



## States' Biofuels Statutes

### STATE OF OKLAHOMA

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*Current through the 2014 Legislative Session of the Oklahoma State Legislature.*

#### **§ 500.3. Definitions**

As used in the Motor Fuel Tax Code<sup>1</sup>:

1. "Act" or "this act" means the Motor Fuel Tax Code;
2. "Agricultural purposes" means clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and equipment from one field to another and use of farm tractors to move farm products from farm to market;
3. "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids generally derived from vegetable oils or animal fats, commonly known as "B100", that is commonly and commercially known or sold as a fuel that is suitable for use in a highway vehicle. The fuel meets this requirement if, without further processing or blending, the fuel is a fluid and has practical and commercial fitness for use in the propulsion of a highway vehicle;
4. "Biodiesel blend" means a blend of biodiesel fuel with petroleum-based diesel fuel, commonly designated as "Bxx", where "xx" represents the volume percentage of biodiesel fuel in the blend, and that is commonly and commercially known or sold as a fuel that is suitable for use in a highway vehicle. The fuel meets this requirement if, without further processing or blending, the fuel is a fluid and has practical and commercial fitness for use in the propulsion of a highway vehicle;
5. "Blend stock" means any petroleum product component of gasoline, such as naphtha, reformat, or toluene, that can be blended for use in a motor fuel without further processing. However, the term does not include any substance that:
  - a. will be ultimately used for consumer nonmotor-fuel use, and

- b. is sold or removed in drum quantities (55 gallons) or less at the time of the removal or sale;
6. "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes gasohol, ethanol and fuel grade ethanol;
7. "Blender" means any person that produces blended motor fuel outside the bulk transfer/terminal system;
8. "Blending" means the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include that blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases;
9. "Bulk end user" means a person who receives into the person's own storage facilities in transport truck lots of motor fuel for the person's own consumption;
10. "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack;
11. "Bulk transfer" means any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;
12. "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Gasoline in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;
13. "Tax Commission" or "Commission" means the Oklahoma Tax Commission;
14. "Compressed natural gas" means a volume of natural gas consisting primarily of methane which has been reduced to approximately one percent (1%) of its original volume for purposes of storage and for use as a fuel in motor vehicles;
15. "Consumer" means the user of the motor fuel on the public highways of this state;
16. "Dead storage" means the amount of motor fuel that will not be pumped out of a storage tank because the motor fuel is below the mouth of the draw pipe. For purposes of Section 500.1 et seq. of this title, a dealer may assume that the amount of motor fuel in dead storage is two hundred (200) gallons for a tank with a capacity of less than ten thousand (10,000) gallons and four hundred (400) gallons for a tank with a capacity of ten thousand (10,000) gallons or more;
17. "Delivery" means the placing of motor fuel or any liquid into the fuel tank of a motor vehicle;

18. "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;
19. "Diesel fuel" means any liquid, including but not limited to, biodiesel, biodiesel blend or other diesel blended fuel, that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. Except as provided in subsection B of Section 500.4 of this title, "diesel fuel" does not include jet fuel sold to a buyer who is registered with and certified by the Internal Revenue Service to purchase jet fuel subject to the Internal Revenue Service;
20. "Diesel-powered highway vehicle" means a motor vehicle operated on a highway that is propelled by a diesel-powered engine;
21. "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for subsequent sale or use;
22. "Dyed diesel fuel" means diesel fuel that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;
23. "Eligible purchaser" means a person who has been authorized by the Commission pursuant to Section 500.23 of this title to make the election pursuant to Section 500.22 of this title;
24. "Enterer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the enterer. If there is no importer of record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the enterer;
25. "Entry" means the importing of motor fuel into this state. Motor fuel brought into this state in the fuel tank of a motor vehicle shall not be deemed to be an "entry" if not removed from the fuel tank except as used for the propulsion of that motor vehicle, except to the extent that motor fuel was acquired tax free for export or a refund of tax was claimed as a result of exportation from the state from which that motor fuel was transported into this state;
26. "Export" means to obtain motor fuel in this state for sale or other distribution in another state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

27. "Exporter" means any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel to another state or country;
28. "Farm tractor" means all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;
29. "Fuel transportation vehicle" means any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;
30. "Gasoline" means all products, including but not limited to, gasoline blend stocks, commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an American Society for Testing Materials ("A.S.T.M.") octane number of less than seventy-five (75) as determined by the "motor method". Except as provided in subsection B of Section 500.4 of this title, "gasoline" does not include aviation gasoline provided that the buyer is registered to purchase aviation gasoline free of tax and the seller obtains certification of such fact satisfactory to the Commission prior to making the sale;
31. "Gasoline blend stocks" includes any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel. The term shall not include any substance that will be ultimately used for consumer nonmotor-fuel use and is sold or removed in drum quantities of 55 gallons or less at the time of the removal or sale;
32. "Gross gallons" means the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;
33. "Heating oil" means a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;
34. "Highway vehicle" means a self-propelled vehicle that is designed for use on a highway;
35. "Import" means to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out of state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out of state by or for the purchaser constitutes an import by the purchaser;
36. "Import verification number" means the number assigned by the Commission with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;
37. "In this state" means the area within the border of this state, including all land within the borders of this state owned by the United States of America;
38. "Indian country" means:

- a. land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation,
- b. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation,
- c. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- d. all Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same.

The term shall also include the definition of Indian country as found in 18 U.S.C., Section 1151;

39. "Indian tribe", "tribes", or "federally recognized Indian tribe or nation" means an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States. The term shall also include the definition of a tribe as defined in 25 U.S.C., Section 479a;

40. "Invoiced gallons" means the gallons actually billed on an invoice in payment to a supplier;

41. "K-1 kerosene" means a petroleum product having an A.P.I. gravity of not less than forty degrees (40°), at a temperature of sixty degrees (60°) Fahrenheit and a minimum flash point of one hundred degrees (100°) Fahrenheit with a sulphur content not exceeding five one-hundredths percent (0.05%) by weight;

42. "Liquefied natural gas" means a volume of natural gas consisting primarily of methane which has been cooled to approximately negative two hundred sixty (-260) degrees Fahrenheit in order to convert it to a liquid state for purposes of storage and use as a fuel in motor vehicles;

43. "Liquid" means any substance that is liquid in excess of sixty degrees (60°) Fahrenheit and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute;

44. "Motor fuel" means gasoline, diesel fuel and blended fuel;

45. "Motor fuel transporter" means a person who transports motor fuel outside the bulk terminal/transfer system by transport truck or railroad tank car;

46. "Motor vehicle" means every automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not operated or driven upon fixed rails or tracks. The term does not include:

- a. farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds,
- b. a vehicle operated on rails, or

c. machinery designed principally for off-road use;

47. "Net gallons" means the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees (60°) Fahrenheit (13° Celsius) and a pressure of fourteen and seven-tenths (14.7) pounds per square inch (psi);

48. "Permissive supplier" means an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to Section 500.1 et seq. of this title;

49. "Person" means natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

50. "Position holder" means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal;

51. "Public highway" means every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

52. "Qualified terminal" means a terminal designated as a qualified terminal pursuant to the Internal Revenue Code, regulation and practices and which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

53. "Rack" means a mechanism for delivering motor fuel from a refinery, a terminal, or a bulk plant into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

54. "Refiner" means any person that owns, operates, or otherwise controls a refinery within the United States;

55. "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by vessel, or at a rack;

56. "Removal" means any physical transfer other than by evaporation, loss, or destruction of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, marine vessel such as a barge or tanker, refinery or any receptacle that stores motor fuel;

57. "Retailer" means a person that engages in the business of selling or distributing to the consumer within this state;

58. "Supplier" means a person that is:

- a. registered pursuant to Section 4101 of the Internal Revenue Code for transactions in motor fuels in the bulk transfer/terminal distribution system, and
- b. one of the following:
  - (1) the position holder in a terminal or refinery in this state,
  - (2) imports motor fuel into this state from a foreign country,
  - (3) acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a two-party exchange, or
  - (4) the position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state on the account of that person.

A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces alcohol or alcohol derivative substances in this state, produces alcohol or alcohol derivative substances for import to this state into a terminal, or acquires upon import by truck, railcar or barge into a terminal or refinery, alcohol or alcohol derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

59. "Tank wagon" means a straight truck having multiple compartments designed or used to carry motor fuel;

60. "Terminal" means a storage and distribution facility for motor fuel, supplied by pipeline or marine vessel which is registered as a qualified terminal by the Internal Revenue Service and from which motor fuel may be removed at a rack;

61. "Terminal bulk transfers" include but are not limited to the following:

- a. a marine barge movement of fuel from a refinery or terminal to a terminal,
- b. pipeline movements of fuel from a refinery or terminal to a terminal,
- c. book transfers of product within a terminal between suppliers prior to completion of removal across the rack, and
- d. two-party exchanges between licensed suppliers;

62. "Terminal operator" means any person that owns, operates, or otherwise controls a terminal, and does not use a substantial portion of the motor fuel that is transferred through or stored in the terminal for its own use or consumption or in the manufacture of products other than motor fuel. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

63. "Throughputter" means any person that:

- a. receives transfer of motor fuel from refiners, importers, terminal operators, or other throughputters,
- b. stores the motor fuel in a terminal, and
- c. owns the motor fuel or holds the inventory position to the motor fuel, as reflected on the records of the terminal operator, at the time of removal or sale from a terminal;

64. "Transmix" means the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

65. "Transport truck" means a semitrailer combination rig designed or used for the purpose of transporting motor fuel over the highways;

66. "Transporter" means any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

67. "Two-party exchange" means a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

- a. which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator, and
- b. the exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner.

However, in any event, the terminal operator in the books and records of such terminal operator treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

68. "Ultimate vendor" means a person that sells motor fuel to the consumer;

69. "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions;

70. "Vehicle fuel tank" means any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle; and

71. "Wholesaler" means a person that acquires motor fuel from a supplier or from another wholesaler for subsequent sale and distribution at wholesale.