



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Dept. of Agriculture

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: This rulemaking order adopts motor fuel (including biofuel) quality and labeling standards. Specifically, this includes:

- (1) adopting the Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation published in NIST Handbook 130 (with modifications in accordance with chapters 19.94 and 19.112 RCW); and
- (2) modifying the existing modifications listed in WAC 16-662-115 to the Uniform Regulation for the Method of Sale of Commodities requirements, as published in NIST Handbook 130.

This amendment does not address automotive lubricants.

Citation of existing rules affected by this order:

Repealed:
 Amended: 16-662-100, 105, 115
 Suspended:

Statutory authority for adoption: Chapters 19.112 & 34.05 RCW

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 07-02-105 on January 3, 2007.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

DATE ADOPTED

February 21, 2007

NAME (TYPE OR PRINT)

Valoria H. Loveland

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

9-16
 07-05-083

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 05-10-088, filed 5/4/05, effective 6/4/05)

WAC 16-662-100 What is the purpose of this chapter? (1) This chapter establishes requirements for the state of Washington that are reasonably consistent with the uniform rules adopted by the National Conference on Weights and Measures and that are in effect in other states.

(2) This chapter applies specifically to the:

(a) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology (NIST) NIST Handbook 44*;

(b) Uniform procedures for checking the net contents of packaged goods addressed in *NIST Handbook 133*;

(c) Uniform packaging and labeling regulation addressed in *NIST Handbook 130*;

(d) Uniform regulation for the method of sale of commodities addressed in *NIST Handbook 130*; (~~and~~)

(e) Uniform examination procedure for price verification addressed in *NIST Handbook 130*; and

(f) Engine fuels, petroleum products, and automotive lubricants regulation addressed in *NIST Handbook 130*.

(3) (a) *NIST Handbook 44*, *NIST Handbook 130* and *NIST Handbook 133*, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They are also available on the National Institute of Standards and Technology web site at <http://ts.nist.gov/ts/htdocs/230/235/owmhome.htm>.

(b) For information regarding the contents and application of these publications, contact the weights and measures program at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, telephone number 360-902-1857, or e-mail wts&measures@agr.wa.gov.

AMENDATORY SECTION (Amending WSR 07-01-115A, filed 12/20/06, effective 1/20/07)

WAC 16-662-105 What national weights and measures standards are adopted by the Washington state department of agriculture (WSDA)? The WSDA adopts the following national standards:

National standard for:	Contained in the:
(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment	2007 Edition of <i>NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</i>
(2) The procedures for checking the accuracy of the net contents of packaged goods	Fourth Edition (January 2005) of <i>NIST Handbook 133 - Checking the Net Contents of Packaged Goods</i>
(3) The requirements for packaging and labeling, method of sale of commodities, ((and the)) examination procedures for price verification, <u>and engine fuels, petroleum products and automotive lubricants</u>	2006 Edition of <i>NIST Handbook 130 - Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality</i> , specifically:
(a) Weights and measures requirements for all food and nonfood commodities in package form	<i>Uniform Packaging and Labeling Regulations</i> adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2006 Edition
(b) Weights and measures requirements for the method of sale of food and nonfood commodities	<i>Uniform Regulation for the Method of Sale of Commodities</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2006 Edition
(c) Weights and measures requirements for price verification	<i>Examination Procedure for Price Verification</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2006 Edition

National standard for:	Contained in the:
(d) <u>Definitions and requirements for standard fuel specifications; classification and method of sale of petroleum products; retail storage tanks; condemned products; product registration; and test methods and reproducibility limits</u>	<u>Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2006 Edition</u>

AMENDATORY SECTION (Amending WSR 05-10-088, filed 5/4/05, effective 6/4/05)

WAC 16-662-115 Does the WSDA modify NIST Handbook 130? The WSDA adopts the following modifications to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3) (b):

((Modified Section:	Modification:
(1) Section 2.20 Gasoline-Oxygenate Blends	Delete Section 2.20 because the requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC
(2) Section 2.23 Animal Bedding	Add a new subsection, which reads as follows: 2.23.1 Sawdust, Barkdust, Decorative Wood Particles, and Similar Products.-- As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof:))

Modified Section:

Modification:

(1) Section 2.20. Gasoline-Oxygenate Blends

Modify section 2.20.1. Method of Retail Sale - Type of Oxygenate must be Disclosed, to read: 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." 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." 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 fifty percent 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, 1.5 mm (1/16 in.) stroke (width of type). Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel. Ethanol at no less than one percent and no more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol." Ethanol at greater than ten percent by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol.)

Modify section 2.20.2. Documentation for Dispenser Labeling Purposes, to read: At the time of delivery of the fuel, the retailer shall be provided, on an invoice, bill of lading, shipping paper, or other documentation 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 the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen). 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. When ethanol and/or methanol is blended at one percent or greater, by volume, in gasoline for use as motor vehicle fuel, documentation must include the volumetric percentage of ethanol and/or methanol.

Modified Section:	Modification:
(2) Section 2.23. Animal Bedding	Add a new subsection, which reads: <u>2.23.1 Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof.</u>

The WSDA adopts the following modifications to the Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation requirements published in NIST Handbook 130, identified in WAC 16-662-105 (3) (d) :

Modified Section:	Modification:
(1) Section 2.12. Motor Oil	Delete section 2.12.
(2) Section 2.13. Products for Use in Lubricating Manual Transmissions, Gears, or Axles	Delete section 2.13.
(3) Section 2.14. Products for Use in Lubricating Automatic Transmissions	Delete section 2.14.
(4) Section 3.2.6. Method of Retail Sale. Type of Oxygenate must be Disclosed	Modify section 3.2.6 to read: <u>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." 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." 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 fifty percent 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, 1.5 mm (1/16 in.) stroke (width of type). Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel. Ethanol at no less than one percent and no more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol." Ethanol at greater than ten percent by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol" (example: E85 Ethanol).</u>

Modified Section:	Modification:
(5) <u>Section 3.2.7. Documentation for Dispenser Labeling Purposes</u>	<u>Modify section 3.2.7 to read: 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 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 the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen). 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. When ethanol and/or methanol is blended at one percent or greater, by volume, in gasoline for use as motor vehicle fuel, documentation must include the volumetric percentage of ethanol and/or methanol.</u>
(6) <u>Section 3.8.2. Retail Dispenser Labeling</u>	<u>Modify section 3.8.2 to read: Each retail dispenser of not less than one percent and not more than ten percent, by volume, fuel ethanol must be labeled "Contains up to 10% Ethanol." Each retail dispenser of greater than ten percent fuel ethanol by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol" (example: E85 Ethanol).</u>
(7) <u>Section 3.9.2. Retail Dispenser Labeling</u>	<u>Modify section 3.9.2 to read: Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value maximum volume percent and ending with the word "methanol." (Example: M85 Methanol.)</u>
(8) <u>Section 3.13. Oil</u>	Delete section 3.13.
(9) <u>Section 3.14. Automatic Transmission Fluid</u>	Delete section 3.14.
(10) <u>Section 3.15.2. Labeling of Retail Dispensers Containing between 5% and 20% Biodiesel</u>	<u>Modify section 3.15.2 to read: 3.15.2. Labeling of Retail Dispensers Containing not More Than 5% Biodiesel. Each retail dispenser of biodiesel blend containing not less than two percent and not more than five percent biodiesel must be labeled "Contains up to 5% Biodiesel." 3.15.2.1. Retail dispensers containing less than two percent biodiesel may not be labeled as dispensing biodiesel or biodiesel blends. Delete section 3.15.2.2.</u>
(11) <u>Section 3.15.3. Labeling of Retail Dispensers Containing more than 20% Biodiesel</u>	<u>Modify section 3.15.3 to read: 3.15.3. Labeling of Retail Dispensers Containing More Than 5% Biodiesel. Each retail dispenser of biodiesel or biodiesel blend containing more than five percent biodiesel must be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "biodiesel" or "biodiesel blend" (examples: B100 Biodiesel; B60 Biodiesel blend).</u>
(12) <u>Section 3.15.5. Exemption</u>	Delete section 3.15.5.

Modified section:	Modification:
(13) Section 7. Test Methods and Reproducibility Limits	Add a new subsection that reads: <u>7.3 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."</u> When ASTM develops a comparable standard test method, the <u>ASTM method will become the standard method for purposes of this rule.</u>