

Notice of Rulemaking Hearing
Tennessee Department of Environment and Conservation
Division of Air Pollution Control

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of amendments to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at these hearings will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. This hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq., and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee at 9:30 a.m. on the 20th day of December, 2005.

Written comments will be included in the hearing records if received by the close of business on December 20, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to December 20, 2005, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Hernan Flores at 615-532-0593. For complete copies of the text of the notice, please contact Lida Galbreath, Department of Environment and Conservation, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Substance of Proposed Rules

Chapter 1200-3-18
Volatile Organic Compounds

Rule 1200-3-18-.24 Gasoline Dispensing Facilities – Stage I and Stage II Vapor Recovery is amended by deleting it in its entirety and substituting the following so that, as amended, the rule shall read:

1200-3-18-.24 GASOLINE DISPENSING FACILITIES - STAGE I AND STAGE II VAPOR RECOVERY

- (1) Applicability and exemptions
 - (a) Applicability of this rule is as follows:
 - 1. This rule applies to any of the following in Anderson, Blount, Carter, Cheatham, Davidson, Dickson, Fayette, Hamilton, Hawkins, Haywood, Jefferson, Knox, Loudon, Marion, Meigs, Montgomery, Putnam, Robertson, Rutherford, Sevier, Shelby, Sullivan, Sumner, Tipton, Unicoi, Union, Washington, Williamson, or Wilson County:
 - (i) To any gasoline dispensing facility and the appurtenant equipment necessary to the gasoline dispensing facility; and
 - (ii) To any gasoline tank truck that transfers gasoline to storage vessels at such facilities.

2. Any gasoline dispensing facility located in one of the counties specified in Part (1)(a)1 of this rule that exceeds the applicability threshold specified in Parts (1)(b)2 or (1)(b)3 of this rule shall be subject to all of the respective provisions of this rule for facilities exceeding the applicability threshold and shall remain subject to these provisions even if its throughput later falls below the threshold. The owner or operator shall inform the Technical Secretary within 30 days following the exceedance, as specified in Part (5)(a)3 of this rule.

(b) Exemptions from this rule are as follows:

1. With respect to requirements concerning transfers from gasoline tank trucks to gasoline storage vessels at gasoline dispensing facilities, the following are subject only to Part (3)(a)1 of this rule:
 - (i) Any transfer made to a gasoline dispensing facility storage tank that is equipped with a floating roof or an approved equivalent, this approval being a revision to the State Implementation Plan;
 - (ii) Any stationary gasoline storage container with a capacity that is less than 2,080 liters (L) (550 gallons [gal]) that is used exclusively for the fueling of implements of husbandry;
 - (iii) Any stationary storage tank with a capacity of less than 7,600 L (2,000 gal) that was constructed prior to January 1, 1979; and
 - (iv) Any stationary storage tank with a capacity of less than 950 L (250 gal) that was constructed after December 31, 1978.
2. Any gasoline dispensing facility which dispenses less than 10,000 gallons of gasoline per month is subject only to the provisions of Parts (3)(a)1 and (5)(b)2 of this rule.
3. The requirements of Subparagraph (3)(c) of this rule do not apply to any gasoline dispensing facility which satisfies any of the following:
 - (i) Is in a county other than Davidson, Rutherford, Sumner, Williamson, or Wilson County;
 - (ii) Dispenses less than 10,000 gallons of gasoline per month;
 - (iii) Dispenses less than 50,000 gallons of gasoline per month and is owned by an independent small business marketer of gasoline; or
 - (iv) Dispenses gasoline for only fueling aircraft, marine vessels, or, at an automobile or light-duty truck assembly plant, motor vehicles that are fitted with an onboard vapor recovery system.

(2) For the purpose of this rule, the following definitions apply:

- (a) "Independent small business marketer of gasoline" means a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment, unless such person satisfies either of the following:
 1. With respect to refining:
 - (i) Is a refiner; or

- (ii) Controls, is controlled by, or is under common control with, a refiner; or
 - (iii) Is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or
2. Receives less than 50 percent of his annual income from refining or marketing of gasoline.

For the purpose of this definition, the term "refiner" shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this definition, "control" of a corporation means ownership of more than 50 percent of its stock. Verification of satisfaction of criteria specified in this definition shall be by notarized certification to the Technical Secretary, unless additional verification is requested by the Technical Secretary, in which case this additional verification shall be furnished to the Technical Secretary immediately.

- (b) "Vacuum assist system" means the gasoline vapor recovery system that employs a vacuum generating device to effect transfer of gasoline vapor displaced in fueling a vehicle tank to a gasoline storage tank, vapor storage tank, or vapor processing unit.
- (c) "Motor vehicle" means any self-propelled vehicle used to carry people or property on a street or highway.
- (d) "Storage tank or storage vessel" means any stationary tank, reservoir or container used for the storage of a volatile organic liquid.
- (e) "Volatile organic liquid" means any substance which is liquid at storage conditions and which contains volatile organic compounds.

(3) Standards as follow apply:

- (a) Standards (Stage I Vapor Recovery) for Gasoline Storage Vessels - The owner or operator of each gasoline dispensing facility subject to this rule shall comply with the following requirements:
 - 1. All gasoline storage vessels at gasoline dispensing facilities shall be loaded by submerged fill;
 - 2. All vapor lines on the storage vessel shall be equipped with closures that automatically seal upon disconnect;
 - 3. All gasoline storage vessels at gasoline dispensing facilities shall be served by a vapor recovery system, approved by the Technical Secretary, certified by the California Air Resources Board, and designed, installed, and maintained to recover gasoline vapors displaced during transfer of gasoline from a tank truck to a storage tank;

Stage I gasoline vapor recovery systems used for this purpose shall be properly certified under the CARB enhanced vapor recovery (EVR) certification procedures effective on or after April 1, 2001, or shall be listed under the following pre-EVR CARB Executive Orders; mixing of components certified under separate CARB certification procedures will not be allowed.

Number	(Pre EVR) Vapor Recovery Certification Phase I (Stage I) Executive Orders Description	Date
G-70-97-A	Stage I Vapor Recovery Systems for Underground Gasoline Tanks at Service Stations	12/9/85
G-70-102-A	Certification of a Phase I Vapor Recovery System for Aboveground Storage Tanks with less than 40,000 Gallons Capacity for Gasoline or Gasoline/Methanol Blended Fuels	5/25/93

4. If a gauging well separate from the fill tube is used for manual measurement, it shall be provided with a submerged drop tube that extends to within 150 mm (5.9 in) of the gasoline storage vessel bottom; and
 5. Liquid fill connections for all systems shall be equipped with vapor-tight caps.
- (b) Standards (Stage I Vapor Recovery) for Gasoline Transfers from Tank Trucks to Storage Vessels - The owner or operator of a gasoline tank truck shall not unload gasoline to a gasoline storage vessel subject to vapor-tightness requirements during unloading unless the following conditions are met:
1. All hoses, adaptors, and couplers in the vapor balance system are properly connected;
 2. All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight;
 3. All vapor return equipment are compatible with the vapor balance equipment installed on the gasoline dispensing facility storage vessel;
 4. All hatches on the gasoline tank truck are kept closed and securely fastened; and
 5. The filling of storage vessels at gasoline dispensing facilities is limited to unloading by vapor-tight gasoline tank trucks.
- (c) Standards (Stage II Vapor Recovery) for Gasoline Storage Vessels and Dispensing Equipment- The owner or operator of each gasoline dispensing facility subject to this rule shall comply with the following requirements:
1. All gasoline dispensing shall be by equipment served by a vapor recovery system approved by the Technical Secretary, certified by the California Air Resources Board, and designed, installed, operated, and maintained to recover gasoline vapors displaced during dispensing to motor vehicle fuel tanks, and accessible for inspection and testing;
 2. The vapor recovery system shall include for any dispenser and system the following:
 - (i) Vapor-tight coaxial hose to conduct vapors captured during dispensing, except on new vehicle fueling lines at motor vehicle assembly plants where vapor-tight dual hose on vacuum assist systems may be employed in lieu of vapor-tight coaxial hose;
 - (ii) For balance systems:

- (I) Installation of piping between the dispenser and the vapor collection tank which precludes liquid blockage in the piping; and
 - (II) No device which inhibits immediate testing for dynamic backpressure;
 - (iii) For vacuum assist systems, sufficient vacuum to prevent escape of gasoline vapors during dispensing;
 - (iv) Vapor-tight piping, fittings, caps, couplers, and adapters; and
 - (v) Maintenance of vapor tightness throughout the vapor recovery system, except during facility storage tank loading, gauging, and sampling and during maintenance and testing necessitating disruption in the integrity of the system.
3. Use of any aftermarket or rebuilt parts is restricted to parts approved by the California Air Resources Board.
4. Gasoline shall not be dispensed from a dispensing unit served by or permitted to be served by a component which does not satisfy the following:
- (i) Each component required for operation of the system is in place and, to the extent it can be confirmed by sensory inspection, is unimpaired and operational;
 - (ii) Each nozzle boot is not torn in either of the following manners:
 - (I) Triangular - shaped or similar tear 1/2 inch or more to a side, or hole 1/2 inch or more in length; or
 - (II) Slit 1 inch or more in length.
 - (iii) Each faceplate or flexible cone is not damaged in the following manner:
 - (I) For balance nozzles and nozzles for aspirator and eductor assist type systems, damage such that the capability to achieve a seal with a fillpipe interface is diminished for an accumulated total of 1/4 of the circumference of the faceplate; or
 - (II) For nozzles for vacuum assist systems, more than 1/4 of the flexible cone is missing;
 - (iv) Each nozzle shutoff mechanism is operational;
 - (v) Each vacuum producing unit is operational;
 - (vi) Each vapor processing unit is operational;
 - (vii) Each fitting, cap, coupler, and adapter is vapor-tight; and
 - (viii) Each pressure/vacuum relief valve, vapor check valve, and dry break is operational.

5. The owner or operator shall conspicuously display fueling instructions and information in the gasoline dispensing area. These instructions and this information shall describe to customers clearly the proper procedure to be used for fueling vehicles from the dispenser. These instructions and this information shall include instruction about the proper method of reporting system defects first to facility management, and, then if defects are not corrected, to the Technical Secretary. The notice of the method of reporting to the Technical Secretary shall be displayed no earlier than 3 months after and no later than 6 months after the display of the other instructions and information listed above.
- (4) Test methods as follow apply:
- (a) Unless otherwise specified in this rule, the test method found in Rule .85 of this chapter to determine compliance with the vapor-tight requirements of Paragraph (3) of this rule for lines, piping, caps, couplers, adapters, and fittings;
 - (b) The test methods found in Appendix J, Technical Guidance - Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Volume II, EPA - 450/3-91-022b (November 1991), to determine compliance with applicable requirements specified in Subparagraph (3)(c) of this rule; and/or
 - (c) Other methods necessary for demonstration of compliance approved by the Technical Secretary and the EPA.
- (5) Notification, Recordkeeping and Reporting requirements
- (a) Notification requirements apply as follows:
 1. Initial Compliance Certifications - The owner or operator of any facility containing sources subject to this rule shall comply with the requirements in paragraph 1200-3-18-.04(1) of this chapter, except that for gasoline dispensing facilities in Anderson, Blount, Carter, Cheatham, Dickson, Fayette, Hamilton, Hawkins, Haywood, Jefferson, Knox, Loudon, Marion, Meigs, Montgomery, Putnam, Robertson, Sevier, Shelby, Sullivan, Tipton, Unicoi, Union, and Washington Counties that are existing sources on December 29, 2004, the initial compliance certifications shall be submitted by May 1, 2006, instead of the date specified in paragraph 1200-3-18-.04(1).
 2. Testing Notification - The owner or operator of any facility containing sources subject to this rule shall provide the Technical Secretary written notice of any compliance demonstration testing. This notice shall be provided to the Technical Secretary such that the Technical Secretary is informed of the proposed testing at least 14 days before the proposed date of testing, thereby providing the Technical Secretary opportunity to observe the testing.
 3. Threshold exceedance notification
 - (i) The owner or operator of any gasoline dispensing facility that, for the first time dispenses 10,000 gallons of gasoline or more in any calendar month and is no longer subject only to the provisions of Parts (3)(a)1 and (5)(b)2 of this rule, shall inform the Technical Secretary within 30 days.
 - (ii) The owner or operator of any gasoline dispensing facility that, for the first time dispenses 50,000 gallons of gasoline or more in any calendar month and is no longer exempt from the requirements of Subparagraph (3)(c) of this rule, shall inform the Technical Secretary within 30 days.

- (b) Recordkeeping requirements apply as follow:
 - 1. Each owner or operator subject to provisions of this rule shall comply with the recordkeeping requirements of this rule. Except as otherwise specified in this chapter, these records will be maintained for a minimum of 3 years and shall be made available to the Technical Secretary upon request.
 - 2. If any exemption based upon the quantity of gasoline dispensed is claimed for a facility subject to this rule, the owner or operator of the facility shall maintain records showing the quantity of gasoline dispensed each month at the facility.
 - 3. Required permits and required logs of maintenance shall be kept at the facility for which the permits are issued and the logs created.
- (c) Reporting requirements apply as follows:
 - 1. Excess Emissions Report - The owner or operator of any facility containing sources subject to this rule shall comply with the requirements in paragraph .04(2) of this chapter.
- (6) Compliance Demonstration Testing - The owner or operator of any facility containing sources subject to the provisions of Subparagraph (3)(c) of this rule shall:
 - (a) No later than the applicable date specified in Paragraph (7) of this rule, demonstrate compliance (for the complete system) with the provisions of Subparagraph (3)(c) of this rule, according to the applicable test methods specified in Paragraph (4) of this rule;
 - (b) Within 30 days following the occurrence of an incident which could reasonably be expected to have adversely affected the performance of the system, such as excavation near system piping or following replacement of the system, perform applicable testing to demonstrate compliance is maintained; and
 - (c) Within 5 years following any compliance demonstration for the complete system, demonstrate the system maintains compliance.
- (7) Initial Compliance Dates for the requirements of Subparagraph (3)(c) shall be as follows:
 - (a) For facilities subject to this rule owned by an independent small business marketer of gasoline:
 - 1. No less than one-third of these facilities shall have achieved compliance by June 21, 1994;
 - 2. No less than two-thirds of these facilities shall have achieved compliance by June 21, 1995;
 - 3. All facilities shall have achieved compliance by June 21, 1996; and
 - 4. By June 21, 1994, the independent small business marketer shall designate in writing to the Technical Secretary which facilities will achieve compliance by the respective dates of Parts 1, 2, and 3 of this subparagraph.
 - (b) For facilities subject to this rule not owned by an independent small business marketer of gasoline:
 - 1. For which construction commenced after November 15, 1990, compliance shall be achieved by December 21, 1993;

2. Which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before June 21, 1993, and for which construction commenced before November 15, 1990, compliance shall be achieved by June 21, 1994, and
3. Not accounted for in Parts 1 and 2 of this subparagraph, compliance shall be achieved by June 21, 1995.

Authority: T.C.A. §§4-5-201 et seq., 4-5-202 et seq., and 68-201-105. Administrative History: Original rule filed March 8, 1993; effective April 22, 1993. Stay for rules 1200-3-18-.24(1)(d), 1200-3-18-.24(2), 1200-3-18-.24(3)(c), 1200-3-18-.24(4)(b), 1200-3-18-.24(6)(c), 1200-3-18-.24(d) and 1200-3-18-.24(7) filed April 16, 1993; effective June 21, 1993. Amendment filed April 16, 1993; effective June 21, 1993. Amendment filed May 30, 1996; effective August 10, 1996. Amendment filed December 23, 2003; effective March 7, 2004. Amendments filed October 15, 2004; effective December 29, 2004.

Legal contact and/or party who will approve final copy for publication and is the contact for disk acquisition:

Mr. Hernan Flores
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I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Division of Air Pollution Control.

Barry R Stephens by Lacey D Hardin
Barry R. Stephens
Director
Tennessee Division of Air Pollution Control

Subscribed and sworn to before me this the 26th day of October 2005.

Teresa H Lewis
Notary Public


My commission expires on the 22nd day of December, 2007.

This notice of rulemaking set out herein was properly filed in the Department of State on the 20 day of Oct., 2005.

Riley C. Darnell
Riley C. Darnell
Secretary of State

By: [Signature]

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