

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby amends Chapter 221, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code chapter 101 authorizes the State Fire Marshal to establish standards for the safe dispensing of flammable liquids. Generally, dispensing of flammable liquids is only allowed using dispensers listed by an independent testing laboratory for use with the liquid being dispensed. An exception to this practice has been made for blends of ethanol for which no listed dispensers exist. The Fire Marshal has determined that a parallel exception is appropriate for blends of biodiesel and petroleum diesel fuel containing up to 20 percent biodiesel. The amendment adopted herein creates a parallel exception for dispensing of biodiesel blends to that which already exists for ethanol blends. The amendment also incorporates an alternative path to allow for the dispensing of ethanol as provided in 2009 Iowa Acts, Senate File 423, allow the same path for dispensing biodiesel, and provide an additional alternative for dispensing biodiesel.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7772B**. A public hearing on the proposed amendment was held on June 9, 2009, and comments were received from several parties stating that the proposed requirements for dispensing blends of biodiesel fuel above B-5 were excessively restrictive. The Fire Marshal has concluded that these comments warrant the addition of another method to allow for the dispensing of biodiesel blends up to B-20, which is contingent upon information provided by the manufacturer of the dispenser stating that the dispenser is compatible with blends of biodiesel up to B-20.

Additionally, the proposed amendment has been modified to reflect a change in the underlying statute, enacted in 2009 Iowa Acts, Senate File 423, which provides that ethanol blends beyond E-10 may be dispensed from an ethanol-listed dispenser provided that required under-dispenser containment is provided. A parallel allowance is included for dispensing of biodiesel blends up to B-20.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 2, 2009. The public will benefit from the modification of requirements for dispensing certain blends of biofuels considered excessively restrictive; this will be facilitated by making the subrule consistent with the amended statute affecting ethanol blended fuels one day after the amendments to the statute took effect, which occurred on July 1, 2009, and by extending similar provisions to dispensing of biodiesel blends up to and including B-20.

This amendment is subject to the general waiver provisions which govern rules of the Fire Marshal.

This amendment is intended to implement Iowa Code chapter 101.

This amendment became effective on July 2, 2009.

The following amendment is adopted.

Rescind subrule 221.4(2) and adopt the following **new** subrule in lieu thereof:

221.4(2) Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

"*B-blend*" means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including no more than 20 percent biodiesel, as defined in Iowa Code section 214A.1.

"*E-10*" means a blend of petroleum and ethanol including no more than 15 percent ethanol intended for use as a motor vehicle fuel.

"*E-blend*" means a blend of petroleum and ethanol including more than 15 percent ethanol intended for use as a motor vehicle fuel.

2206.7.1.1.2 E-blend may only be dispensed if (a) or (b) applies:

(a) Only a dispenser listed by an independent testing laboratory as compatible with E-10 gasoline shall be used to dispense E-blend, and the retail dealer shall visually inspect the dispenser and the

dispenser sump daily for leaks and equipment failure. The dealer shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(b) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline. In addition, the retail dealer shall install an under-dispenser containment system with electronic monitoring.

2206.7.1.1.3 B-blend may only be dispensed if (a) and either (b), (c), or (d) apply:

(a) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(b) The retail dealer shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(c) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the retail dealer has installed an under-dispenser containment system with electronic monitoring.

(d) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

NOTE: If options (b) or (d) are used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

[Filed Emergency After Notice 7/1/09, effective 7/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.