

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 901:6-5-02

**Rule Type:** New

**Rule Title/Tagline:** Retail Sale of Fuels.

**Agency Name:** Department of Agriculture

**Division:**

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 1327.50
5. **What statute(s) does the rule implement or amplify?** 1327.50
6. **What are the reasons for proposing the rule?**

The rule is up for five year rule review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:6-5-02 sets forth regulations for the retail sale of fuels in the state. The rule maintains the current requirements on retail motor fuel metering devices as well as adds requirements for the advertisement of these energy sources. Specifically, the rule outlines labeling standards for "flex" fuels including ethanol and biodiesel. In addition, the rule establishes requirements regarding any street advertisement of motor fuels.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**  
Pursuant to section 121.76 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The vast majority of these standards adopted in this rule package mirror the standards adopted in National Institute of Standards Technology (NIST) Handbook 130 (2016). NIST is a non-regulatory federal agency within the U.S. Department of Commerce whose stated purpose is to achieve, to the maximum extent possible, uniformity in weights and measures laws and regulations among the various states and local jurisdictions in order to facilitate trade between the states, permit fair competition among businesses, and provide uniform and sufficient protection to all consumers in commercial weights and measures practices.

All motor fuels must comply with the labeling standards in this rule. The regulatory intent of these rules is to protect consumers and ensure accuracy in business dealings by establishing minimum standards for these businesses. Accordingly, the adverse

impact is considered to be justified. These rules will provide equity in the marketplace based on measurable testing methods recognized by the Federal Trade Commission.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

### **III. Common Sense Initiative (CSI) Questions**

15. **Was this rule filed with the Common Sense Initiative Office?** Yes
16. **Does this rule have an adverse impact on business?** Yes

- A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** No

The rule maintains the current requirements on retail motor fuel metering devices as well as adds requirements for the advertisement of these energy sources. Specifically, the rule outlines labeling standards for "flex" fuels including ethanol and biodiesel. In addition, the rule establishes requirements regarding any street advertisement of motor fuels.

- B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms?** Yes

Failure to comply with this rule could subject an individual to civil and criminal penalties.

- C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** Yes

In order to comply with these rules, the regulated community must ensure that their retail motor fuel pumps are properly labeled.