

NOTICE OF PROPOSED REGULATIONS

Published March 14, 2022

In accordance with State Government Article, §10-112.1, Annotated Code of Maryland, notice is hereby given that the Comptroller of Maryland has proposed the following new regulations. The published regulations can also be found [here](#). The following subtitles are impacted:

Subtitle 03 MOTOR FUEL TAX..... 1

Title 03 COMPTROLLER OF THE TREASURY

Subtitle 03 MOTOR FUEL TAX

Notice of Proposed Action

[22-059-P]

The Comptroller of the Treasury proposes to amend:

- (1) Regulations **.13, .16, and .17** under **COMAR 03.03.01 Motor Fuel License and Tax**;
- (2) Regulations **.10 and .15** under **COMAR 03.03.03 Petroleum Transporters**;
- (3) Regulations **.01-2, .05, .07, .10, and .12** under **COMAR 03.03.04 Motor Carrier Tax**;
- (4) Regulations **.01, .01-1, .02, .04, .05, .10, .11, .13, .14, .30, and .31** under **COMAR 03.03.05 Motor Fuel Inspection**; and
- (5) Regulations **.01, .02, .05, and .06** under **COMAR 03.03.06 Emissions Control Compliance**.

Statement of Purpose

The purpose of this action is to update language for clarity, update outdated references to the Motor Fuel Tax Bureau, now the Field Enforcement Bureau, reflect changing industry standards with regard to testing methods and identification markers, and allow for storage of documentation electronically.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Krista Sermon, Office of Law and Policy, Comptroller of Maryland, 80 Calvert St., Room 409b, Annapolis, MD 21401, or call (410) 260-7319, or email to ksermon@marylandtaxes.gov. Comments will be accepted through April 11, 2022. A public hearing has not been scheduled.

03.03.01 Motor Fuel License and Tax

Authority: Tax-General Article, §2-103, Annotated Code of Maryland

.13 Inventory.

A.—B. (text unchanged)

C. Inventory Records.

(1)—(2) (text unchanged)

(3) Tax liability accrues on special fuel upon delivery to a retail service station unless that retail service station recipient is the holder of a valid exemption certificate for that specific type of fuel. Inventories of motor fuel that are the property of the supplier, but in the care of a service station dealer, are taxable upon delivery as are deliveries to supplier operated retail service

stations. Kerosene, *dyed fuel*, and propane at supplier operated service stations are excluded, provided [neither] *they are not* sold for taxable use.

D.—F. (text unchanged)

.16 Exemption Certificates.

A.—D. (text unchanged)

E. An exemption certificate for kerosene may be issued to sellers of kerosene at retail if:

(1) (text unchanged)

(2) All other *taxable* special fuels (other than propane) offered for sale are purchased tax paid from the supplier; or

(3) (text unchanged)

F. An exemption certificate for propane may be issued to sellers of propane at retail if:

(1) (text unchanged)

(2) All other *taxable* special fuels (other than kerosene) offered for sale are purchased tax paid from the supplier; or

(3) (text unchanged)

.17 Racing Fuel.

A. Gasoline having an anti-knock index $(R + M)/2$ of greater than 98 may be considered racing fuel[,] if the manufacturer's specifications have been filed with and approved annually by the [Motor Fuel Tax] *Field Enforcement* Bureau.

B. (text unchanged)

03.03.03 Petroleum Transporters

Authority: Business Regulation Article, §10-202 and Title 10, Subtitle 4;
Tax-General Article, §2-103; Annotated Code of Maryland

.10 Inspection of Petroleum Transporters.

Any designated agent of the [Motor Fuel Tax] *Field Enforcement* Bureau of the Comptroller of the Treasury, or any police officer as defined in the Transportation Article, §11-147, Annotated Code of Maryland, may examine and inspect a vehicle, its manifest, its carried product, and other information in order to determine compliance with Business Regulation Article, Title 10, Subtitle 4, Annotated Code of Maryland, and related regulations.

.15 Color and Symbol Coding of Vehicle Discharge Valves.

A. (text unchanged)

B. Whenever a petroleum transport vehicle loads product at a bulk plant, terminal, or distribution point, the operator of the vehicle shall [attach] *display* a tag, [or] *an* identification card [to], *or other acceptable product identification marker* on each discharge valve or connection on the vehicle.

C. The tag, [or] identification card, *or acceptable product identification marker* shall be of the proper color code, indicating what product is in the line after loading the vehicle.

D. The color of the tag, [or] *identification card, or acceptable product identification marker* shall match the color coding of equipment at the loading facility for each grade of motor fuel loaded.

E. (text unchanged)

F. The petroleum transporter should ensure that each vehicle is furnished with sufficient tags, [or] identification cards, *or acceptable product identification markers* to be in compliance with this regulation.

G. Color coded tags, [or] identification cards, *or acceptable product identification markers* may not be removed from a discharge valve or connection until a different product is loaded and after thorough draining or when replacement is necessary.

H. (text unchanged)

I. The requirements of this regulation are not applicable to the storage or transportation of liquefied petroleum gas (LPG) *or liquefied natural gas (LNG)*.

03.03.04 Motor Carrier Tax

Authority: Tax-General Article, §§2-103 and 9-205, Annotated Code of Maryland

.01-2 Registration—Reports.

A.—B. (text unchanged)

C. Failure to file IFTA reports and schedules on time, or to pay taxes when due, may result in the denial of additional identification markers for the current year and the denial of an annual renewal application. The registration and IFTA license of any motor carrier currently delinquent for one or more tax filing periods will be considered revoked, and the Maryland State Police or the [Comptroller Investigative Services Unit agents are] *Field Enforcement Bureau* is authorized to remove all identification markers and copies or originals of IFTA licenses from the vehicles of a motor carrier operating on State highways.

D.—E. (text unchanged)

.05 Trip Permits.

A. A motor carrier may obtain a trip permit for an unregistered commercial motor vehicle from either the [Motor Fuel Tax] *Field Enforcement* Bureau or one of its duly authorized trip permit agents.

B.—E. (text unchanged)

.07 Registration of Vehicles.

A.—B. (text unchanged)

C. If an IFTA decal which has been issued by the [Motor Fuel Tax] *Field Enforcement* Bureau becomes illegible, the motor carrier may apply to the [Motor Fuel Tax] *Field Enforcement* Bureau for issuance of a duplicate decal [at no additional charge if the illegible decal is returned to the Bureau].

D. (text unchanged)

E. When a vehicle to which IFTA decals have been affixed is sold, traded, or otherwise disposed of by the operator, or passes from the control of the operator through lease or otherwise, the [Motor Fuel Tax] *Field Enforcement* Bureau shall be notified within 30 days of the cancellation. If the motor carrier neglects or fails to notify the [Motor Fuel Tax] *Field Enforcement* Bureau, the motor carrier is responsible for reporting the miles traveled by the vehicle and paying the tax due.

F. [Unused] A motor carrier shall return unused IFTA decals [may be returned] to the [Motor Fuel Tax] *Field Enforcement* Bureau [for credit or refund if:

(1) Returned within 30 days from the date of issuance; and

(2) The motor carrier can establish reasonable cause for returning unused IFTA decals].

G. (text unchanged)

.10 Improper Use of Licenses and Decals.

The Maryland State Police shall remove and return to the [Motor Fuel Tax] *Field Enforcement* Bureau all IFTA licenses and decals that are being used in any improper manner.

.12 Licensing of Trip Permit Vendors.

A. Qualifications. In order to [insure] *ensure* a sufficient number and availability of locations where a motor carrier may purchase a trip permit required by Tax-General Article, §9-219, Annotated Code of Maryland, before entering this State, the [Motor Fuel Tax] *Field Enforcement* Bureau, in its discretion, may license applicants to issue trip permits if they meet the following qualifications:

(1) (text unchanged)

(2) The applicant shall possess a business rating, reputation, and capability satisfactory to the [Motor Fuel Tax] *Field Enforcement* Bureau;

(3) The applicant shall be capable of providing the service at all times specified by the [Motor Fuel Tax] *Field Enforcement* Bureau;

(4) The applicant shall be capable of delivering copies of all issued trip permits to the offices of the [Motor Fuel Tax] *Field Enforcement* Bureau by the next working day; and

(5) The applicant shall possess the financial capability to purchase trip permits from the [Motor Fuel Tax] *Field Enforcement* Bureau in advance of sale in quantities of not less than 200.

B. Issuance of Trip Permits by Licensees.

(1) Licensees shall sell trip permits in the manner prescribed by the [Motor Fuel Tax] *Field Enforcement* Bureau.

(2) The licensee may charge the purchaser of a trip permit a fee for its service not to exceed the rate established by the [Motor Fuel Tax] *Field Enforcement* Bureau.

(3) (text unchanged)

C. Liability. The [Motor Fuel Tax] *Field Enforcement* Bureau is not liable for the illegal or improper acts of its licensees.

D. Inspection of Records. The applicant agrees to the availability and inspection of all its records by the [Motor Fuel Tax] *Field Enforcement* Bureau, during normal business hours, for the determination of compliance with the [Motor Fuel Tax] *Field Enforcement* Bureau requirements.

E. Transferability and Revocation of License. The license to sell trip permits is nontransferable and revocable for cause or for no cause upon 10 days written notice from the [Motor Fuel Tax] *Field Enforcement* Bureau to the licensee that the license is revoked. Licensees may terminate the license by giving 30 days written notice to the [Motor Fuel Tax] *Field Enforcement* Bureau. If the license arrangement is cancelled by either party, the licensee shall promptly turn in to the offices of the [Motor Fuel Tax] *Field Enforcement* Bureau all unissued trip permits, and the [Motor Fuel Tax] *Field Enforcement* Bureau shall refund their cost.

03.03.05 Motor Fuel Inspection

Authority: Business Regulation Article, §§10-202, 10-308, 10-309, and 10-323.1; Tax-General Article, §2-103; Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Bureau" means the [Motor Fuel Tax] *Field Enforcement* Bureau of the Comptroller of the Treasury.

(3)—(31) (text unchanged)

.01-1 Standard Specifications for Gasoline.

A.—B. (text unchanged)

C. Distillation* (ASTM D-86).

(1)—(2) (text unchanged)

(3) Evaporation—May through September 15

(a) (text unchanged)

(b) 50 percent—[77°C] 66°C [(170°F)] (150°F) minimum

(c)—(g) (text unchanged)

(4) Evaporation—September 16 through September 30

(a) (text unchanged)

(b) 50 percent—[77°C] 66°C [(170°F)] (150°F) minimum

(c)—(g) (text unchanged)

* (text unchanged)

D. Vapor Pressure.

(1) The vapor pressure of gasoline may not exceed the following limits when tested in accordance with ASTM Test Method [D-5190-92] *D-5191* or as otherwise required under COMAR 03.03.06:

(a)—(e) (text unchanged)

(2) Ethanol blend and ethanol-enhanced oxygenated gasoline are subject to the following conditions:

(a) An ethanol blend is considered to be in compliance with §D(1)(a), (b), (c), (d), and (e) of this regulation if its measured vapor pressure does not exceed the limit specified by more than 1.0 psi, the gasoline portion of the product was not produced and identified as VOC gasoline by the refiner, and the product is sold only for use or distribution outside a VOC control region;

(b) An ethanol-enhanced oxygenated gasoline is considered to be in compliance with §D(1)(a), (b), and (e) of this regulation if its measured vapor pressure does not exceed the limit specified by more than 1.0 psi from September 16—May 31, the gasoline portion of the product was not produced and identified as VOC gasoline by the refiner, and the product is sold only for use or distribution outside a VOC control region;

(3) (text unchanged)

E. V/L Ratio* (ASTM D-5188) Temperature, °C (°F) for a Vapor-Liquid Ratio of 20 Minimum.

(1) (text unchanged)

(2) [43°C] 42°C [(110°F)] (107°F) (April-October-November).

(3) (text unchanged)

*(text unchanged)

F. (text unchanged).

G. Sulfur (ASTM D-2622-94 or ASTM D-7039).

(1) Conventional gasoline—[0.10] 0.0095 percent by mass, maximum.

(2) Reformulated gasoline—[0.05] 0.0095 percent by mass, maximum.

H.—M. (text unchanged)

N. Oxygen Content.

(1) Gasoline shall meet the oxygen content requirements specified in [§N(2)—(5)] §N(2)—(4) of this regulation when tested in accordance with ASTM Test Method D-4815-89 or as otherwise required under COMAR 03.03.06.

[(2) Beginning on January 1, 1995, all gasoline sold, intended for sale, or dispensed in a reformulated gasoline control area shall contain a minimum of:

(a) 2.0 percent oxygen by weight year round for those refiners using the per gallon method or 1.7 percent oxygen by weight year round for those using the refinery averaging option when authorized by the US EPA; or

(b) 2.7 percent oxygen by weight during an oxygenated gasoline control period as determined in accordance with COMAR 03.03.06.03.]

[(3)] (2)—[(5)] (4) (text unchanged)

[O. Benzene (ASTM D-3606-92).

(1) Per gallon method—1.0 volume percent in any reformulated gasoline.

(2) Averaging method—1.30 volume percent in any reformulated gasoline.]

.02 Specifications for No. 1-D and No. 2-D Diesel Fuel (ASTM D-975).

All No.1-D diesel fuel and No. 2-D diesel fuel shall meet the requirements of the following specifications, when tested in accordance with the latest version of the American Society for Testing and Materials Methods of Tests:

A.—I. (text unchanged)

J. Sulfur (ASTM [D-4045] *D-2622* or *ASTM D-7039*) 0.0015 percent by mass, maximum.

[(1) On-highway use—0.05 percent by mass, maximum.

(2) All other non-highway uses—0.30 percent by mass, maximum.]

K. (text unchanged)

.04 Specifications for No. 1 and No. 2 Fuel Oil (ASTM D-396).

No. 1 fuel oil is a distillate oil intended for vaporizing pot-type and similar burners. No. 2 fuel oil is a distillate oil for general purpose domestic heating use in burners not requiring No. 1 fuel oil. Both shall meet the requirements of the following

specifications, when tested in accordance with the latest version of the American Society for Testing and Materials Methods of Tests:

| | No. 1 Fuel Oil | No. 2 Fuel Oil |
|------------------------|----------------|----------------|
| A.—G. (text unchanged) | | |

H. Color. No. 1 and No. 2 fuel oil, containing greater than [0.05] *0.0015* percent by mass sulfur, shall be dyed with Solvent Red 164 at the concentration spectrally equivalent to at least 3.9 pounds of the solid dye Standard Red 26 per 1,000 barrels in accordance with the mandates of the US EPA and IRS.

I.—* (text unchanged)

.05 Labeling of Pumps.

A.—B. (text unchanged)

C. The retailer shall further identify and label all retail dispensing pumps with the following:

- (1)—(3) (text unchanged)
- (4) For special fuel, the [grade and] type of fuel which shall be either:
 - (a) (text unchanged)
 - (b) 2-K [High sulfur] kerosene;
 - (c) 1-D [Low sulfur] diesel (if purchased or sold as same); or
 - (d) [Low sulfur diesel] *Diesel*, as applicable; and
- (5) (text unchanged)

.10 “Stop Sale” at Retail Service Stations.

A “Stop Sale” notice will be issued to retail service station dealers for gasoline and special fuels failing to meet established specifications. The supplier shall be notified accordingly by the retail service station dealer, and a release will be awarded only after final disposition has been agreed upon by the Bureau. Confirmation of disposition shall be submitted in writing and contain an explanation for its failure to meet specification. The “Stop Sale” applies only to the location where sample analysis indicates specification violation. Upon discovery of fuels failing to meet established specifications, [meter readings and] physical inventory shall be taken and reported in the confirmation of disposition.

.11 “Stop Sale” at Bulk Storage Plants.

A “Stop Sale” notice will be issued when petroleum products maintained in bulk plant facilities fail to meet specifications. Confirmation of disposition of “Stop Sale” product in the bulk plant and all such products returned to that bulk plant shall be submitted in writing and contain an explanation for its failure to meet specification. The registrant shall immediately notify all customers that have received inferior product of the [Division's] *Bureau's* findings and make any arrangements necessary to replace or adjust to specifications all products failing the specification. All records showing the delivery, notification, return, replacement, or adjustment of product shall be made available to the motor fuel agents upon request.

.13 Meter Requirements.

All tank trucks, tank trailers, and tank semitrailers making metered sales or deliveries of gasoline or special fuels shall maintain a meter calibrated for that specific fuel being dispensed. Whenever a vehicle is utilized to deliver both gasoline and special fuels, separate meters shall be maintained and calibrated for gasoline and special fuels respectively, *unless a National Type Evaluation Program (NTEP) approved multi-product metering system is utilized.*

.14 Color Coding for Bulk Storage Facilities.

A. A facility in this State required to register under the Motor Fuel and Lubricants law and used to store motor fuel in fixed bulk storage tanks shall implement the American Petroleum Institute (API) recommended system of color coding equipment which is set out as follows:

- (1) Gasoline—unleaded:
 - [(a) Highest grade (octane)—red circle with white cross,
 - (b) Mid-grade (octane)—blue circle with white cross,
 - (c) Lowest grade (octane)—white circle with black cross;]
 - (a) *E10 Regular—white;*
 - (b) *E10 Midgrade—blue;*
 - (c) *E10 Premium—red;*
 - (d) *E0 Regular—white with black “0”;*
 - (e) *E0 Midgrade—blue with white “0”;*
 - (f) *E0 Premium—red with white “0”;*
 - (g) *Isobutanol blend—blue with yellow “IB”;*
 - (h) *E15—copper with black “E15”;*
 - (i) *E85—copper with black “E85”;*
 - [(2) Vapor recovery—orange circle;]
 - [(3)] (2) Diesel [fuel (low sulfur)—yellow hexagon;]
 - (4) Diesel fuel (high sulfur)—yellow hexagon with blue stripe;
 - (a) *On-Road (USLD)—yellow;*

- (b) *On-Road (USLD) >5 percent biodiesel—yellow with black “BXX” (where “XX” is the biodiesel percentage);*
- (c) *Off-Road (Dyed Red)—yellow with red “OFF”;*
- (d) *Off-Road (Dyed Red) >5 percent biodiesel—yellow with red “OFF” and black “BXX” (where “XX” is the biodiesel percentage);*
- (e) *Biodiesel—light blue;*
- (3) *Fuel Oil:*
 - (a) *No. 1—dark green with black “1”;*
 - (b) *No. 2—dark green with black “2”;*
- [(5) No. 1 fuel oil (low sulfur)—purple hexagon with yellow stripe;
- (6) No. 1 fuel oil (high sulfur)—purple hexagon with yellow and blue stripes;
- (7) No. 2 fuel oil (low sulfur)—green hexagon;
- (8) No. 2 fuel oil (high sulfur)—green hexagon with blue stripe;
- (9) Kerosene (1-K low sulfur)—brown hexagon;
- (10) Kerosene (2-K high sulfur)—brown hexagon with blue stripe;
- (11) Monitoring or test pipes—white circle with black triangle and the words, "Monitoring Pipe—DO NOT FILL".]
- (4) *Kerosene—brown;*
- (5) *Vapor recovery—orange;*
- (6) *Observation or Monitoring Wells—white with black triangle in the center.*

B. Methods of Coloring.

(1) **Facilities Except Bulk Plants, Terminals, and Distribution Points.**

(a) (text unchanged)

[(b) If a fillbox cover is required to have a stripe, cross, or triangle as part of the color scheme, the stripe, cross, or triangle shall extend beyond the fillbox cover.]

[(c)] (b)—[(d)] (c) (text unchanged)

(2) (text unchanged)

[C. Posting of Color Codes.

(1) A facility required to use the color coding system in this regulation shall post a sign or signs in a prominent location on the premises indicating the color scheme.

(2) Signs at retail service stations, when required, shall conform to and include the information mandated by the Maryland Department of the Environment under COMAR 26.10.01.13.]

C. A facility required to use the color coding system in this regulation shall post a sign or signs in a prominent location on the premises indicating the color scheme.

D. (text unchanged)

.30 Reporting of End-of-Month Inventories.

A.—C. (text unchanged)

D. **When and Where to File a Report.** An inventory report shall be received by the [Bureau] *Comptroller* within 5 working days following the end of the month for which inventory is being reported. If the report is mailed, it shall be postmarked within 3 days following the end of the month. This report is in addition to any other report required by the [Bureau] *Comptroller*.

.31 Report—Tax-Free Sales to End Users.

A. (text unchanged)

B. A report shall be filed for each fiscal year ending June 30. A completed annual report shall be forwarded to and received by the [Bureau] *Comptroller* by July 15.

C. The [Bureau] *Comptroller* shall furnish the report form.

03.03.06 Emissions Control Compliance

Authority: Tax-General Article, §2-103; Business Regulation Article, §10-202; Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. **Terms Defined.**

(1) (text unchanged)

(2) *“Bureau” means the Field Enforcement Bureau of the Comptroller of the Treasury.*

[(2)] (3)—[(13)] (14) (text unchanged)

.02 Vapor Pressure Determination.

During the period from May 1 through September 15, inclusive, the Bureau and the Department shall, until such time as the United States Environmental Protection Agency approves the use of ASTM Test Method [D-5190-92] *D-5191*, determine the vapor pressure of gasoline in accordance with the test methods described in 40 CFR Part 80, Appendix E, which is incorporated by reference. Following approval by the United States Environmental Protection Agency, ASTM Test Method [D-5190-92] *D-5191* shall be used. Regulated parties are free to use other accepted test methods for quality assurance programs. However, these

programs do not exempt regulated parties from enforcement action. Regulated parties are encouraged to develop a correlation program with the Bureau and the Department to reduce the probability of inconsistent test results. *The Bureau may grant a 1-pound waiver for ethanol blend gasoline in an ozone attainment area, as defined in COMAR 03.03.05.01B(18), in writing.*

.05 Record Keeping.

A.—D. (text unchanged)

E. The documentation addressed by this regulation may be kept in electronic format and shall be available to the Comptroller upon demand.

.06 Transfer Documentation.

A.—C. (text unchanged)

D. The documentation addressed by this regulation may be kept in electronic format and shall be available to the Comptroller upon demand.