Standard Specification for Diesel Fuel Oils" and shall be sold as diesel fuel. In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;

- (b) Blends greater than 5 % by volume biodiesel and less than or equal to 20 % by volume biodiesel shall meet the most recent edition of ASTM D7467 "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)". In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;
- (c) Biodiesel Conveyed at Public Retail Sale Points – Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20 % by volume.
- ~~(14) Biodiesel Blends up to 5 Percent by Volume – Biodiesel blends up to 5% by volume shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils". At such time that an ASTM standard specification is developed for blends up to 5%, the ASTM standard shall prevail as rule.~~
- ~~(15) Biodiesel Blends More Than Five Percent and Up to Twenty Percent by Volume – Biodiesel blends more than 5% and up to 20% by volume shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils", except that the maximum temperature of the 90 percent volume recovered distillation point shall be five degrees centigrade greater than that specified in Table 1 of ASTM D 975. At such time that an ASTM standard specification is developed for blends greater than 5% and up to 20%, the ASTM standard shall prevail as rule.~~
- ~~(16) Low Temperature Operability of Biodiesel Blends – All biodiesel blends must meet the tenth percentile minimum ambient temperature values for low temperature operability as published in ASTM D 975 Appendix X.4. Low temperature operability may be qualified by either ASTM Standard Test Method D 4539 or ASTM Standard Test Method D 2500.~~
- ~~(17) Biodiesel Conveyed at Public Retail Sale Points – Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20% by volume.~~
- (14) Hydrogen Fuel for Fuel Cell Vehicles shall meet the most recent edition of SAE J2719 "Hydrogen Fuel Quality for Fuel Cell Vehicles". At such time that ASTM establishes a standard for Hydrogen fuel, the most recent edition of the ASTM standard specification(s) shall replace SAE J2219 as the Standard Specification for Hydrogen Fuel Quality.
- (15) Compressed Natural Gas (CNG) shall meet the most recent edition of SAE J1616, "Recommended Practice for Compressed Natural Gas Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (16) Liquefied Natural Gas (LNG) Vehicle Fuel shall meet the most recent edition of SAE J2699 "Liquified Natural Gas (LNG) Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (17) Butanol for Blending with Gasoline shall meet the most recent edition of ASTM D7862, "Standard Specification for Butanol Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel".
- (18) Dimethyl Ether for Fuel Purposes shall meet the most recent edition of ASTM D7901 "Standard Specification for Dimethyl Ether for Fuel Purposes."

- (19) Fuel Additives applied to products included in these regulations must be used in accordance with the definition of a fuel additive as stated in section 0080-05-12-.01 Definitions.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

0080-5-12-.03 CLASSIFICATION AND METHOD OF SALE —.

- (1) General Considerations
- (a) “Documentation,” when gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol; E85 and E100 fuel ethanol; liquefied petroleum (LP) gases intended for use as a motor fuel; compressed natural gas; liquefied natural gas; biodiesel; diesel fuel; kerosene; aviation gasoline; aviation turbine fuels; racing gasoline; or, fuel oils products regulated by this rule are sold, product transfer documents such as an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a retail sale. This document must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating (fuel rating), as applicable, the manganese or MMT content when applicable, and the oxygenate type and content when applicable (if applicable as determined by 0080-5-12-.03 (2)(h)), the name and address of the seller and buyer, and the date and time of the sale. Documentation must be retained at the retail establishment for a period not less than 30 days.
- (b) “Retail Dispenser Labeling,” - all retail gasoline and gasoline oxygenate blend dispensing devices must identify be labeled or otherwise decaled in such a manner that the type of product being offered is clear and conspicuous to the potential customer and must be labeled with conspicuously the type of product, the particular grade of the product, and the applicable automotive fuel rating. All retail dispensing devices of other products covered by this regulation must be labeled with the name of the product (e.g., diesel), the particular grade of the product (with exceptions noted within these rules), and the automotive fuel rating (fuel rating), as applicable.
- (c) “Grade Name,”- the sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or grade indicated in the grade name is consistent with the value and meets the requirements of 0080-5-12-.02, Standard Fuel Specifications.
- (d) Each retail dispenser must be identified by a number, other than or in addition to a serial number, permanently affixed to the dispenser.
- (e) Dispenser Nozzle Grip Guard Colors - all retail ethanol flex-fuel dispensers shall be equipped with yellow grip guards; no other product nozzles shall be equipped with yellow grip guards. All dispensers must be compliant with this requirement by May 1, 2016.
- (f) Nozzle Requirements for Fuel Dispensers - each retail dispensing device from which fuel products are sold shall be equipped with a nozzle spout having with a diameter that conforms to the latest version of SAE J285, “Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark-Ignition and Compression Ignition Engines.” All dispensers must be compliant with this requirement by May 1, 2016.

(2) Automotive Gasoline, and Automotive Gasoline-Oxygenate Blends, and Racing Gasoline

- (a) "Posting of Antiknock Index Required," - all dispensing devices of automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (b) "When the Term (Leaded) May be Used," - the term "leaded" shall only be used when the fuel meets specification requirements of 0080-5-12-.02 (ef).
- (c) "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 following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height and 1.5 millimeter (1/16 in) stroke (width of type) and. The color of the lettering shall be in definite contrast to the background color to which it is applied.
- ~~(d) "Nozzle Requirements for Leaded Fuel," each dispensing device from which gasoline or gasoline-oxygenate blends that contains lead in amounts sufficient to be considered "leaded" gasoline, or lead substitute engine fuel, is sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 millimeters (0.930 in).~~

(ed) "Prohibition of Gasoline and Gasoline-Oxygenate Blend Grade Terms:-"

1. It is prohibited to use the following terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the following minimum antiknock index requirement:
 - (i). Premium, Super, Supreme, High Test, Premier, Ultra, Ultimate must be a minimum of 91 AKI;
 - (ii). Midgrade, Plus, Extra, or other approved terms, must be a minimum of 89 AKI;
 - (iii). Regular, Leaded, must be a minimum of 89 AKI;
 - (iv). Regular, Unleaded must be a minimum of 87 AKI;
 - ~~(v). Unleaded Subgrade – CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;~~
 - ~~(vi). Premium Subgrade – CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;~~
2. The use of any other term not listed above in (2)(ed) to describe a grade of gasoline must be approved by the Commissioner.
3. Additional Unleaded Subgrade – CBOB Requirements: The grade terms "Unleaded Subgrade – CBOB", and "Premium Subgrade - CBOB" are grades that are approved for conveying from supplier terminal level to wholesalers. These fuel grades are not approved as grade terms and fuel ratings for retail sales.

4. In addition to the requirements of 0080-05-12-.03 (2)(d) 1.(v) – (vi), each of the subgrades/CBOBs must declare the minimum AKI that the fuel will provide after the addition of a specified volume ethanol. Other oxygenates and octane extender declarations may supplement the ethanol AKI declaration. The requirements of 0080-05-12-.03 (2)(d) 1.(v) – (vi) are applicable when conveying from the supplier terminal to wholesalers or from wholesaler to another wholesaler. Such reporting is not subject to enforcement under these rules for conveyances from pipelines to supplier terminals.
 5. When fuels containing greater than 10 % by volume ethanol for use in conventional-fuel vehicles are offered for sale, the grade terms listed above or otherwise approved by the Commissioner must be followed by the term "EXX". For example, "Regular E15"; "Plus E15"; "Premium E15".
 6. When gasoline or gasoline-oxygenate blends are conveyed through a fuel dispenser, the grade terms must be posted accurately on both the fuel dispenser and street pricing signs, where applicable. This includes the grade extension of EXX where applicable.
 7. When gasoline or gasoline-oxygenate blends are conveyed through wholesale bulk metering systems, each grade and associated automotive fuel rating at each fuel loading facility shall be posted or otherwise accurately certified to potential customers and to the Commissioner when performing inspections and sampling.
- (fe) "Method of Retail Sale-Type of Oxygenate Must be Disclosed," - all automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold, at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE." The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers" or alternatively post the phrase "contains MTBE or other ethers." In addition, gasoline methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). Racing gasoline being kept, offered, or exposed for sale, or sold at retail containing any amount of oxygenates shall be identified as "with" or "containing" (or similar wording) the particular oxygenate or oxygenates in the engine fuel, along with the volume percent of the oxygenate. Where mixtures of only ethers are present, the retailer may post the volume percent of the predominant oxygenate followed by the phrase "or other ethers".
- (gf) "Documentation for Dispenser Labeling Purposes," - the retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation;
1. Information that complies with 40 CFR § 80.1503 when the fuel contains ethanol.

2. For fuels that do not contain ethanol, information that complies with 40 CFR § 80.1503 and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers."
 3. In addition, any Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.
 4. For Racing Gasoline, the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the concentration of the oxygenate or oxygenates present in the fuel to allow for accurate dispenser labeling.
- (g) EPA Labeling Requirements also Apply – Retailers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10% by volume and up to 15% by volume under CFR § 80.1501.
- (h) Method of Retail Sale: Posting of Manganese Additives Must be Disclosed - all gasoline or gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail that contain any Manganese or any compound containing Manganese, including, without limitation, MMT, shall be labeled as follows:
1. WARNING: Read Label Before Dispensing Fuel. This Fuel Contains Manganese, Manganese Compound, or MMT. Recommend Vehicle Operator Consult Owner's Manual Before Using This Fuel.
 2. This label shall:
 - i. Be legible and conspicuous, placed on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position.
 - ii. Consist of black lettering on a white background.
 - iii. Be written in font at least 8 millimeters (5/16 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - iv. Be affixed to the applicable pump or other device for dispensing gasoline or gasoline-oxygenate blends (1) at the time gasoline or gasoline-oxygenate blends containing manganese or any compound containing manganese, including, without limitation, MMT, is loaded into or otherwise placed in a storage tank from which the dispenser or other device for dispensing gasoline or automotive gasoline-oxygenate blends draws its supply of fuel; (2) before the dispenser or other device for dispensing motor vehicle fuel may be used to dispense such fuel; (3) for 6 months immediately after the time the intentional addition of manganese

or any compound containing manganese, including, without limitation, MMT is discontinued.

3. As used in these rules, MMT means methylcyclopentadienyl manganese tircarbonyl.

(i) Documentation for Dispenser Labeling Purposes - Notification to Fuel Distributors and Retailers

1. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.

2. The retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation a declaration of Manganese or any compound containing Manganese, including, without limitation, MMT.

3. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will no longer contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.

(3) Diesel Fuel

(a) "Labeling of Grade Requirements," - Diesel Fuel shall be identified by grades No. 1-D, No. 1-D (low-sulfur), No. 2-D, No. 2-D (low-sulfur), or No. 4-D. For grades other than No. 2-D Low-Sulfur, each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed-except the words "low-sulfur" are not required.

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

(c) All conveyors of diesel fuel shall also comply with the US EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(4) Aviation Turbine Fuel

(a) "How to Identify Aviation Turbine Fuels," - aviation turbine fuels shall be identified by Jet A, Jet A-1, or Jet B the grade terms contained within the applicable ASTM Standard Specifications.

(b) "Labeling of Grade Required," - each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled conspicuously as to identify the product being sold as classified above.

(5) Aviation Gasoline

- (a) "How to Identify Aviation Gasoline," - aviation gasoline shall be identified by Grade 80, Grade 100, or Grade 100LL the grade terms contained within the applicable ASTM Standard Specifications.
- (b) "Labeling of Grade Required," - each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled conspicuously as to identify the product being sold as classified above.

(6) Fuel Oils

- (a) "How to Identify Fuel Oils," - fuel oil shall be identified by the term Fuel Oil along with the grades of No. 1 S500, No. 1 S5000, No. 2 S500, No. 2 S5000, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.
- (b) "Labeling of Grade Required," each retail dispenser or delivery truck dispensing fuel oil shall be labeled conspicuously as to identify the product being sold as classified above. In addition, retail Fuel Oil dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K Kerosene." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) strokes; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(7) Kerosene (Kerosine)

- (a) "How to Identify Kerosene," - kerosene shall be identified by the grades No. 1-K or No. 2-K.
- (b) "Labeling Requirements," - each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K. In addition, No. 2-K dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) strokes; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(8) Fuel-Ethanol Flex Fuel

- (a) "How to Identify Fuel-Ethanol Flex Fuel," - fuel-ethanol flex fuel shall be identified by the term Ethanol Flex-Fuel or EXX Ethanol Flex Fuel, capital letter E followed by the numerical value volume percentage. (Example: E85)
- (b) "Retail Dispenser Labeling," - each retail dispenser of fuel-ethanol flex fuel shall be labeled under the following alternatives: with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol)

1. Ethanol Flex Fuel blends with an ethanol concentration no less than 51 and no greater than 83 percent by volume shall be labeled "Ethanol Flex Fuel, minimum 51% ethanol" or "EXX Ethanol Flex Fuel", where XX is

the target ethanol concentration in volume percent and the actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;

2. Ethanol Flex Fuel blends with an ethanol concentration less than or equal to 50 volume percent shall be labeled "EXX Flex Ethanol Fuel", where the XX is the target ethanol concentration in volume percent. The actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;
3. A label shall be posted which states "For Use in Flexible Fuel Vehicles (FFV) Only". This information shall be clearly and conspicuously posed on the upper 50 % of the dispenser front panel in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). The label shall also state, "CHECK OWNER'S MANUAL" in a type at least 6.5 millimeters (¼ in) in height and 1 millimeter (3/64 in) stroke. The color of the wording shall be in definite contrast to the background color to which it is applied.

(c) ~~—"Additional Labeling Requirements," fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.~~

(9) Fuel Methanol

- (a) ~~"How to Identify Fuel Methanol is to be Identified,"~~ fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (Example: M85).
- (b) ~~"Retail Dispenser Labeling,"~~ - each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent 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. Additionally, a label shall be posted which states "Check Owner's Manual - For Use in Methanol Variable Fuel Vehicles (VFV) Only". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeters (1/16 in) stroke (width of type).

(10) Liquefied Petroleum (LP) Gas

- (a) ~~"How LPG is to Be Identified Liquefied Petroleum Gas,"~~ - liquefied petroleum gases intended for use as a motor fuel shall be identified by grades Commercial Propane or Special-Duty Propane (HD5).
- (b) ~~"Retail Dispenser Labeling,"~~ - each retail dispenser of liquefied petroleum gases intended for use as a motor fuel shall be labeled as "Commercial Propane" or "Special-Duty Propane (HD5)".
- (c) ~~"Additional Labeling Requirements,"~~ - liquefied Petroleum Gas intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(11) Racing Gasoline

- (a) "Posting of Antiknock Index Required" all dispensing devices of racing gasoline shall post the Antiknock Index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended How to Identify Racing Gasoline - racing gasoline shall be identified as Racing Gasoline.
- (b) "Method of Retail Sale-Type of Oxygenate Must be Disclosed" all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 mass percent oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height and 1.5 mm (1/16") stroke (width of type) Posting of Antiknock Index Required - all dispensing devices of racing gasoline shall post the Antiknock Index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (c) "Documentation for Dispenser Labeling Purposes" the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel. This documentation is for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygenate content of the engine fuel before blending Method of Retail Sale-Type of Oxygenate Must be Disclosed - all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 percent by mass oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in.) in height and 1.5 millimetre (1/16") stroke (width of type).
- (d) Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel.

(12) Biodiesel and Biodiesel Blends

- (a) Identification of Product How to Identify Biodiesel – Biodiesel shall be identified by the term "Biodiesel" with the designation "B100" or "B99", and Biodiesel blends containing more than 5% percent by volume shall be identified by the term "Biodiesel Blend".
- (b) Labeling of Dispensers Containing more than Five Percent (5 %) and Up to Twenty Percent (20 %) Biodiesel
1. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20 % by volume shall be labeled identified with either 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 the phrase "Biodiesel Blend between 5% and 20%" or similar words.)

2. Labeling of Grade Required

- (i) Biodiesel shall be identified by the grade terms specified in ASTM D6751.
- (ii) Biodiesel Blends shall be identified by the grade terms contained within ASTM D7467. Additionally, the diesel grade component as contained within ASTM D975 for grades other than No. 2-D shall also be identified except the sulfur extension designations are not required (sulfur declarations are required under 0080-5-12-.03 (12)(c)).

3. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20% by volume biodiesel shall display a label that reads "CHECK OWNER'S MANUAL". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at 6.5 millimeters (1/4 in) in height and 1 millimeter (3/64 in) stroke.

- (c) All conveyors of biodiesel blends fuel shall also comply with the EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.
- (d) Automotive Fuel Rating – Biodiesel and biodiesel blends shall be certified and labeled with its automotive fuel rating in accordance with 16 CFR Part 306.
- (e e) Documentation of Biodiesel Content on Product Transfer Documents for Dispenser Labeling Purposes – When biodiesel blends contain more that 5% by volume biodiesel, tThe retailer shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on product transfer documents such as an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser-labeling purposes only; It is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.

(13) Compressed Natural Gas

- (a) How to Identify Compressed Natural Gas – Compressed natural gas shall be identified by the term "Compressed Natural Gas" or "CNG".
- (b) Retail Dispenser Labeling
 - 1. Each retail dispenser of CNG shall be labeled as "Compressed Natural Gas".
 - 2. Each retail dispenser of CNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(14) Liquefied Natural Gas

- (a) How to Identify Liquefied Natural Gas – Liquefied natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG".

(b) Retail Dispenser Labeling

1. Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas".
2. Each retail dispenser of LNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(15) Dimethyl Ether

- (a) How to Identify Dimethyl Ether – dimethyl ether intended for use as a motor fuel in engines specifically designed or modified for DME and for blending with liquefied petroleum gas (LPG) shall be identified Dimethyl Ether (DME).
- (b) Retail Dispenser Labeling - each retail dispenser of DME intended for use as a motor fuel shall be labeled as "Dimethyl Ether" or "DME"
- (c) Additional Labeling Requirements – Dimethyl Ether intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

Authority: T.C.A. §4-3-203 and § 47-18-1309.

0080-5-12-.04 WATER IN RETAIL TANKS AND DISPENSER FILTERS.

- (1) "Water in Retail Storage Tanks containing Gasoline-Alcohol Blends, Biodiesel, Biodiesel Blends, Ethanol Flex Fuel, Aviation Gas, and Aviation Turbine Fuel," - no water phase greater than 6 millimeters (1/4 in) as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, ethanol-flex fuel, aviation gasoline, and aviation turbine fuel.
- (2) "Water in Retail Storage Tanks Containing Gasoline, Diesel, and Other Fuels," - water shall not exceed 50 38 millimeters (2 1.5 in) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends, fuel oils, and kerosene sold at retail.

(3) Dispenser Filters

- (a) All gasoline, gasoline-oxygenate blends, Ethanol Flex Fuel, and M85 methanol dispensers shall have a 10 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
- (b) All kerosene, diesel, biodiesel, and biodiesel blend dispensers shall have a 30 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
- (c) Fuel delivery of aviation turbine fuel and aviation gasoline into aircraft shall be filtered through a fuel filter/separator conforming to API 1581, "Specification and Qualification Procedures for Aviation Jet Fuel Filter/Separators" and ATA Specification 103 "Standard for Jet Fuel Quality Control at Airports", as applicable.
- (d) All Aviation Gasoline dispensing systems shall be equipped as follows:

1. At inlets to storage and on fueller loading racks (and hydrant delivery lines), a 5 micron (nominal) or finer Microfilter meeting EI 1590, or a filter water separator.
2. Where receipts are by gravity into underground tankage, a 100 micron mesh strainer.

Authority: T.C.A. §4-3-203 and §47-18-1309.

0080-5-12-.05 RETAIL PRODUCT STORAGE IDENTIFICATION.

- (1) "Fill Connection Labeling," - the fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained by means of :
 - (a) A permanently attached tag or label and;
 - (b) American Petroleum Institute color codes as specified and published in "API Recommended Practice 1637".
- (2) "Volume of Product Information," - each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the inspector upon request.

Authority: T.C.A. §4-3-203 and §47-18-1309.

0080-5-12-.06 CONDEMNED PRODUCT.

- (1) "Stop Sale Order," - a stop sale order may be issued as a Class One stop sale order or a Class Two stop sale order. When a stop sale order is placed on a terminal or bulk storage plant, the terminal or bulk storage plant operators shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). A list of all parties contacted by the supplier must be provided to the Commissioner. A release from a stop sale order will be awarded only after final disposition has been agreed upon by the Commissioner. Confirmation of disposition of products shall be made available in writing to the Commissioner.

Authority: T.C.A. §4-3-203 and §47-18-1309.

0080-5-12-.07 REPEALED.

Authority: T.C.A. §47-18-1309.

0080-5-12-.08 TEST METHODS, AND REPRODUCIBILITY LIMITS, AND CONFORMANCE TO SPECIFICATIONS.

- (1) ~~ASTM Standard~~ The test methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes. When no ASTM methods exist, accepted industry test methods specified in rule shall be used to determine compliance.

- (2) Premium Diesel - The following test methods shall be used to determine compliance with the applicable premium diesel parameters:
- (a) Lubricity - ASTM D6079;
 - (b) Cetane Number - ASTM D613;
 - (c) Low Temperature Operability - ASTM D4539 or ASTM D2500 (according to marketing claim);
 - (d) Thermal Stability – ASTM D6468 (180 minutes, 150 °C [302 °F]).
- (3) ~~Biodiesel Blends – The test method for determining the percent biodiesel in a blend of biodiesel and diesel fuel shall be EN 14078 “Liquid petroleum products – Determination of fatty methyl esters (FAME) in middle distillates – Infrared spectroscopy method.” At such time that ASTM develops a comparable standard test method, the ASTM method shall become the standard method for purposes of this rule.~~
- (4) 3 Reproducibility Limits Conformance to Specifications:
- (a) “Conformance to Specifications,” - The most recent version of ASTM D3244 “Standard Practice for Utilization of Test Data to Determine Conformance with Specifications” shall be used in determining the compliance of a test value to the specification limits except that no allowance shall be made for the precision of test methods for aviation gasoline and aviation turbine fuels or other product specifications whereby the limit has been determined to be a critical specification limit.
 - (a) b “AKI Limits,” - when determining the antiknock index (AKI) acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D_4814 Appendix X1 shall be routinely acknowledged when determining conformance to the specification using ASTM D3244 for enforcement purposes. However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.
 - (b) “Tests Other Than AKI,” - the reproducibility limits of the ASTM or other accepted standard test method used for each test performed shall be acknowledged for determining conformance to the specification using ASTM D3244 for enforcement purposes, except as indicated in 0080-5-12-.08 (3 2)(a) and in 0080-5-12-.02 (2)(a)4. However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

0080-5-12-.09 SAMPLING OF PETROLEUM PRODUCTS.

- (1) ~~—~~ Samples of petroleum products collected for testing shall be pumped, pulled, drawn, or otherwise procured in accordance with the most recent version of any of the following standard procedures:
- (1)(a) ASTM D4057, “Standard Practice for Manual Sampling of Petroleum and Petroleum Products”.

- (2)(b) 40 CFR Part 80, Appendix D or subsequent US EPA sampling instructions;
- (3)(e) ASTM D5842, "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement".
- (4)(d) NCWM Publication 21, "Petroleum Products Sampling Procedures and Safety Manual".

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

0080-5-12-.10 DISPOSITION OF SAMPLE RETAINS.

- (1) — All unused portions of samples remaining after testing shall be disposed of either by use in official state vehicles or through proper waste-disposal procedures. If the unused portions of samples are used in official state vehicles, the state or contract laboratory shall be responsible for storing and dispensing product to authorized vehicles. A log of all product transfers shall be maintained by the state or contract laboratory.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

11-06-14



TENNESSEE DEPARTMENT OF AGRICULTURE

DIVISION OF CONSUMER & INDUSTRY SERVICES

JULIUS JOHNSON
COMMISSIONER

ELECTRONIC MAIL (mardee.roberts@tn.gov)

November 4, 2014

Mardee Roberts, Publications Specialist
DIVISION OF PUBLICATIONS
Tennessee Secretary of State
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

RE: Rulemaking Hearing Rule(s) Filing Form- Kerosene and Motor Fuels Quality Inspection
Regulations, chapter 0080-05-12, filed September 4, 2014

Dear Ms. Roberts:

Please accept this correspondence in follow-up to your email of October 27, 2014, regarding differences between the above-referenced Rulemaking Hearing Rule(s) Filing Form and the redline version of its rule amendment filed with your office.

Upon review, the Department of Agriculture wishes to proceed with the amendment as filed in the Rulemaking Hearing Rule(s) Filing Form and not the redline version. The former reflects the changes that were intended to be made by the Department to the existing rule and has been signed by both the Commissioner of Agriculture and the Attorney General.

Thank you for your efforts and consideration in this matter. Please advise if additional follow-up is needed from this office in promulgation of the rule.

Sincerely,

Jason B. Miller, Esq.
Counsel for Department of Agriculture
Division of Consumer & Industry Services

Cc: David Waddell, Administrative Director
Randy Jennings, Director of Program Operations

2014 NOV -4 PM 4:07
SECRETARY OF STATE