



Rules of
Department of Agriculture
Division 110—Office of the Director
Chapter 3—Missouri Renewable Fuel Standard

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**Title 2—DEPARTMENT OF
AGRICULTURE**

**Division 110—Office of the Director
Chapter 3—Missouri Renewable
Fuel Standard**

**2 CSR 110-3.010 Description of General
Organization; Definitions; Requirements
and Exemptions; Enforcement Provisions**

PURPOSE: This rule describes the operation of the renewable fuel standard; defines terms; establishes requirements and exemptions for fuel distributors, position holders, terminals, suppliers, and fuel retailers; and describes enforcement provisions.

(1) General Organization.

(A) The director of the Department of Agriculture (MDA) is authorized to ensure implementation of, and compliance and consistency with, the Missouri Renewable Fuel Standard Act (MRFSA). The MRFSA requires that, unless otherwise provided, on and after January 1, 2008 all gasoline sold or offered for sale in Missouri at retail shall be ten percent (10%) fuel ethanol-blended gasoline. The MDA and the Department of Revenue (DOR) are authorized to obtain documentation from relevant parties regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline.

(B) All submissions or requests for information regarding the MRFSA should be directed to the Missouri Department of Agriculture, Renewable Fuel Standard, PO Box 630, Jefferson City, MO 65102.

(2) Definitions.

(A) Aviation fuel—any motor fuel specifically compounded for use in reciprocating aircraft engines.

(B) Distributor—a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel.

(C) E75-E85 fuel ethanol—fuel ethanol that meets ASTM D 5798 specifications.

(D) Fuel ethanol-blended gasoline—as defined in section 414.255.2(3), RSMo.

(E) Position holder—the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal.

(F) Premium gasoline—gasoline with an antiknock index number of ninety-one (91) or greater.

(G) Price—the cost of the fuel ethanol plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the unblended gasoline plus fuel taxes and transportation expenses less tax credits, if any.

(H) Qualified terminal—a terminal that has been assigned a terminal control number (tcn) by the Internal Revenue Service.

(I) Supplier—a person that is:

1. Registered or required to be registered pursuant to 26 U.S.C., section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

2. One (1) or more of the following:

A. The position holder in a terminal or refinery in this state;

B. Imports motor fuel into this state from a foreign country;

C. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two (2)-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

D. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, railcar, boat, barge or pipeline into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise.

(J) Terminal—a bulk storage and distribution facility which includes:

1. For the purposes of motor fuel, is a qualified terminal;

2. For the purposes of fuel grade alcohol, is supplied by truck, railcar, boat, barge or pipeline and the products are removed at a rack.

(K) Ultimate vendor—a person that sells motor fuel to the consumer.

(L) Unblended gasoline—gasoline that has not been blended with fuel ethanol.

(3) Requirements and Exemptions.

(A) On and after January 1, 2008, all gaso-

line sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline, unless a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline. Price comparisons are to be made between position holders or suppliers at a particular terminal, not by price comparisons between terminals.

(B) For each purchase of unblended gasoline from a position holder or supplier at the terminal, the position holder, supplier, distributor, and ultimate vendor shall maintain accurate purchase and disposition records and source documents for at least three (3) years. The records and source documents must, in their entirety, be sufficient to verify the price and quantity available at the terminal for fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline for each position holder or supplier at the terminal at the time of each purchase of unblended gasoline. If the unblended gasoline is to be used for exempt purchases as described in (3)(G) of this rule, records and source documents must include the quantity purchased, destination, date, and the category of exemption.

(C) The position holder, supplier, distributor, and ultimate vendor shall, upon request, and within thirty (30) days of receiving such a request, provide documentation within their purview or control regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the Department of Agriculture and/or the Department of Revenue. The departments may examine records, documents, books, premises, and products of such entities to determine the validity of all documentation provided and to determine compliance with the provisions of section 414.255, RSMo and this rule. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law. Any documentation provided to the departments will be considered received by the departments on the:

1. Postmark date for items delivered by the United States Postal Service;

2. Actual date received by the departments for items delivered by any other carrier service; or

3. Actual date received for information received by facsimile or email within the departments' Jefferson City, Missouri central office.

(D) Any delivery of unblended gasoline to an ultimate vendor or consumer shall include notification by the distributor on a bill of lading, invoice, delivery ticket, or some other document of the quantity of unblended gasoline delivered and that the distributor was



unable to purchase fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline.

(E) All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal reformulated gasolines, in cooperation with position holders and suppliers, shall not be required to offer for sale unblended gasoline.

(F) Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction finds that this subsection does not apply to or improperly impairs existing contractual relationships, then this subsection shall only apply to and impact future contractual relationships.

(G) The following shall be exempt from the provisions of section 414.255, RSMo and this rule.

1. Aviation fuel and automotive gasoline used in aircraft;
2. Premium gasoline;
3. E75-E85 fuel ethanol;
4. Any specific exemptions declared by the United States Environmental Protection Agency;
5. Bulk transfers between terminals; and
6. Marinas that sell fuel exclusively to watercraft.

(H) The director of the Department of Agriculture may by rule exempt or rescind additional gasoline uses from the requirements of section 414.255, RSMo and this rule. The governor may by executive order waive the requirements of section 414.255, RSMo and this rule or any part thereof in part or in whole for all or any portion of this state for reasons related to air quality. Any regional waiver shall be issued and implemented in such a way as to minimize putting any region of the state at a competitive advantage or disadvantage with any other region of the state.

(4) Enforcement Provisions.

(A) The provisions of section 414.152, RSMo shall apply for purposes of enforcement of the Missouri Renewable Fuel Standard Act and this rule.

AUTHORITY: section 414.255, RSMo Supp. 2006. Original rule filed June 29, 2007, effective Feb. 29, 2008.*

**Original authority: 414.255, RSMo 2006.*