

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management

Rule No. 335-3-20

Rule Title: Control of Fuels

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

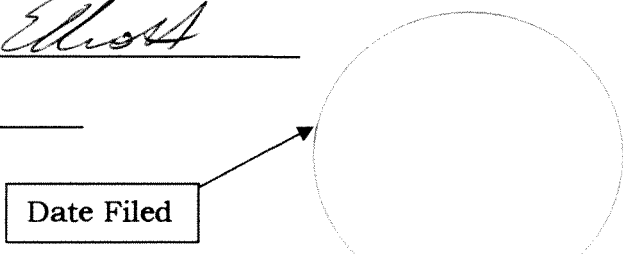
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Mandy Elliott

Date 10-20-11

Date Filed 

APA-2
11/96

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-3-20 Control Of Fuels (Repeal)

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the deletion of Chapter 335-3-20 Control of Fuels (Rules 335-3-20-.01/Definitions, 335-3-20-.02/Control of Fuels, and 335-3-20-.03/Recordkeeping, Reporting, and Testing).

SUBSTANCE OF PROPOSED ACTION:

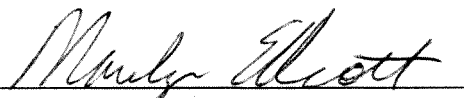
Revisions to Chapter 335-3-20 are being proposed to sunset the special gasoline quality requirement in Jefferson and Shelby Counties. Federal standards for the quality of gasoline have largely superseded Alabama's standards. Therefore, ADEM is proposing to rescind the RVP requirement in Rules 335-3-20-.01, 335-3-20-.02, and 335-3-20-.03, because this special gasoline does very little to improve air quality and its increased price is an unnecessary burden on consumers.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., December 7, 2011, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 9, 2011

CONTACT PERSON AT AGENCY: Ronald W. Gore (334) 271-7861



Lance R. LeFleur

Director

~~ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION AIR POLLUTION CONTROL PROGRAM~~

~~CHAPTER 335-3-20 (REPEAL)
CONTROL OF FUELS~~

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335-3-20-.01	Definitions
335-3-20-.02	Control of Fuels
335-3-20-.03	Recordkeeping, Reporting, and Testing

~~**335-3-20-.01 Definitions.** For the purposes of this chapter, the following terms have the meanings indicated unless otherwise specified:~~

~~—— (a) "Carrier" means any distributor who transports or causes the transportation or storage of gasoline without taking title to or otherwise having any ownership of the gasoline, and without altering either the quality or quantity of the gasoline.~~

~~—— (b) "Ethanol Blend" means gasoline which contains at least 9 percent and no more than 10 percent (by volume) ethanol, excluding denaturants.~~

~~—— (c) "Field Testing" means the approach to accomplish the sampling of gasoline from retail stations in a specified area so as to obtain an unbiased estimate of the average level of sulfur in the gasoline distributed in that area as outlined in the document "Methodology for Randomized Sampling to Estimate Mean Sulfur in Gasoline During a Specified Ozone Season, April 1, 2000".~~

~~—— (d) "Gasoline" means any fuel sold for use in spark ignition engines and which is commonly or commercially known or sold as gasoline, including oxygenated gasoline.~~

~~—— (e) "Importer" means any person who transports gasoline from another state or a foreign country into the state of Alabama.~~

~~—— (f) "Producer" means any person who manufactures gasoline in Alabama.~~

~~—— (g) "Reformulated Gasoline" or "RFG" means any gasoline whose formulation has been certified under 40 CFR 80, Subpart D which meets each of the standards and requirements of Subpart D for Phase II.~~

~~—— (h) "Retailer" means a person operating an establishment at which motor fuel is sold or offered for sale to an ultimate consumer.~~

~~—— (i) "Ultimate Consumer" means a person who purchases or obtains motor fuel for direct consumption in a motor vehicle and who does not transfer~~

~~or offer to transfer the motor fuel to any other person following purchase or receipt.~~

~~(j) "Wholesale Purchaser Consumer" means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank under the control of that organization.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.~~

~~**History:** Effective Date: May 20, 1999.~~

~~**Amended:** December 1, 2000.~~

~~**335-3-20-.02 Control of Fuels.**~~

~~(1) Applicability.~~

~~(a) No person may produce, store, transport, supply, offer to supply, transfer or otherwise handle, sell, offer for sale, or dispense gasoline that does not meet the limits specified in this chapter when tested in accordance with the test methods specified in rule 335-3-20-.03, unless the gasoline is segregated and clearly documented as not for sale or supply to an ultimate consumer in the following counties: Jefferson and Shelby.~~

~~(b) Gasoline which meets the limits specified in this chapter shall also be segregated and clearly documented as such.~~

~~(2) Compliance with this chapter shall be met if producers and importers choose to supply federal Phase II Reformulated gasoline.~~

~~(3) The requirements of this chapter shall expire upon promulgation and implementation of federal standards that meet or exceed the requirements of this chapter.~~

~~(4) Reid Vapor Pressure.~~

~~(a) Effective June 1, 1999, during the period from June 1 to September 15 of any calendar year, the Reid vapor pressure of the gasoline sold in the counties specified in paragraph (1) above shall not exceed 7.0 psi.~~

~~(b) An ethanol blend is considered in compliance if its measured Reid vapor pressure does not exceed 8.0 psi. This waiver is subject to the following conditions:~~

~~1. Gasoline must contain denatured, anhydrous ethanol. The concentration of ethanol, excluding the required denaturing agent, must be at least 9 percent and no more than 10 percent (by volume) of the gasoline.~~

~~2. Each invoice, loading ticket, bill of lading, delivery ticket and any other document that accompanies a shipment of gasoline containing ethanol shall contain a legible and conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol.~~

~~(5) Sulfur Content.~~

~~Effective April 1, 2001 and subsequent years through September 15, 2003, the sulfur content of all gasoline supplied for use (during the control period of June 1 to September 15) by each producer or importer to comply with the Reid vapor pressure limits specified in paragraph (4) of this rule and designated for the counties listed in paragraph (1) of this rule shall not exceed a seasonal average of 150 ppm (by weight) and a per gallon cap of 500 ppm (by weight). For the control period for each calendar year, the sulfur content shall be averaged on a volume weighted basis over the pool of gasoline supplied by the producer or importer.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.~~

~~**History:** Effective Date: May 20, 1999.~~

~~**Amended:** December 1, 2000.~~

~~**335-3-20-.03 Recordkeeping, Reporting and Testing.**~~

~~(1) Reporting. Effective April 1, 2001, and each April 1 thereafter, the producer or importer shall submit documentation of the Reid vapor pressure, sulfur content, and volume of each batch beginning with the first shipment of gasoline in each calendar year subject to the limits specified in rule 335-3-20-.02 and designated for the counties specified in rule 335-3-20-.02. Similar documentation is required to demonstrate compliance with rule 335-3-20-.02(2) if Phase II RFG is introduced in an affected county. This documentation shall be submitted to the Department in the format specified by the Department within 30 days of the first shipment in each calendar year. Through November 30, 2003, the producer, importer and carrier shall provide to the Division in the format specified by the Division an annual report summarizing any required records and/or test results pursuant to this rule by November 30 of each year. The producer, importer and carrier shall provide to the Department any records required to be maintained pursuant to this rule within 10 business days of a written request from the Department.~~

~~(2) Testing and Recordkeeping.~~

~~(a) Producers.~~

~~1. Refinery Level Sampling and Testing. Effective April 1, 2001, and each April 1 thereafter, each producer shall sample and test for the Reid vapor pressure and the sulfur content in each batch of gasoline that the producer has produced for the purpose of complying with this chapter, by collecting and~~

~~analyzing a representative sample of gasoline taken from the batch at the refinery, using the methodologies specified in subparagraph (2)(d) of this rule. A producer may choose to meet the testing requirements of this paragraph by utilizing the same samples and test results used for meeting the federal RFG and/or antidumping regulations. If a producer blends gasoline components directly to pipelines, storage tanks, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, the product sampled, the container or other vessel sampled, the volume of the shipment, results of any required testing, the name and address of the laboratory that performed the analysis, and the pool volume weighted average for the respective calendar years of the components limited by this rule.~~

~~2. Terminal Level Sampling. Effective May 1 of each calendar year beginning in 2001, the producer shall conduct volume weighted, terminal level sampling of each batch of gasoline received and intended for sale or supply during the control period in any of the applicable counties listed in rule 335-3-20-.02(1) in calendar years 2001 through 2003. A composite sample will be obtained on every continuous movement of each distinct grade of low RVP/low sulfur gasoline at a pipeline breakout tankage. The composite sample will be obtained automatically with a non-pressurized automatic sampler, or manually through head end, middle, and tail end spot samples. Each distinct grade of low RVP/low sulfur gasoline will be composited separately. All samples thus taken shall be delivered to the Department or its designate for further testing and analysis.~~

~~3. Notwithstanding the provisions of subparagraph 2. above, the producer shall not provide terminal level sampling if the Department provides notice that the field testing from the previous calendar year indicates a seasonal arithmetic average sulfur content of 140 ppm or less.~~

~~(b) Importers.~~

~~1. Refinery Level Testing. Effective April 1, 2001, each importer shall provide test results for the Reid vapor pressure and the sulfur content in each shipment of gasoline that the importer intends to import or will import into the State of Alabama for use during the control period, by pipeline or other means, for the purpose of complying with this rule, by ensuring that a representative sample of gasoline is taken from the batch at the refinery and analyzed, using the methodologies specified in paragraph (2)(d) of this rule. An importer may choose to meet the testing requirements of this paragraph by utilizing the same samples and test results used for meeting the federal RFG and/or antidumping regulations, as provided in subparagraph (2)(a)1. above. If an importer blends gasoline components directly to pipelines, storage tanks, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested by the importer or authorized contractor. The importer shall maintain, for two years from the date of each sampling, records showing the sample date, the product sampled, the container or other vessel sampled, the volume of the shipment, results of any required testing, the name and the address of the~~

laboratory that performed the analysis, final destination of the batch, and the pool volume weighted average for the respective calendar years of the components limited by this rule.

~~2. Terminal Level Sampling.~~ Effective May 1 of each calendar year beginning in 2001, the importer shall conduct volume weighted, terminal level sampling of each batch of gasoline received and intended for sale or supply during the control period in any of the applicable counties listed in rule 335-3-20-.02(1) in calendar years 2001 through 2003. A composite sample will be obtained on every continuous movement of each distinct grade of low RVP/low sulfur gasoline at a pipeline breakout tankage. The composite sample will be obtained automatically with a non pressurized automatic sampler, or manually through head end, middle, and tail end spot samples. Each distinct grade of low RVP/low sulfur gasoline will be composited separately. All samples thus taken shall be delivered to the Department or its designate for further testing and analysis.

~~3. Notwithstanding the provisions of subparagraph 2. above, the importer shall not provide terminal level sampling if the Department provides notice that the field testing from the previous calendar year indicates a seasonal arithmetic average sulfur content of 140 ppm or less.~~

~~(c) Carriers.~~ Each carrier shall maintain, for two years from the date of entry, records indicating the volume of each batch of transported gasoline, the producers and/or importers which contributed to each batch, date of receipt, identity of the destination, date of delivery to the destination, and recipient of each batch of gasoline delivered to any destination for distribution to any of the counties specified in rule 335-3-20-.02.

~~(d) Test Methods.~~

~~1. In determining compliance with the standards set forth in this chapter, the test methods presented in **Table 1** shall be used. ASTM D 4057 or ASTM D 4177 shall be used for sampling of materials used in these tests. All identified test methods are incorporated and adopted herein by reference.~~

Table 1

<i>Gasoline Specification</i>	<i>Test Method</i>
Reid Vapor Pressure	ASTM D 5191*
Sulfur Content	ASTM D 2622 or ASTM D 5453

~~* In lieu of equation 1 in Section 13.2 of the test method, use the following:~~

$$RVPE, \text{ psi} = (0.956 * X) - 0.347$$

where:

~~RVPE = equivalent Reid vapor pressure~~

~~X = measured total vapor pressure in psi~~

~~2. Equivalent Test Methods. Whenever this paragraph provides for a specified test method, another test method may be used following a determination by the Director that the other method produces results equivalent to the results with the specified method.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.~~

~~**History:** Effective Date: May 20, 1999.~~

~~**Amended:** December 1, 2000.~~