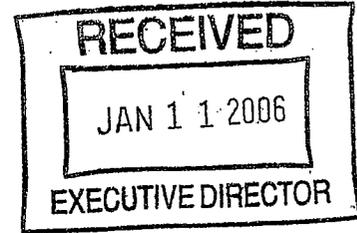


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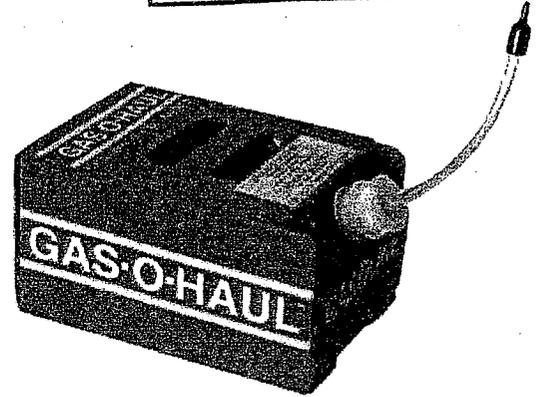
# GAS-O-HAUL®



January 9, 2006

Executive Director  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Dear Executive Director,



**I submit this as a rulemaking petition to be processed under 30 TAC 20.15.**

The rule Chapter 30 Part 1, Chapter 115, Subchapter G, Division 2, Rule 115.620 concerning Portable Fuel Containers contains a definition section, which describes a portable fuel container. The Texas version of this definition varies slightly from that of all other states to adopt this type of regulation. That is, the Texas definition does not include the phrase "for reuse". I have enclosed the definition section of all other states with this regulation and highlighted the phrase "for reuse" for your perusal.

I am the president of L&W Innovations, LLC. We manufacture a product called the Gas-O-Haul. The Gas-O-Haul is an emergency fuel carrier designed for motorists who have run out of gas on the side of the road. The Gas-O-Haul is sold in the flat. Once purchased the customer erects the box and fills the inner "bag" with fuel. Then the nozzle is snapped onto the opening and is non-removable forcing this to be a one-time use product. Once empty, the Gas-O-Haul is discarded in the trash much the same as an empty oil container or an empty lighter fluid container for your charcoal. It is designed simply for the stranded motorist. The Gas-O-Haul is also clearly marked for temporary storage only, maximum 24 hours. I have included a product sample for clarity.

The ruling Chapter 30 Part 1, Chapter 115, Subchapter G, Division 2, Rule 115.620 was developed, as I understand it, to eliminate or greatly reduce emissions from full or partially full gas cans sitting in garages for lawn and garden gas powered equipment and also pleasure craft such as motorcycles, ATV's, boats and jet skis. These gas cans can sit for months emitting gasoline vapors to the air. Clearly the Gas-O-Haul would be impractical for this purpose due to the one-time use feature and the maximum 24-hour storage.

The Gas-O-Haul is tested and compliant with all DOT standards via a UN test protocol. The Gas-O-Haul is officially exempt in California from the CARB standards as well as New York, New Jersey, Maryland, Pennsylvania, and Washington, DC. Connecticut, Maine, Texas and Virginia have yet to respond either way but, with the exception of Texas, they all have definitions of a portable fuel container including the term "for reuse". Since the Gas-O-Haul is for temporary storage and can only be used once (not "for reuse") we believe the Gas-O-Haul clearly does not fit within the intent of the Texas ruling and therefore should be granted exempt status. This can be achieved by simply adding the phrase "for reuse" in the definition in 115.620. This is the point of this petition.

If you could let me know your determination via e-mail or in writing, I would appreciate it greatly.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jon Lips".

Jon Lips  
L&W Innovations

CC: Vic McWherter, Office of Public Interest Counsel, TCEQ MC-103, PO Box 13087, Austin, TX 78711-3087

[<<Prev Rule](#)

# Texas Administrative Code

[Next Rule>>](#)

**TITLE 30**

ENVIRONMENTAL QUALITY

**PART 1**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**CHAPTER 115**

CONTROL OF AIR POLLUTION FROM VOLATILE ORGANIC COMPOUNDS

**SUBCHAPTER G**

CONSUMER-RELATED SOURCES

**DIVISION 2**

PORTABLE FUEL CONTAINERS

**RULE §115.620**

**Definitions**

The following words and terms, when used in this division, have the following meanings, unless the context clearly indicates otherwise. Additional definitions for terms used in this division are found in §§3.2, 101.1, and 115.10 of this title (relating to Definitions).

(1) Nominal capacity--The volume indicated by a portable fuel container manufacturer that represents the maximum recommended filling level.

*INTENDED FOR REUSE*

(2) Portable fuel container--Any vessel that is designed to be used in combination with a portable fuel container spout and that is designed or used primarily to receive, transport, store, or dispense fuel for use in internal combustion engines.

(3) Portable fuel container spout--Any device that is designed or manufactured to be attached to a portable fuel container for the purpose of dispensing fuel into a target fuel tank leading to an internal combustion engine.

(4) Target fuel tank--Any receptacle that receives fuel from a portable fuel container.

**Source Note:** The provisions of this §115.620 adopted to be effective November 18, 2004, 29 TexReg 10521

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## Final Regulation Order Portable Fuel Container Regulation

NOTE: Regulatory amendments to existing language are shown in underline to indicate additions to the text and ~~strikeout~~ to indicate deletions.

Amend title 13, California Code of Regulations, sections 2467 and 2467.1 to read as follows:

### Article 6 Portable Fuel Containers and Spouts

#### 2467. Applicability

- (a) Except as provided in Section 2467.3, this article applies to any person who sells, supplies, offers for sale, advertises or manufactures for sale in California portable fuel containers or spouts, or both portable fuel containers and spouts for use in California.
  
- (b) Except as provided by Section 2467.3, no person shall sell, supply, offer for sale, advertise, or manufacture for sale in California a portable fuel container or spout or both portable fuel container and spout after July 1, 2007 unless said portable fuel container or spout or both portable fuel container and spout is covered by an Executive Order issued pursuant to this article.

NOTE:

Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018, of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

#### 2467.1. Definitions

- (a) The definitions in Section 1900(b), Title 13 of the California Code of Regulations apply with the following additions:
  - (1) "ASTM" means the American Society for Testing and Materials.
  - (2) "Consumer" means the first person who in good faith purchases a new portable fuel container or spout or both portable fuel container and spout for purposes other than resale, including but not limited to personal, family, household, or institutional use.
  - (3) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purposes of resale or distribution in commerce. Manufacturers, retailers, and consumers are not distributors.
  - (4) "Executive Officer" means the Executive Officer of the Air Resources Board, or his or her designee.

- (5) "Fuel" means all fuels subject to any provision of Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250 - 2298, except for Sections 2292.5, 2292.6, and 2292.7.
- (6) "Kerosene" means any light petroleum distillate that is commonly or commercially known, sold or represented as kerosene, that is used in space heating, cook stoves, and water heaters, and is suitable for use as a light source when burned in wick-fed lamps.
- (7) ~~(6)~~"Manufacturer" means any person who imports, manufactures, assembles, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.
- (8) ~~(7)~~"Nominal Capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.
- (9) ~~(8)~~"Outboard Engine" means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.
- (10) ~~(9)~~"Permeation" means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.
- (11) ~~(10)~~"Person" has the same meaning as defined in Health and Safety Code Section 39047.
- (12) ~~(11)~~"Portable Fuel Container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed, ~~or used, sold, advertised or offered for sale primarily~~ for receiving, transporting, storing, and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as defined in 49 Code of Federal Regulation Section 172.407, with language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.
- (13) ~~(12)~~"Product Category" means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the Executive Officer.
- (14) ~~(13)~~"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.
- (15) ~~(14)~~"Retail Outlet" means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.
- (16) ~~(15)~~"ROG" (Reactive Organic Gas) means a reactive chemical gas, composed of hydrocarbons that may contribute to the formation of smog. ROG is sometimes referred to as Non-Methane Organic Compounds (NMOC's).

- (17) ~~(16)~~ "Spill-Proof Spout" means any spout that complies with all of the performance standards specified in Section 2467.2(b).
- (18) ~~(17)~~ "Spill-Proof System" means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in Section 2467.2(a).
- (19) ~~(18)~~ "Spout" means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.
- (20) ~~(19)~~ "Target Fuel Tank" means any receptacle that receives fuel from a portable fuel container.

NOTE:

Authority: Sections 39600, 39601, 43013, 43018, and 43101, of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).  
Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018, of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

Maryland

26.11.13.07

**.07 Control of VOC Emissions from Portable Fuel Containers.**

A. Definitions. In this regulation, the following terms have the meanings indicated:

(1) Distributor.

(a) "Distributor" means a person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce.

(b) "Distributor" does not include a manufacturer, retailer, or consumer.

(2) "Fuel" means all gasoline, gasoline-alcohol mixtures or blends, or petroleum derivatives, having a true vapor pressure within the range of 1.5 to 11 pounds per square inch absolute (psia) (10.3 to 75.6 kilonewtons/square meter) for use in internal combustion engines or aircraft.

(3) "Manufacturer" means a person who imports, manufactures, assembles, produces, packages, repackages, or relabels a portable fuel container or spout or both portable fuel container and spout.

(4) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

(5) "Outboard engine" means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

(6) "Permeation" means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

(7) "Portable fuel container" means a container or vessel with a nominal capacity of 10 gallons or less intended for reuse, that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

(8) "Retail outlet" means an establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.

(9) "Spill-proof spout" means a spout that complies with all of the performance standards set forth in §C(2) of this regulation.

(10) "Spill-proof system" means a configuration of portable fuel container and firmly attached spout that complies with all of the performance standards as set forth in §C(1) of this regulation.

(11) "Spout" means a device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.

(12) "Target fuel tank" means a receptacle that receives fuel from a portable fuel container.

B. Applicability and Exemptions.

(1) This regulation applies to a person who manufactures, sells, or makes available for use portable fuel containers or spouts or both portable fuel containers and spouts in the State.

(2) This regulation does not apply to a person or manufacturer who sells, or makes available for use:

(a) Portable fuel container or spouts or both portable fuel containers and spouts manufactured in the State for shipment, sale, and use outside of the State;

COMMONWEALTH OF VIRGINIA  
STATE AIR POLLUTION CONTROL BOARD  
REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION

9 VAC 5 CHAPTER 40.  
EXISTING STATIONARY SOURCES.

PART II.  
Emission Standards.

ARTICLE 42.

Emission Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile  
Organic Compound Emissions Control Area (Rule 4-42).

- 9 VAC 5-40-5700. Applicability.
- 9 VAC 5-40-5710. Definitions.
- 9 VAC 5-40-5720. Standard for volatile organic compounds.
- 9 VAC 5-40-5730. Administrative requirements.
- 9 VAC 5-40-5740. Compliance.
- 9 VAC 5-40-5750. Compliance schedule.
- 9 VAC 5-40-5760. Test methods and procedures.
- 9 VAC 5-40-5770. Notification, records and reporting.

9 VAC 5-40-5700. Applicability.

A. Except as provided in subsections C through H of this section, the provisions of this article apply to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts.

B. The provisions of this article apply only to sources and persons in the Northern Virginia volatile organic compounds emissions control area designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to any portable fuel container or spout manufactured for shipment, sale, and use outside of the Northern Virginia volatile organic compound emissions control area.

D. This article does not apply to a manufacturer or distributor who sells, supplies, or offers for sale a portable fuel container or spout that does not comply with the emission standards specified in 9 VAC 5-40-5720, as long as the manufacturer or distributor can demonstrate that: (i) the portable fuel container or spout is intended for shipment and use outside of the Northern Virginia volatile organic compound emissions control area; and (ii) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout is not distributed within the Northern Virginia volatile organic compound emissions control area. This subsection does

not apply to portable fuel containers or spouts that are sold, supplied, or offered for sale to retail outlets.

E. This article does not apply to safety cans meeting the requirements of 29 CFR Part 1926 Subpart F.

F. This article does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.

G. This article does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed either (i) to be used in officially sanctioned off-highway motorcycle competitions, (ii) to create a leak-proof seal against a stock target fuel tank, or (iii) to operate in conjunction with a receiver permanently installed on the target fuel tank.

H. This article does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

I. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals.

#### 9 VAC 5-40-5710. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meaning given them in 9 VAC 5 Chapter 10 unless otherwise required by context.

C. Terms defined.

"ASTM" means the American Society for Testing and Materials.

"Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout for personal, family, household, or institutional use. Persons acquiring a portable fuel container or spout for resale are not "consumers" for that product.

"Distributor" means any person to whom a portable fuel container or spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers, and consumers.

"Fuel" means all motor fuels subject to any provision of Chapter 12 (§ 59.1-149 et seq.) of Title 59.1 of the Code of Virginia.

"Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a portable fuel container or spout.

"Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

"Outboard engine" means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

"Permeation" means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

"Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

"Product category" means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the board.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"Retail outlet" means any establishment at which portable fuel containers or spouts are sold, supplied, or offered for sale.

"Spill-proof spout" means any spout that complies with the standards specified in 9 VAC 5-40-5720 B.

"Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the standards in 9 VAC 5-40-5720 A.

"Spout" means any device that can be firmly attached to a portable fuel container and through which the contents of the container may be poured.

"Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

9 VAC 5-40-5720. Standard for volatile organic compounds.

**CHAPTER 155: PORTABLE FUEL CONTAINER SPILLAGE CONTROL**

**SUMMARY:** This regulation limits emissions of volatile organic compounds by requiring new portable fuel containers to meet performance standards for spill-proof systems.

1. **Applicability.** This regulation applies to any person in the State of Maine who sells, supplies, offers for sale, or manufactures portable fuel containers or spouts or both portable fuel containers and spouts.
2. **Definitions.**
  - A. **ASTM.** "ASTM" means the American Society for Testing and Materials.
  - B. **CARB.** "CARB" means the California Air Resources Board
  - C. **Consumer.** "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. Persons acquiring a portable fuel container or spout or both portable fuel container and spout for resale are not "consumers" for that product.
  - D. **Distributor.** "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers, and consumers.
  - E. **Fuel.** "Fuel" means all fuels subject to any provision of Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250-2298, except for Sections 2292.5, 2292.6, and 2292.7.
  - F. **Manufacturer.** "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.
  - G. **Nominal Capacity.** "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.
  - H. **Outboard Engine.** "Outboard engine" means a spark-ignition marine engine

that, when properly mounted on a marine watercraft in the operating position, houses the engine and drive unit external to the hull of the marine watercraft.

- I. **Permeation.** "Permeation" means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.
  - J. **Portable Fuel Container.** "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.
  - K. **Retailer.** "Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.
  - L. **Retail Outlet.** "Retail outlet" means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.
  - M. **Spill-Proof Spout.** "Spill proof spout" means any spout that complies with all of the performance standards specified in Subsection 3B of this Chapter.
  - N. **Spill-Proof System.** "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards contained in Subsection 3A of this Chapter.
  - O. **Spout.** "Spout" means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.
  - P. **Target Fuel Tank.** "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.
3. **Performance Standards for Portable Fuel Containers and Spill-Proof Spouts.**
- A. Except as provided in Section 4 of this Chapter, no person shall sell, supply, offer for sale, or manufacture for sale in Maine on or after January 1, 2004, any portable fuel container or any portable fuel container and spout which, at the time of sale or manufacture, does not meet all of the following performance standards for spill-proof systems:
    - (1) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

(NEW)

**Section 22a-174-43 Portable Fuel Container Spillage Control.**

(a) **Definitions.** For the purposes of this section:

- (1) "CARB" means the California Air Resources Board.
- (2) "CCR" means the California Code of Regulations.
- (3) "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person who acquires a portable fuel container or spout or both a portable fuel container and spout for resale is not a "consumer" for that product.
- (4) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.
- (5) "Fuel" means a volatile liquid mixture containing hydrocarbons or a blend of a volatile liquid mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in spark-ignition internal combustion engines or compression-ignition internal combustion engines.
- (6) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.
- (7) "NYCRR" means the Official Compilation of Codes, Rules and Regulations of the State of New York.
- (8) "NYSDEC" means the New York State Department of Environmental Conservation.
- (9) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

(10) "Outboard engine" means the spark-ignition marine engine mounted on a marine watercraft and used to propel such watercraft.

(11) "Permeation" means the process by which individual fuel molecules may penetrate the walls and components of a portable fuel container.

(12) "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing and dispensing fuel.

(13) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

(14) "Retail outlet" means any establishment at which any portable fuel container or spout or both portable fuel container and spout is sold, supplied or offered for sale.

(15) "Spill-proof spout" means any spout that complies with the performance standards set forth in subsection (d) of this section.

(16) "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the performance standards set forth in subsection (d) of this section.

(17) "Spout" means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.

(18) "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

**(b) Applicability.**

Except as provided in subsection (c) of this section, this section applies to any person who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout for use in the State of Connecticut.

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 NEW JERSEY ADMINISTRATIVE CODE  
 TITLE 7, CHAPTER 27  
 SUBCHAPTER 24  
 PREVENTION OF AIR POLLUTION FROM CONSUMER PRODUCTS

<b>Regulatory Action</b>	<b>Date Adopted or filed with OAL</b>	<b>Effective Date &amp; NJR Citation</b>	<b>Operative Date</b>
New Rule	October 4, 1995 filed	November 6, 1995 27 N.J.R. 4291(a)	December 2, 1995
Administrative Correction		February 5, 1996 28 N.J.R. 851(a)	
Administrative Change		March 1, 1999 31 N.J.R. 639(b)	
Amendment	April 7, 2004 adopted	May 3, 2004 36 N.J.R. 2218(a)	June 6, 2004

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*Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this rule, set forth in the New Jersey Register. However, should there be any discrepancies between this text and the official version of the rule, the official version will prevail.*

foam to substrates.

**“Portable fuel container”** means a product that is a reusable container or vessel, with a nominal capacity of ten gallons or less, designed or used primarily for receiving, transporting, storing or dispensing fuel or a fuel blend.

**“Portable fuel container product category”** means the category that best describes a spout and/or a portable fuel container with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the Department.

**“Plasticizer”** means a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 or from product formulation data.

**“Principal display panel or panels”** means that part, or those parts, of a label that are so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase. If a product and its packaging have more than one principal display panel, all requirements pertaining to the “principal display panel” shall pertain to each such “principal display panel.”

**“Product brand name”** means the name of the product exactly as it appears on the principal display panel of the product.

**“Product form”** means the applicable form which most accurately describes the product’s dispensing form, including aerosols, gels, liquids, pump sprays, and solids.

**“Product line”** means a group of products of identical form and function belonging to the same chemically formulated consumer product category(ies).

**“Propellant”** means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

**“Pump spray”** means a packaging system in which the product ingredients within the container are not under pressure and from which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

**“Representative code”** means a code that identifies a portable fuel container or portable fuel container and spout as subject to and complying with N.J.A.C. 7:27-24.8.

**“Restricted materials”** means pesticides classified as restricted use pesticides under N.J.A.C. 7:30-2.10 or classified for restricted use by EPA pursuant to section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. §§136 et seq.).

**“Retail outlet”** means any establishment at which products are sold, supplied, or offered for sale directly to consumers.



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Department of Environmental Conservation  
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## Subpart 239-2

### Definitions

(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, 19-0305)

[Effective date 10/4/02]

[New Part 239]

[This is page 1 of 1 of this Subpart. A complete list of Subparts in this regulation appears in the [Chapter 3](#) contents page. A list of sections in this Subpart appears below.]

For administrative information about this posting, contact: [Division of Air Resources](#). The Bureau of Air Quality Planning at (518) 402-8396 is the contact for technical questions pertaining to this rule.

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[239-2.1 Definitions](#)

### § 239-2.1 Definitions

For the purpose of this regulation, the following definitions apply:

- (a) *ASTM* means the American Society for Testing and Materials.
- (b) *Consumer* means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household, or institutional use. Persons acquiring a portable fuel container or spout or both portable fuel container and

spout for resale are not consumers for that product.

(c) *Distributor* means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers, and consumers.

(d) *Fuel* means all fuels subject to any provision of Subpart 225-3 of this Title.

(e) *Manufacturer* means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.

(f) *Nominal capacity* means the volume indicated by the manufacturer that represents the maximum recommended filling level.

(g) *Outboard engine* means a spark-ignition marine engine that, when properly mounted on a marine water craft in the position to operate, houses the engine and drive unit external to the hull of the marine water craft.

(h) *Permeation* means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

(i) *Person* means any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, co-partnership, association, firm, estate or any legal entity whatsoever.

(j) *Portable fuel container* means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

(k) *Product category* means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the department.

(l) *Retailer* means any person who owns, leases, operates, controls, or supervises a retail outlet.

(m) *Retail outlet* means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.

(n) *Spill proof spout* means any spout that complies with all of the performance standards specified in section 239-3.1(b) of this Part.

(o) *Spill-proof system* means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in section 239-3.1(a) of this Part.

(p) *Spout* means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.

(q) *Target fuel tank* means any receptacle that receives fuel from a portable fuel container.

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## Subchapter A. PORTABLE FUEL CONTAINERS

Sec.

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### § 130.101. Applicability.

Except as provided in § 130.104 (relating to exemptions), this subchapter applies to a person who sells, supplies, offers for sale, or manufactures for sale in this Commonwealth portable fuel containers or spouts or both portable fuel containers and spouts for use in this Commonwealth. This subchapter applies to liquid flammable and combustible fuels having a flash point below 200°F. For additional requirements, see section 7(c) of the Combustible and Flammable Liquids Act (35 P. S. § 1247(c)) and 37 Pa. Code § 11.7 (relating to container construction).

### § 130.102. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*ASTM*—The American Society for Testing and Materials.

*Consumer*—A person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person acquiring a portable fuel container or spout or both portable fuel container and spout for resale is not a consumer for that product.

*Distributor*—A person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.

*Manufacturer*—A person who imports, manufactures, assembles, produces, packages,

repackages, or relabels a portable fuel container or spout or both portable fuel container and spout.

*Nominal capacity*—The volume indicated by the manufacturer that represents the maximum recommended filling level.

*Outboard engine*—A spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

*Permeation*—The process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

*Portable fuel container*—A container or vessel with a nominal capacity of 10 gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing and dispensing fuel.

*Product category*—The applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate and permeation rate, as applicable, as determined by the Commonwealth.

*Retailer*—A person who owns, leases, operates, controls or supervises a retail outlet.

*Retail outlet*—An establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied or offered for sale.

*Spill-proof spout*—A spout that complies with the performance standards specified in § 130.103(b) (relating to performance standards for portable fuel containers and spill-proof spouts).

*Spill-proof system*—A configuration of portable fuel container and firmly attached spout that complies with the performance standards in § 130.103(a).

*Spout*—A device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.

*Target fuel tank*—A receptacle that receives fuel from a portable fuel container.

### **§ 130.103. Performance standards for portable fuel containers and spill-proof spouts.**

(a) Except as provided in § 130.104 (relating to exemptions), a person may not sell, supply, offer for sale or manufacture for sale in this Commonwealth on or after January 1, 2003, a portable fuel container or spout, or a portable fuel container and spout which, at the time of sale or manufacture, does not meet the following performance standards for spill-proof systems:

(1) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

(2) Automatically closes and seals when removed from the target fuel tank and remains

“Manufacturer” means any person who imports, manufactures, produces, assembles, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.

“Nominal Capacity” means the volume, indicated by the manufacturer that represents the maximum recommended filling level.

“Outboard Engine” means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the operating position, houses the engine and drive unit external to the hull of the marine watercraft.

“Permeation” means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

“Person” means any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, co-partnership, association, firm, estate or any legal entity whatsoever.

“Portable Fuel Container” means any container or vessel with a nominal capacity of ten gallons or less that is intended for reuse and that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

“Spill-Proof Spout” means any spout that complies with all of the performance standards specified in paragraph (c)(2) of this Section.

“Spill-Proof System” means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in paragraph (c)(1) of this Section.

“Spout” means any device that can be firmly attached to a portable fuel container, through which the contents of a portable fuel container can be dispensed.

“Target Fuel Tank” means any receptacle that receives fuel from a portable fuel container.

c. Standards.

1. No person subject to the requirements of this Section shall sell, supply, offer for sale, or manufactures for sale portable fuel container(s) or spout(s) or both portable fuel container(s) and spout(s) for use in the State of Delaware which does not:
  - i. Have an automatic shut-off that stops the fuel flow before the target fuel tank overflows.