

**Proposed amendment to 02 NCAC 42 .0401
To be published in the NC Register 11/15/11**

TEXT OF PROPOSED RULE:

02 NCAC 42 .0401 LABELING OF DISPENSING DEVICES

(a) For the purpose of product identity, each dispensing device used in the retailing of any motor fuel shall be ~~plainly and~~ conspicuously labeled with the following:

- (1) For ~~gasoline and gasoline-alcohol blends of up to 10 percent ethanol;~~ gasoline, the registered brand name;
- (2) For diesel fuel, the registered brand name plus a descriptive or generic label if the registered brand name does not adequately identify the type or grade of product;
- (3) For biodiesel and biodiesel blends, the registered brand name plus a descriptive or generic label if the registered brand name does not adequately identify the type or grade of product;
- (4) For gasoline-oxygenate blends ~~containing at least one percent by volume of methanol,~~ the registered brand name plus an additional label which states that the blend "contains methanol." ~~The label shall be composed of letters at least one inch in height, minimum one-eighth inch stroke, which contrast distinctly with the label background and shall be affixed to the dispenser front panel in a position clear and conspicuous from the driver's position. Exceptions to this Rule are:~~ containing:
 - ~~(A) For fuels not covered by an EPA waiver, the additional label shall identify the percent by volume of ethanol or methanol in the blend; and~~
 - ~~(B) For fuels meeting the EPA's "Substantially Similar" rule and which do not contain methanol, no additional label is required;~~
 - (A) At least one percent (1%) by volume of methanol, the registered brand name plus an additional label which states that the blend "contains methanol."
 - (B) Ten percent (10%) or less by volume of ethanol, the registered brand name plus an additional label which states that the blend "contains 10% ethanol," "may contain up to 10% ethanol," "contains 10% or less ethanol" or similar wording.
 - (C) Greater than ten percent (10%) by volume of ethanol, the registered brand name plus an additional label that states the volume percentage of ethanol present in the blend, such as "contains 15% ethanol."
- (5) For E85 fuel ethanol, the registered brand name.

(b) The additional labels required by subparagraph (a)(4) of this Rule shall be composed of letters at least one inch in height, minimum one-eighth inch stroke, which contrast with the label background and shall be affixed to the dispenser front panel in a position conspicuous from the driver's position. Exceptions to the requirements in subparagraph (a)(4) are:

- (1) For fuels not covered by an EPA waiver, the additional label shall identify the percent by volume of ethanol or methanol in the blend; and
- (2) For fuels meeting the EPA's "Substantially Similar" rule and which do not contain methanol, no additional label is required.

~~(b)~~(c) Each dispensing device used in the retailing of products other than motor fuel shall be plainly and conspicuously labeled as follows:

- (1) Kerosene shall be labeled as either 1-K Kerosene or 2-K Kerosene. In addition, each dispenser shall contain one of the following legends as appropriate:
 - (A) On 1-K kerosene dispensers, the legend "Suitable For Use In Unvented Heaters"; or
 - (B) On 2-K kerosene dispensers, the legend "May Not Be Suitable For Use In Unvented Heaters";
- (2) Other products shall be labeled with either the applicable generic name or a brand name which identifies the type of product.

~~(e)~~(d) Whenever a motor fuel or other product provided for in this Section is offered for sale, sold, or delivered at retail in barrels, casks, cans, or other containers, each container shall be labeled in accordance with this Section and in accordance with 15 U.S.C. 1451 et. seq., the Fair Packaging and Labeling Act.

~~(d)~~(e) If a dispenser is ~~so~~ designed so that one or more hoses connected to a common housing dispense more than one type or grade of product, means shall be provided to indicate the identity of the product being dispensed from the hose.

*History Note: Authority G.S. 119-27;
Eff. December 1, 1981;
Amended Eff. July 1, 2008; August 1, 2002; June 1, 1987; December 1, 1985;
November 1, 1983.*

EXPLANATION/REASON FOR PROPOSED RULE:

S.L. 2011-25 requires that all fuel dispensing pumps which offer ethanol blended gasoline for retail sale in North Carolina use labels indicating that the gasoline contains either 10% or less ethanol by volume or greater than 10% ethanol by volume. These amendments address the requirements in required by the law.

INSTRUCTIONS ON HOW AND WHERE TO SUBMIT COMMENTS ON PROPOSED RULE:

Any person may object to the proposed rules by submitting a written statement of objection(s) to Stephen Benjamin, Secretary, NC Gasoline and Oil Inspection Board, 1050 Mail Service Center, Raleigh, NC 27699-1050.

Any person wishing to comment on the proposed rules may submit written comments to Stephen Benjamin, Secretary, NC Gasoline and Oil Inspection Board, 1050 Mail Service Center, Raleigh, NC 27699-1050. Oral comments may be made to Stephen Benjamin by calling 919-733-3313.

The end of the comment period is January 17, 2011.