

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed Emergency**

**Rule making related to biodiesel blended fuel between B-20 and B-99**

The Agriculture and Land Stewardship Department (Department) hereby amends Chapter 85, “Weights and Measures,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 214A.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 214A.2.

*Purpose and Summary*

This rule making adds an Iowa-specific standard for biodiesel blended fuel classified as higher than B-20 but less than B-99 using ASTM International standards by reference. As a result of establishing the standard, at the beginning of 2023, the Department of Revenue will be enabled to offer two new tax credits that were established by the Legislature in 2022.

Currently, the Department relies on standards from ASTM; however, none currently exist for biodiesel blends between B-20 and B-99. This rule making adopts existing ASTM standards by reference for both biodiesel and diesel.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee. In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its December 12, 2022, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on February 13, 2023, because by adopting the standard as quickly as possible, the Department of Revenue will be able to offer two new tax credits at the beginning of 2023.

*Adoption of Rule Making*

This rule making was adopted by the Department on December 12, 2022.

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 6804C** to allow for public comment.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on February 13, 2023.

The following rule-making action is adopted:

Rescind rule 21—85.33(214A,208A) and adopt the following **new** rule in lieu thereof:

**21—85.33(214A,208A) Motor fuel and antifreeze tests and standards.**

**85.33(1)** In the interest of uniformity, the tests and standards for motor fuel, including but not limited to renewable fuels such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and components such as an oxygenate, raffinate natural gasoline and motor vehicle antifreeze shall be those established by the ASTM international in effect on December 1, 2022, with the following exceptions:

- a. Biodiesel blended fuel classified as higher than B-20 but less than B-99.
- b. Tests and standards that are otherwise required by statute.

**85.33(2)** The components used to produce biodiesel blended fuel classified as higher than B-20 but less than B-99 must meet the following department standards:

- a. The biodiesel must meet ASTM international specification D6751.
- b. The diesel must meet ASTM international specification D975.

**85.33(3)** Diesel fuel which does not comply with ASTM international specifications may be blended with biodiesel, additives, or other diesel fuel so that the finished blended product does meet the applicable specifications.

**85.33(4)** Motor fuel that contains more than one-half of 1 percent of methyl tertiary butyl ether (MTBE) by volume shall not be sold, offered for sale, or stored in Iowa.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6, 214A.2, and 215.18.

[Filed Emergency 12/14/22, effective 2/13/23]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/23.