

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 901:6-5-02  
**Rule Type:** Amendment  
**Rule Title/Tagline:** Retail sale of fuels.  
**Agency Name:** Department of Agriculture  
**Division:** Weights and Measures  
**Address:** 8995 E. Main St. Reynoldsburg OH 43068  
**Contact:** Renee Schmauch **Phone:** 614-728-6295  
**Email:** renee.schmauch@agri.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 8/9/2023
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. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Rule 901:6-5-02 this rule is being updated as part of 5-year review, to reduce regulatory restrictive wording, and is being amended for clarification and to align with current uniform language.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 901:6-5-02 sets forth regulations regarding retail sale of fuels. This rule is being amended for clarification and to align with current uniform language.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Revised hearing notice to change the hearing date from September 12, 2023 to September 18, 2023.

*08/18/2023 Updated hearing notice. Revised the date of the hearing from September 12, 2023 to September 18, 2023.*

## **II. Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

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

Not Applicable. This rule is being updated to better align with federal uniform regulations. The updates will not increase any costs for any applicable businesses.

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

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

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

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. Does this rule have an adverse impact on business? No

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

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? No

This rule does not define or impose a penalty for failure to comply. R.C. 1327.62 provides the agency with the authority to impose civil penalties for violation of this rule. Violations rarely reach the enforcement stage so long as the operator is willing to correct the violation and has no history of prior violations. First-time offenders are given 14 days to correct a problem, and should the issue not be resolved they are routinely offered settlements that are appropriate to the circumstances of the violation, and in almost all cases have their fines waived or settled for small fines.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 13

901:6-5-02-H,4 adds the requirement that hydrogen shall be labeled in accordance with 16 C.F.R. 309...

901:6-5-02-H,5 adds the requirement that street signage or advertisements must include the service pressure (expressed in megapascals) at which the dispenser(s) delivers hydrogen fuel (e.g., H35 or H70).

901:6-5-02-H,5 adds the requirement that the unit price on street signage or advertisements must be in terms of price per kilogram in whole cents (e.g., \$3.49 per kg, not \$3.499 per kg).

901:6-5-02-I,1 adds the requirement that in cases where the electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of the unit price.

901:6-5-02-I,4 adds the requirement that where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be displayed.

901:6-5-02-I,5 adds the requirement that the EVSE shall be labeled in accordance with 16 C.F.R. 309 (2023 edition) - FTC labeling requirements for alternative fuels and alternative fueled vehicles.

901:6-5-02-I,6 adds the requirement that the EVSE shall be listed and labeled in accordance with the national electric code® (NEC) NFPA 70, article 625 electric vehicle charging systems (2023 edition) ([www.nfpa.org](http://www.nfpa.org)).

901:6-5-02-I,7,a adds the requirement that the electrical energy unit price shall be in terms of price per kilowatt-hour (kWh) in whole cents (e.g., \$0.12) or tenths of one cent (e.g., \$0.119).

901:6-5-02-I,7,a adds the requirement that in cases where the electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of the unit price.

901:6-5-02-I,7,b adds the requirement that in cases where more than one electrical energy unit price may apply over the duration of a single transaction to sales to the general public, the

terms and conditions that will determine each unit price and when each unit price will apply shall be clearly displayed.

901:6-5-02-I,7,c adds the requirement that for fixed service applications, the following information shall be conspicuously displayed or posted:

901:6-5-02-I,7,d adds the requirement that for variable service applications, the following information shall be conspicuously displayed or posted:

901:6-5-02-I,8 adds the requirement that where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be included on all street signs or other advertising.

**B. How many existing regulatory restrictions do you propose removing from this rule? 7**

901:6-5-02-C removes the requirement that ethanol flex fuel shall be identified as "Ethanol Flex Fuel or EXX Flex Fuel" and shall be labeled in accordance with the 16 C.F.R. Part 306 (2016),

901:6-5-02-F,2 removes the requirement that the unit price must be in terms of price per GGE and DGE in whole cents, for example 1.00 dollar per GGE and DGE or in mass consistent with the method of sale.

901:6-5-02-H,4 removes the requirement that the labeling of hydrogen must comply with the national fire protection association labeling requirements located at [www.nfpa.org](http://www.nfpa.org) and the labeling requirements

901:6-5-02-I,1,a removes the requirement that where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement or a fixed fee, the additional fee shall be displayed.

901:6-5-02-I,1,b removes the requirement that if electrical energy is unlimited or free of charge, this fact must be clearly indicated in place of the unit price.

901:6-5-02-I,2 removes the requirement that where more than one electrical energy unit price may apply over the duration of a single transaction, the terms and conditions that will determine each unit price and when each unit price will apply must be clearly displayed.

901:6-5-02-I,8 removes the requirement that the electrical vehicle supply equipment shall be labeled in accordance with the National Electric Code NFPA 70, Article 625 available at [www.nfpa.org](http://www.nfpa.org) and in accordance with 16 C.F.R. 309 (2013)

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

901:6-7

- D. Please justify the adoption of the new regulatory restriction(s).**

This rule is being updated to better align with federal uniform regulations.