

CHAPTER 214A

MOTOR FUEL

[P]

Department of agriculture and land stewardship to establish and administer programs for auditing motor fuel production and processing, motor fuel screening and testing, and inspection of motor fuels sold by dealers; 2006 Acts, ch 1175, §22; 2008 Acts, ch 1189, §16; 2009 Acts, ch 175, §3; 2010 Acts, ch 1191, §3

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214A.1 Definitions.

The following definitions shall apply to the various terms used in this chapter:

1. “*Advertise*” means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.
2. “*A.S.T.M. international*” means the American society for testing and materials international.
3. “*Biodiesel*” means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, which meets the standards provided in section 214A.2.
4. “*Biodiesel blended fuel*” means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component, provided in section 214A.2.
5. “*Biodiesel fuel*” means biodiesel or biodiesel blended fuel.
6. “*Biofuel*” means ethanol or biodiesel.
7. “*Dealer*” means a wholesale dealer or retail dealer.
8. “*Diesel fuel*” means any liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel powered engine, including but not limited to a motor vehicle, equipment as defined in section 322F.1, or a train. Diesel fuel includes a liquid product prepared, advertised, offered for sale, or sold for use as, or commonly and commercially used as, motor fuel for use in an internal combustion engine and ignited by pressure without the presence of an electric spark. Diesel fuel must meet the standards provided in section 214A.2.
9. “*E-85 gasoline*” or “*E-85*” means ethanol blended gasoline formulated with a percentage of between seventy and eighty-five percent by volume of ethanol, if the formulation meets the standards provided in section 214A.2.
10. “*Ethanol*” means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in section 214A.2.
11. “*Ethanol blended gasoline*” means a formulation of gasoline which is a liquid petroleum product blended with ethanol, if the formulation meets the standards provided in section 214A.2.
12. “*Gasoline*” means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in section 214A.2.
13. “*Motor fuel*” means a substance or combination of substances which is intended to be or is capable of being used for the purpose of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose.

14. “Motor fuel pump” and “motor fuel blender pump” or “blender pump” means the same as defined in section 214.1.

15. “Motor fuel storage tank” means the same as defined in section 214.1.

16. “MTBE” means methyl tertiary butyl ether.

17. “Office” means the office of renewable fuels and coproducts created pursuant to section 159A.3.

18. “Oxygenate” means oxygen-containing compounds, including but not limited to alcohols, ethers, or ethanol.

19. “Renewable fuel” means a combustible liquid derived from grain starch, oilseed, animal fat, or other biomass; or produced from a biogas source, including any nonfossilized decaying organic matter which is capable of powering machinery, including but not limited to an engine or power plant. Renewable fuel includes but is not limited to biofuel, ethanol blended gasoline, or biodiesel blended fuel meeting the standards provided in section 214A.2.

20. “Retail dealer” means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

21. “Retail motor fuel site” means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

22. “Sell” means to sell or to offer for sale.

23. “Standard ethanol blended gasoline” means ethanol blended gasoline for use in gasoline-powered vehicles other than flexible fuel vehicles, that meets the requirements of section 214A.2.

24. “Unleaded gasoline” means gasoline, including ethanol blended gasoline, if all of the following applies:

- a. It has an octane number of not less than eighty-seven as provided in section 214A.2.
- b. Lead or phosphorus compounds have not been intentionally added to it.
- c. It does not contain more than thirteen thousandths grams of lead per liter and not more than thirteen ten-thousandths grams of phosphorus per liter.

25. “Wholesale dealer” means a person, other than a retail dealer, who operates a place of business where motor fuel is stored and dispensed for sale in this state, including a permanent or mobile location.

[C31, 35, §5093-d1; C39, §5095.01; C46, 50, 54, 58, 62, 66, 71, §323.1; C73, 75, 77, 79, 81, §214A.1]

85 Acts, ch 76, §1; 86 Acts, ch 1146, §1; 86 Acts, ch 1245, §644; 89 Acts, ch 75, §1; 2000 Acts, ch 1224, §27; 2004 Acts, ch 1086, §106; 2006 Acts, ch 1142, §3 – 5, 83; 2008 Acts, ch 1169, §14 – 16, 30; 2010 Acts, ch 1031, §245, 246

[P] Further definitions, see §189.1

[T] Subsection 7 stricken and former subsections 8 – 17 renumbered as 7 – 16

[T] NEW subsection 17

214A.2 Tests and standards.

1. The department shall adopt rules pursuant to chapter 17A for carrying out this chapter. The rules may include but are not limited to specifications relating to motor fuel, including but not limited to renewable fuel such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and motor fuel components such as an oxygenate. In the interest of uniformity, the department shall adopt by reference other specifications relating to tests and standards for motor fuel, including renewable fuel and motor fuel components, established by the United States environmental protection agency and A.S.T.M. international.

2. Octane number shall conform to the average of values obtained from the A.S.T.M. international D2699 research method and the A.S.T.M. international D2700 motor method.

a. Octane number for regular grade leaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than eighty-eight.

b. Octane number for premium grade leaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than ninety-three.

c. Octane number for regular grade unleaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than eighty-seven.

d. Octane number for premium grade unleaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than ninety.

3. a. For motor fuel advertised for sale or sold as gasoline by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. § 7545.

b. If the motor fuel is advertised for sale or sold as ethanol blended gasoline, the motor fuel must comply with departmental standards which shall meet all of the following requirements:

(1) Ethanol must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D4806 for denatured fuel ethanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(2) Gasoline blended with ethanol must meet any of the following requirements:

(a) For the gasoline, A.S.T.M. international specification D4814.

(b) For the ethanol blended gasoline, A.S.T.M. international specification D4814.

(c) For the gasoline, A.S.T.M. international specification D4814 except for distillation, if, for E-10 or a classification below E-10, the ethanol blended gasoline meets the requirements of A.S.T.M. international specification D4814.

(3) For ethanol blended gasoline, at least nine percent by volume must be fuel grade ethanol. In addition, the following applies:

(a) For the period beginning on September 16 and ending on May 31 of each year, the state grants a waiver of one pound per square inch from the A.S.T.M. international D4814 Reid vapor pressure requirement.

(b) For the period beginning on June 1 and ending on September 15 of each year the United States environmental protection agency must grant a one pound per square inch waiver for ethanol blended conventional gasoline with at least nine but not more than ten percent by volume of ethanol pursuant to 40 C.F.R. § 80.27.

(4) For standard ethanol blended gasoline, it must be ethanol blended gasoline classified as any of the following:

(a) E-9 or E-10, if the ethanol blended gasoline meets the standards for that classification as otherwise provided in this paragraph "b".

(b) Higher than E-10, if authorized by the department pursuant to approval for the use of that classification of ethanol blended gasoline in this state by the United States environmental protection agency, by granting a waiver or the adoption of regulations.

(5) E-85 gasoline must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D5798, described as a fuel blend for use in ground vehicles with automotive spark-ignition engines, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

4. a. For motor fuel advertised for sale or sold as diesel fuel by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. § 7545.

b. If the motor fuel is advertised for sale or sold as biodiesel or biodiesel blended fuel, the motor fuel must comply with departmental standards which shall comply with specifications adopted by A.S.T.M. international for biodiesel or biodiesel blended fuel, to every extent applicable as determined by rules adopted by the department.

(1) Biodiesel must conform to A.S.T.M. international specification D6751 or a successor A.S.T.M. international specification as established by rules adopted by the department. The specification shall apply to biodiesel before it leaves its place of manufacture.

(2) At least one percent of biodiesel blended fuel by volume must be biodiesel.

(3) The biodiesel may be blended with diesel fuel whose sulfur, aromatic, lubricity, and cetane levels do not comply with A.S.T.M. international specification D975 grades 1-D or 2-D, low sulfur 1-D or 2-D, or ultra-low sulfur grades 1-D or 2-D, provided that the finished biodiesel blended fuel meets A.S.T.M. international specification D975 or a successor A.S.T.M. international specification as established by rules adopted by the department.

5. Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol blended gasoline and biodiesel fuel shall be designated B-xx where "xx" is the volume percent of biodiesel.

6. Motor fuel shall not contain more than trace amounts of MTBE, as provided in section 214A.18.

[C31, 35, §5093-d2; C39, §5095.02; C46, 50, 54, 58, 62, 66, 71, §323.2; C73, 75, 77, 79, 81, §214A.2; 82 Acts, ch 1131, §1, ch 1170, §1]

84 Acts, ch 1083, §1; 85 Acts, ch 76, §2 – 5; 85 Acts, ch 195, §23; 89 Acts, ch 75, §2; 90 Acts, ch 1252, §14; 91 Acts, ch 87, §1; 2000 Acts, ch 1224, §28; 2003 Acts, ch 167, §1, 4; 2004 Acts, ch 1086, §106; 2006 Acts, ch 1142, §6 – 8, 83; 2006 Acts, ch 1175, §8, 23; 2008 Acts, ch 1169, §17, 18, 30; 2009 Acts, ch 41, §263; 2009 Acts, ch 179, §118; 2010 Acts, ch 1031, §247

[T] Subsection 1 amended

214A.2A Kerosene.

1. Fuel which is sold or is kept, offered, or exposed for sale as kerosene shall be labeled as kerosene. The label shall include the word “kerosene” and a designation as either “K1” or “K2”, and shall indicate that the kerosene is in compliance with the standard specification adopted by A.S.T.M. international specification D3699 (1982).

2. A product commonly known as kerosene and a distillate or a petroleum product of lower gravity (Baume scale), when not used to propel a motor vehicle or for compounding or combining with a motor fuel, are exempt from this chapter except as provided in this section.

86 Acts, ch 1146, §2; 2006 Acts, ch 1142, §9

214A.2B Laboratory for motor fuel and biofuels.

A laboratory for motor fuel and biofuels is established at a community college which is engaged in biofuels testing on July 1, 2007, and which testing includes but is not limited to B-20 biodiesel fuel testing for motor trucks and the ability of biofuels to meet A.S.T.M. international standards. The laboratory shall conduct testing of motor fuel sold in this state and biofuel which is blended in motor fuel in this state to ensure that the motor fuel or biofuels meet the requirements in section 214A.2.

2007 Acts, ch 215, §97; 2008 Acts, ch 1032, §35, 108; 2008 Acts, ch 1169, §19, 30

214A.3 Advertising.

1. For all motor fuel, a person shall not knowingly do any of the following:

a. Advertise the sale of any motor fuel which does not meet the standards provided in section 214A.2.

b. Falsely advertise the quality or kind of any motor fuel or a component of motor fuel.

c. Add a coloring matter to the motor fuel which misleads a person who is purchasing the motor fuel about the quality of the motor fuel.

2. For a renewable fuel, all of the following apply:

a. A person shall not knowingly falsely advertise that a motor fuel is a renewable fuel or is not a renewable fuel.

b. (1) Ethanol blended gasoline sold by a dealer shall be designated according to its classification as provided in section 214A.2. However, a person advertising E-9 or E-10 gasoline may only designate it as ethanol blended gasoline. A person advertising ethanol blended gasoline formulated with a percentage of between seventy and eighty-five percent by volume of ethanol shall designate it as E-85. A person shall not knowingly falsely advertise ethanol blended gasoline by using an inaccurate designation in violation of this subparagraph.

(2) A person shall not knowingly falsely advertise biodiesel fuel by using an inaccurate designation as provided in section 214A.2.

[C31, 35, §5093-d3; C39, §5095.03; C46, 50, 54, 58, 62, 66, 71, §323.3; C73, 75, 77, 79, 81, §214A.3]

89 Acts, ch 75, §3; 2006 Acts, ch 1142, §10; 2008 Acts, ch 1169, §20, 30; 2009 Acts, ch 179, §119

214A.4 Intrastate shipments.

A wholesale dealer or retail dealer shall not receive or sell or hold for sale, within this state, any motor fuel or oxygenate for which specifications are prescribed in this chapter,

unless the dealer first secures from the refiner or producer of the motor fuel or oxygenate, a statement, verified by the oath of a competent chemist employed by or representing the refiner or producer, showing the true standards and tests of the motor fuel or oxygenate, obtained by the methods referred to in section 214A.2. The verified tests are required and must accompany the bill of lading or shipping documents representing the shipment of the motor fuel or oxygenate into this state before the shipment can be received and unloaded.

[C31, 35, §5093-d4; C39, §5095.04; C46, 50, 54, 58, 62, 66, 71, §323.4; C73, 75, 77, 79, 81, §214A.4]

89 Acts, ch 75, §4; 2006 Acts, ch 1142, §83

214A.5 Documentation.

1. A wholesale dealer or retail dealer shall, when making a sale of motor fuel, give to a purchaser upon demand a sales slip.

2. A wholesale dealer selling ethanol blended gasoline or biodiesel blended fuel to a purchaser shall provide the purchaser with a statement indicating its designation as provided in section 214A.2. The statement may be on the sales slip provided in this section or a similar document, including but not limited to a bill of lading or invoice.

[C31, 35, §5093-d5; C39, §5095.05; C46, 50, 54, 58, 62, 66, 71, §323.5; C73, 75, 77, 79, 81, §214A.5]

89 Acts, ch 75, §5; 2006 Acts, ch 1142, §11, 83; 2006 Acts, ch 1175, §18, 23; 2009 Acts, ch 179, §120

214A.6 Department tests — fee. Repealed by 2005 Acts, ch 159, § 2.

214A.7 Department inspection — samples tested.

The department shall, from time to time, make or cause to be made tests of any motor fuel or biofuel which is being sold, or held or offered for sale within this state. A departmental inspector may enter upon the premises of a dealer and take from any container a sample of the motor fuel or biofuel, not to exceed sixteen fluid ounces. The sample shall be sealed and appropriately marked or labeled by the inspector and delivered to the department. The department shall make, or cause to be made, complete analyses or tests of the motor fuel or biofuel by the methods specified in section 214A.2.

[C31, 35, §5093-d7; C39, §5095.07; C46, 50, 54, 58, 62, 66, 71, §323.7; C73, 75, 77, 79, 81, §214A.7]

89 Acts, ch 75, §7; 2006 Acts, ch 1142, §12, 83; 2006 Acts, ch 1175, §9, 18, 23

214A.8 Prohibition.

A dealer shall not knowingly sell motor fuel or biofuel in the state that fails to meet applicable standards as provided in section 214A.2.

[C31, 35, §5093-d8; C39, §5095.08; C46, 50, 54, 58, 62, 66, 71, §323.8; C73, 75, 77, 79, 81, §214A.8]

89 Acts, ch 75, §8; 2006 Acts, ch 1142, §13, 83

214A.9 Poster showing analysis.

Any retail dealer who sells or holds for sale motor fuel, as defined in section 214A.1, may post upon any container or pump from which such motor fuel is being sold, a statement or notice in form to be prescribed by the department, showing the results of the tests of such motor fuel then being sold from such pumps or other containers.

[C31, 35, §5093-d9; C39, §5095.09; C46, 50, 54, 58, 62, 66, 71, §323.9; C73, 75, 77, 79, 81, §214A.9]

2006 Acts, ch 1142, §83; 2007 Acts, ch 22, §50

214A.10 Transfer pipes.

A wholesale dealer, retail dealer, or other person shall not, within this state, use the same pipeline for transferring motor fuel, including gasoline, or oxygenate from one container to

another, if the pipeline is used for transferring kerosene or other flammable product used for open flame illuminating or heating purposes.

[C31, 35, §5093-d10; C39, §**5095.10**; C46, 50, 54, 58, 62, 66, 71, §323.10; C73, 75, 77, 79, 81, §214A.10]

89 Acts, ch 75, §9; 92 Acts, ch 1163, §48; 2006 Acts, ch 1142, §83

214A.11 Penalties.

1. Except as provided in subsection 2, a person who violates a provision of this chapter is guilty of a serious misdemeanor. Each day that a continuing violation occurs shall be considered a separate offense.

2. The state may proceed against a person who violates this chapter by initiating an alternative civil enforcement action in lieu of a prosecution. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A or as a civil judicial proceeding by the attorney general upon referral by the department. The department may impose, assess, and collect the civil penalty. The civil penalty shall be for at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a continuing violation occurs shall be considered a separate offense.

a. Except as provided in paragraph “b”, the state is precluded from prosecuting a violation pursuant to subsection 1 if the state is a party in the alternative civil enforcement action, the department has made a final decision in the contested case proceeding, or a court has entered a final judgment.

b. If a party to an alternative civil enforcement action fails to pay the civil penalty to the department within thirty days after the party has exhausted the party’s administrative remedies and the party has not sought judicial review in accordance with section 17A.19, the department may order that its final decision be vacated. When the department’s final decision is vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action. If a party to an alternative civil enforcement action fails to pay the civil penalty within thirty days after a court has entered a final judgment, the department may request that the attorney general petition the court to vacate its final judgment. When the court’s judgment has been vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action.

[C31, 35, §5093-d11; C39, §**5095.11**; C46, 50, 54, 58, 62, 66, 71, §323.11; C73, 75, 77, 79, 81, §214A.11]

2006 Acts, ch 1142, §14

214A.12 Industrial petroleum — permits.

Any wholesale dealer as herein defined may apply to the department for a permit to make importations of petroleum products for industrial use only and not intended to be used for internal combustion engines, on a form to be supplied by the department, and upon receiving such permission may make importations of petroleum products for industrial use only, exempt from the specifications of this chapter.

[C31, 35, §5093-d12; C39, §**5095.12**; C46, 50, 54, 58, 62, 66, 71, §323.12; C73, 75, 77, 79, 81, §214A.12]

214A.13 Chemists — employment of.

The secretary of agriculture shall employ one or more chemists and incur such other expense as shall be necessary for the purpose of carrying into effect the provisions of this chapter.

[C31, 35, §5093-d13; C39, §**5095.13**; C46, 50, 54, 58, 62, 66, 71, §323.13; C73, 75, 77, 79, 81, §214A.13]

214A.14 Appropriation.

There is hereby appropriated out of any funds in the state treasury not otherwise appropriated funds sufficient to pay the expenses incurred as authorized by this chapter.

[C31, 35, §5093-d14; C39, §**5095.14**; C46, 50, 54, 58, 62, 66, 71, §323.14; C73, 75, 77, 79, 81, §214A.14]

214A.15 Gasoline receptacles.

A person shall not place gasoline or any other petroleum product for public use having a flash point below 100 degrees Fahrenheit into any can, cask, barrel or other similar receptacle having a capacity in excess of one pint unless the same is painted bright red and is plainly marked with the word “gasoline” or with the warning “flammable — keep fire away” in contrasting letters of a height equal to at least one-tenth of the smallest dimension of such container. Gasoline or other petroleum products having a flash point below 100 degrees Fahrenheit shall not be placed in bottles and plastic containers except those bottles and plastic containers which are approved by the state fire marshal and which are conspicuously posted with such approval. This section shall not apply to vehicle cargo or supply tanks nor to underground storage nor to storage tanks from which such liquids are withdrawn for manufacturing or agricultural purposes, or are loaded into vehicle cargo tanks, but all outlet faucets or valves from such excepted containers shall be suitably tagged to indicate the nature of the product to be withdrawn from such containers.

[C97, §2505; S13, §2510-1a, -2a, -j, -k; SS15, §2505; C24, 27, 31, 35, 39, §**3194 – 3196**; C46, §208.4 – 208.6; C50, 54, 58, 62, 66, 71, 73, 75, §208.6; C77, 79, 81, §214A.15]

214A.16 Notice of renewable fuel — decal.

1. *a.* If ethanol blended gasoline is sold from a motor fuel pump, the motor fuel pump shall have affixed a decal identifying the ethanol blended gasoline. If the motor fuel pump dispenses ethanol blended gasoline classified as higher than standard ethanol blended gasoline pursuant to section 214A.2, the decal shall contain the following notice: “FOR FLEXIBLE FUEL VEHICLES ONLY”.

b. If biodiesel fuel is sold from a motor fuel pump, the motor fuel pump shall have affixed a decal identifying the biodiesel fuel as provided in 16 C.F.R. pt. 306.

2. The design and location of the decal shall be prescribed by rules adopted by the department. A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department.

[82 Acts, ch 1170, §2]

85 Acts, ch 76, §6; 89 Acts, ch 296, §21; 91 Acts, ch 254, §14; 94 Acts, ch 1119, §23; 2000 Acts, ch 1224, §29; 2006 Acts, ch 1142, §83; 2008 Acts, ch 1169, §21, 30; 2009 Acts, ch 179, §121

214A.17 Documentation in transactions.

Upon any delivery of motor fuel to a retailer, the invoice, bill of lading, shipping or other documentation shall disclose the presence, type, and amount of oxygenates over one percent by weight contained in the fuel.

85 Acts, ch 76, §7; 2006 Acts, ch 1142, §83

214A.18 MTBE prohibition.

1. A person shall not do any of the following:

a. Sell motor fuel containing more than trace amounts of MTBE in this state.

b. Store motor fuel containing more than trace amounts of MTBE in a motor fuel storage tank located in this state.

2. As used in this section, “*trace amounts*” means not more than one-half of one percent by volume.

2000 Acts, ch 1224, §30; 2006 Acts, ch 1142, §83

214A.19 Demonstration grants authorized.

1. The department of natural resources, conditioned upon the availability of funds, is authorized to award demonstration grants to persons who purchase vehicles which operate on alternative fuels, including but not limited to E-85 gasoline, biodiesel, compressed natural gas, electricity, solar energy, or hydrogen. A grant shall be for the purpose of conducting research connected with the fuel or the vehicle, and not for the purchase of the vehicle itself, except that the money may be used for the purchase of the vehicle if all of the following conditions are satisfied:

- a. The department retains the title to the vehicle.
- b. The vehicle is used for continuing research.
- c. If the vehicle is sold or when the research related to the vehicle is completed, the proceeds of the sale of the vehicle shall be used for additional research.

2. The governor shall seek the cooperation of the governors of other states willing to cooperate to establish an alternative fuels consortium. The purposes of the consortium may include, but are not limited to, coordinating the research, production, and marketing of alternative fuels within the participating states. The consortium may also coordinate presentation of consortium policy on alternative fuels to automakers and federal regulatory authorities.

90 Acts, ch 1252, §15; 2006 Acts, ch 1142, §77