

SUBCHAPTER H: LOW EMISSION FUELS
DIVISION 1: GASOLINE VOLATILITY
§§114.301, 114.304 - 114.307, 114.309
Effective October 2, 2014

§114.301. Control Requirements for Reid Vapor Pressure.

(a) In the counties listed in §114.309 of this title (relating to Affected Counties), no person shall sell, offer for sale, supply, offer for supply, dispense, transfer, allow the transfer, place, store, or hold in any stationary tank, reservoir, or other container any gasoline with a Reid vapor pressure greater than 7.8 pounds per square inch, on a per gallon basis, which may ultimately be used to power a gasoline engine in the affected counties according to the schedule in subsection (b) of this section.

(b) Beginning May 1, 2000, all adjustments in the operation of affected facilities and all transfers or alterations of gasoline not meeting the requirements of this section must be completed as necessary to conform with the provisions of subsection (a) of this section during the following periods of each calendar year:

- (1) June 1 through October 1 of each year for gasoline dispensing facilities;
and
(2) May 1 through October 1 of each year for all other affected facilities.

Adopted September 10, 2014

Effective October 2, 2014

§114.305. Approved Test Methods.

(a) Compliance with the Reid vapor pressure (RVP) limitations of §114.301 of this title (relating to Control Requirements for Reid Vapor Pressure) shall be determined by the American Society for Testing and Materials (ASTM) Test Method D5191-99 (Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)) for the measurement of RVP using the following correlation correction equation to calculate RVP equivalent to that determined by test methods prescribed in Title 40 Code of Federal Regulations Part 80, Appendix E, Method 3, dated March 17, 1993.

$$RVPE = 0.956(x) - 0.347;$$

where:

RVPE = equivalent RVP with units in pounds per square inch (psi)

x = measured total vapor pressure in psi

(b) Minor modifications to these test methods may be used, if approved by the executive director.

(c) Test methods other than those specified in subsection (a) of this section, may be used if validated by 40 CFR 63, Appendix A, Test Method 301 (effective December 29, 1992). For the purposes of this subsection, substitute "executive director" each place that Test Method 301 references "administrator."

Adopted April 5, 2000

Effective April 27, 2000

§114.306. Recordkeeping Requirements.

(a) The owner or operator of any gasoline storage vessel, gasoline terminal, or gasoline bulk plant subject to the provisions of §114.301 of this title (relating to Control Requirements for Reid Vapor Pressure) shall maintain records of the Reid vapor pressure of all gasoline stored or transferred during the compliance period. All records shall be maintained for two years and be made available for review by the executive director, United States Environmental Protection Agency (EPA), and local air pollution control agencies. Records do not have to be stored on-site, but must be made available for inspection at the site within five business days.

(b) All parties in the distribution chain (producers, importers, terminals, pipelines, truckers, rail carriers, and retail fuel dispensing outlets) subject to the provisions of §114.301 of this title must maintain copies or records of product transfer documents for a minimum of two years and shall upon request, make such copies or records available to representatives of the commission, EPA, or local air pollution agency having jurisdiction in the area. The product transfer documents must contain, at a minimum, the following information:

- (1) the date of transfer;
- (2) the name and address of the transferor;
- (3) the name and address of the transferee;
- (4) the volume of gasoline being transferred;
- (5) the location of the gasoline at the time of transfer; and

(6) the following certification statement: "This product complies with the requirements for Reid vapor pressure specified in Title 30 Texas Administrative Code, §114.301 and may be used in any Texas county requiring gasoline with a maximum RVP of 7.8 pounds per square inch."

Adopted September 10, 2014

Effective October 2, 2014

§114.307. Exemptions.

(a) The following uses are exempt from §§114.301, 114.305, and 114.306 of this title (relating to Control Requirements for Reid Vapor Pressure; Approved Test Methods; and Recordkeeping Requirements):

(1) any stationary tank, reservoir, or other container:

(A) used exclusively for the fueling of implements of agriculture; or

(B) with a nominal capacity of 500 gallons (1,893 liters) or less; and

(2) all gasoline solely intended for use as aviation gasoline ("av-gas").

(b) Any gasoline that is either in a research, development, or test status; or is sold to petroleum, automobile, engine, or component manufacturers for research, development, or test purposes; or any gasoline to be used by, or under the control of petroleum, additive, automobile, engine, component manufacturers for research, development, or test purposes; or any independent research laboratories or academic institutions for use in research, development, or testing of petroleum, additive, automobile, engine, component products, is exempt from the provisions of this division (relating to Gasoline Volatility), provided that:

(1) the gasoline is kept segregated from non-exempt product, and the person possessing the product maintains documentation identifying the product as research, development, or testing fuel, as applicable, and stating that it is to be used only for research, development, or testing purposes; and

(2) the gasoline is not sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a retail fuel dispensing facility. It shall also not be sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a wholesale purchaser-consumer facility, unless such facility is associated with fuel, automotive, or engine research, development, or testing.

(c) Any gasoline that is refined, sold, dispensed, transferred, or offered for sale, dispensing, or transfer as competition racing fuel is exempted from the provisions of this division, provided that:

(1) the fuel is kept segregated from non-exempt fuel, and the party possessing the fuel for the purposes of refining, selling, dispensing, transferring, or offering for sale, dispensing, or transfer as competition racing fuel maintains documentation identifying the product as racing fuel, restricted for non-highway use in competition racing motor vehicles or engines;

(2) each pump stand at a regulated facility, from which the fuel is dispensed, is labeled with the applicable fuel identification and use restrictions described in paragraph (1) of this subsection; and

(3) the fuel is not sold, dispensed, transferred, or offered for sale, dispensing, or transfer for highway use in a motor vehicle.

(d) The owner or operator of a retail fuel dispensing outlet is exempt from all requirements of §114.306 of this title, except §114.306(b) of this title.

(e) Gasoline that does not meet the requirements of §114.301 of this title is not prohibited from being transferred, placed, stored, and/or held within the affected counties so long as it is not ultimately used to power:

(1) a gasoline-powered spark-ignition engine in a motor vehicle in the counties listed in §114.309 of this title (relating to Affected Counties), except for that used in conjunction with purposes stated in subsections (a) - (c) of this section; or

(2) a gasoline-powered spark-ignition engine in non-road equipment in the counties listed in §114.309 of this title, except for that used in conjunction with purposes stated in subsections (a) - (c) of this section.

Adopted September 10, 2014

Effective October 2, 2014

§114.309. Affected Counties.

All affected persons in the following counties shall be in compliance with §§114.301 and 114.305 - 114.307 of this title (relating to Control Requirements for Reid Vapor Pressure; Approved Test Methods; Recordkeeping Requirements; and Exemptions) no later than the dates specified in §114.301(b) of this title: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales,

Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood.

Adopted September 10, 2014

Effective October 2, 2014

DIVISION 2: LOW EMISSION DIESEL
§§114.312 - 114.319
Effective September 13, 2012

§114.312. Low Emission Diesel Standards.

(a) No person shall sell, offer for sale, supply, or offer for supply, dispense, transfer, allow the transfer, place, store, or hold any diesel fuel in any stationary tank, reservoir, or other container in the counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates) that may ultimately be used to power a diesel fueled compression-ignition internal combustion engine in the affected counties that does not meet the low emission diesel fuel (LED) standards specified in paragraphs (1) and (2) of this subsection.

(1) The maximum aromatic hydrocarbon content of LED is 10% by volume per gallon.

(2) The minimum cetane number for LED is 48.

(b) Subsection (a) of this section does not apply to a sale, offer for sale, or supply of diesel fuel to a producer where the producer further processes the diesel fuel at the producer's production facility prior to any subsequent sale, offer for sale, or supply of the final blend of LED.

(c) Diesel fuel that has been produced to comply with all specifications for a Certified Diesel Fuel Formulation as approved by an executive order by the California Air Resources Board for compliance with California diesel fuel regulations that were in effect as of August 4, 2005, except for those approved for small refinery compliance, or diesel fuel that has been produced to meet all specifications for diesel fuel under regulations adopted by the California Air Resources Board that were in effect as of August 4, 2005, except for those approved for small refinery compliance, may be used to satisfy the requirements of subsection (a) of this section.

(d) Alternative diesel fuel formulations that have been approved by the executive director as prescribed in §114.315(c) of this title (relating to Approved Test Methods) may be used to satisfy the requirements of subsection (a) of this section.

Adopted August 22, 2012

Effective September 13, 2012

§114.313. Designated Alternate Limits.

(a) Diesel fuel that has been produced to meet all of the designated alternative limits specified in subsection (b) of this section may be used to satisfy the low emission diesel fuel (LED) requirements specified in §114.312(a) of this title (relating to Low Emission Diesel Standards).

(b) The designated alternative limits per gallon of LED are set forth in paragraphs (1) - (6) of this subsection:

- (1) An aromatic hydrocarbon content of no greater than 21.0% by weight;
- (2) A polycyclic aromatic hydrocarbon content of no greater than 3.5% by weight;
- (3) An American Petroleum Institute gravity index of no less than 36.9;
- (4) A cetane number of no less than 53;
- (5) A nitrogen content of no greater than 500 parts per million by weight (ppmw); and
- (6) A sulfur content of no greater than 15 ppmw.

(c) Compliance with the designated alternative limits specified in subsection (b) of this section must be determined by the test methods specified in §114.315(a) of this title (relating to Approved Test Methods).

Adopted August 22, 2012

Effective September 13, 2012

§114.314. Registration of Diesel Producers and Importers.

(a) Each producer and importer that sells, offers for sale, supplies, offers to supply, dispenses, transfers, allows the transfer, places, stores, or holds any diesel fuel in any stationary tank, reservoir, or other container in the affected counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates) that may ultimately be used to power a diesel fueled compression-ignition internal combustion engine in the affected counties listed in §114.319 of this title shall register with the executive director by no later than 45 days after the first date the diesel fuel from its production facility or import facility is made available for use in the affected counties listed in §114.319 of this title.

(b) Registration must be submitted on forms prescribed by the executive director and must include, at a minimum, the information specified in paragraphs (1) - (5) of this subsection:

(1) the legal business name of the producer or importer, mailing address, agency assigned customer reference number, and contact information for the producer or importer, or their authorized representative;

(2) a statement of the estimated total number of barrels of low emission diesel fuel that the producer or importer is planning to produce or import in the 12 months following the date of registration that the producer or importer intends to sell, offer for sale, supply, or offer to supply from its production facility or import facility for use in the counties listed in §114.319 of this title;

(3) the physical address, agency assigned regulated entity reference number, and contact information for each production facility or import facility that is used to produce or import diesel fuel that may be sold, offered for sale, supplied, or offered for supply for use in the affected counties listed in §114.319 of this title;

(4) any other information determined by the executive director to be necessary to identify the persons responsible for the adequacy of diesel supply in the affected counties; and

(5) a signed statement of consent by the registrant that the executive director is permitted to collect samples and access documentation and records at any production facility or import facility used to produce or import diesel fuel that may ultimately be used to power a diesel fueled compression-ignition internal combustion engine in the counties listed in §114.319 of this title.

(c) The executive director shall maintain a listing of all registered producers and importers.

Adopted August 22, 2012

Effective September 13, 2012

§114.315. Approved Test Methods.

(a) Compliance with the diesel fuel content requirements of this division must be determined by applying the appropriate test methods and procedures specified in the active version of American Society for Testing and Materials (ASTM) D975 (Standard Specification for Diesel Fuel Oils), or by applying the supplementary test methods and procedures specified in paragraphs (1) - (5) of this subsection, as appropriate.

(1) The aromatic hydrocarbon content may be determined by the active version of ASTM Test Method D5186 (Standard Test Method for Determination of Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels and Aviation Turbine Fuels by Supercritical Fluid Chromatography). The following correlation

equation must be used to convert the supercritical fluid chromatography (SFC) results in mass percent to volume percent: aromatic hydrocarbons expressed in percent by volume = 0.916 x (aromatic hydrocarbons expressed in percent by weight) + 1.33.

(2) The polycyclic aromatic hydrocarbon (also referred to as polynuclear aromatic hydrocarbons or PAH) content may be determined by the active version of ASTM Test Method D5186 (Standard Test Method for Determination of Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels and Aviation Turbine Fuels by Supercritical Fluid Chromatography). The correlation equation specified in paragraph (1) of this subsection must be used to convert the SFC results in mass percent to volume percent.

(3) The nitrogen content may be determined by the active version of ASTM Test Method D4629 (Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons by Syringe/Inlet Oxidative Combustion and Chemiluminescence Detection).

(4) The American Petroleum Institute (API) gravity index may be determined by the active version of ASTM Test Method D287 (Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method)).

(5) The distillation temperatures may be determined by the active version of ASTM Test Method D86 (Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure).

(b) Modifications to the testing methods and procedures in this section may be approved by the executive director after consultation with and agreement by the United States Environmental Protection Agency (EPA).

(c) The executive director, upon application, may approve alternative diesel fuel formulations as prescribed under §114.312(d) of this title (relating to Low Emission Diesel Standards) that may be used to satisfy the low emission diesel fuel (LED) requirements specified in §114.312(a) of this title if the applicant has demonstrated to the satisfaction of the executive director and the EPA in accordance with the procedures specified in paragraph (1) of this subsection that the alternative diesel fuel formulation will achieve equivalent or better reductions in emissions of nitrogen oxides (NOX).

(1) The applicant shall submit documentation demonstrating that the applicable fuel properties of the alternative diesel fuel formulation demonstrate at least a 5.5% reduction in NOX emissions from on-road diesel fuel for the year 2007, and at least a 6.2% reduction in NOX emissions from non-road diesel fuel, using the Unified Model as described in the EPA staff discussion document, Strategies and Issues in

Correlating Diesel Fuel Properties with Emissions, Publication Number EPA420-P-01-001, published July 2001.

(2) For alternative diesel fuel formulations that achieve emission reductions as demonstrated in accordance with the criteria specified in paragraph (1) of this subsection, the applicant shall provide documentation to the executive director upon application that includes the cetane number, aromatic hydrocarbon content, specific gravity, and the temperature corresponding to the 50% point on the distillation curve in degrees Fahrenheit (T50) of the alternative diesel fuel formulation for which the applicant is requesting approval as determined in accordance with the test methods and procedures specified in subsection (a) of this section.

(3) If the alternative diesel fuel formulation has been demonstrated to the satisfaction of the executive director and the EPA to achieve comparable or better reductions in emissions of NOX in accordance with paragraph (1) of this subsection, then the executive director may issue a notice of approval indicating that the alternative diesel fuel formulation may be used to satisfy the LED requirements of §114.312(a) of this title.

(A) The approval notification must identify the specifications of the alternative diesel fuel formulation as approved under this subsection by listing the cetane number, aromatic hydrocarbon content, specific gravity, and the temperature corresponding to the 50% point on the distillation curve in degrees Fahrenheit (T50) of the alternative diesel fuel formulation as documented in paragraph (2) of this subsection.

(B) The approval notification must assign an identification number to the specific approved alternative diesel fuel formulation.

(d) Approval of any additive-based alternative diesel fuel formulation as prescribed under this section prior to April 1, 2012, and thereafter, is subject to revocation if the executive director determines that the composition of the additive component of the approved alternative diesel fuel formulation has been altered so that it no longer matches the composition of the additive as originally approved. If the executive director revokes the approval of an additive-based alternative diesel formulation, producers using the alternative diesel formulation to satisfy the LED requirements of §114.312(a) of this title must discontinue all use of the alternative diesel formulation within 45 days of the date of revocation.

(e) All alternative diesel fuel formulations approved by the executive director as prescribed under this section prior to April 1, 2012, may continue to be used to comply with the provisions specified in this division.

Adopted August 22, 2012

Effective September 13, 2012

§114.316. Monitoring, Recordkeeping, and Reporting Requirements.

(a) Every producer or importer that has elected to sell, offer for sale, supply, or offer for supply low emission diesel fuel (LED) produced at its production facility or imported from its import facility in compliance with the requirements specified in §§114.312, 114.313, or 114.318 of this title (relating to Low Emission Diesel Standards; Designated Alternative Limits; Alternative Emission Reduction Plan, respectively) that may ultimately be used in counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates) is subject to the applicable requirements of this section.

(b) Each producer or importer of LED must keep records that declare or demonstrate that each final blend of LED conforms to the basic LED standards as specified in §114.312(a) of this title, to the designated alternative limits as specified in §114.313 of this title, to the specifications of a Certified Diesel Fuel Formulation or a diesel fuel as accepted under §114.312(c) of this title, to an alternative diesel fuel formulation as approved under §114.312(d) of this title, or to an alternative emission reduction plan as approved under §114.318 of this title.

(c) Each producer or importer of LED shall collect and analyze a representative sample of each final blend of LED produced at its production facility or imported from its import facility for the fuel properties specified in paragraphs (1) - (5) of this subsection.

(1) The aromatic hydrocarbon content and cetane number must be analyzed for LED produced or imported in accordance with §114.312(a) of this title using the test methods specified in §114.315(a) of this title (relating to Approved Test Methods).

(2) The aromatic hydrocarbon content, cetane number, and/or any other appropriate components specified in the applicable California diesel fuel regulations or the executive order issued by the California Air Resources Board (CARB) must be analyzed for LED produced or imported in accordance with §114.312(c) of this title using the test methods specified in §114.315(a) of this title and if appropriate, the test methods as listed in the executive order issued by CARB.

(3) The appropriate components of the alternative diesel fuel formulation as listed in the approval notification issued by the executive director under §114.315 of this title must be analyzed for LED produced or imported in accordance with §114.312(d) of this title using the methodologies specified in §114.315(a) of this title and if appropriate, the test methods as listed in the approval notification.

(4) The aromatic hydrocarbon content, polycyclic aromatic hydrocarbon content, American Petroleum Institute (API) gravity index, cetane number, nitrogen content, and sulfur content must be analyzed for LED produced or imported in accordance with §114.313 of this title using the test methods specified in §114.315(a) of this title.

(5) The aromatic hydrocarbon content, cetane number, specific gravity, and the temperature corresponding to the 50% point on the distillation curve in degrees Fahrenheit (T50) must be analyzed for LED produced in accordance with §114.318(b)(1) of this title using the test methods specified in §114.315(a) of this title.

(6) If the final blend of LED required to be analyzed in paragraphs (2) and (3) of this subsection is produced at a production facility with the use of an additive as it is being loaded directly to tanks, pipelines, tank ships, railway tank cars, tank trailers, or fuel delivery trucks, the producer or importer may satisfy the sampling requirements of this subsection by recording the volume of additive and the volume of diesel additized in each final blend of LED as it is produced at the production facility. The analysis of the volumetric record must demonstrate that sufficient additive was added to the final blend of LED to maintain the appropriate additive concentration per gallon as listed in the approval notification issued by the executive director or in the executive order issued by the CARB.

(7) The producer or importer shall maintain records showing the sample date, identity of the final blend sampled, identity of the container or other vessel sampled, volume of the final blend sampled, and the fuel properties of each sample as analyzed in accordance with paragraphs (1) - (6) of this subsection as appropriate, for two years from the date each sample was collected.

(8) All LED produced by the producer at its production facilities or imported by the importer from its import facilities and not tested by the producer or importer as required by this subsection will be deemed to exceed the standards specified in §114.312 of this title, unless the producer or importer demonstrates that the LED meets those standards and limits.

(d) A producer or importer subject to the requirements of this division shall provide to the executive director any records required to be maintained by the producer or importer in accordance with this section within 15 days of a written request from the executive director, if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of LED in accordance with the requirements of this section, the final blend of LED will be presumed to have been sold by the producer

or importer in violation of the standards specified in §114.312 of this title, to which the producer or importer has elected to be subject.

(e) All parties in the distribution chain (i.e., producers, importers, bulk plants, common carriers, and retail fuel dispensing outlets) that supply diesel fuel subject to the requirements specified in §114.312 of this title that may ultimately be used in counties listed in §114.319 of this title shall maintain copies or records of product transfer documents for a minimum of two years and shall upon request, make such copies or records available to representatives of the commission, United States Environmental Protection Agency, or local air pollution agency having jurisdiction in the area. The product transfer documents must contain, at a minimum, the information specified in paragraphs (1) - (7) of this subsection:

- (1) the date of transfer;
- (2) the name and address of the transferor;
- (3) the name and address of the transferee;
- (4) in the case of transferors or transferees who are producers or importers, the registration number of those persons as assigned by the commission under §114.314 of this title (relating to Registration of Diesel Producers and Importers);
- (5) the volume of diesel fuel being transferred;
- (6) the location of the diesel fuel at the time of transfer; and
- (7) one of the certification statements specified in subparagraphs (A), (B), or (C) of this paragraph, as appropriate:

(A) "This product is Texas low emission diesel and may be used as fuel for diesel engines in any Texas county requiring the use of low emission diesel fuel."; or

(B) "This product may not be used as fuel for diesel engines in any Texas county requiring the use of low emission diesel fuel without further processing."; or

(C) "This product has been produced under a TCEQ approved alternative emission reduction plan and may be used as fuel for diesel engines in any Texas county requiring the use of low emission diesel fuel."

(f) Each producer or importer of LED subject to subsection (a) of this section shall provide a quarterly summation report to the executive director no later than the 45th day following the end of each calendar quarter and must maintain a record of the information submitted in the quarterly report for two years from the date of each report. The quarterly report must be submitted on forms prescribed by the executive director and must include, at a minimum, the information specified in paragraphs (1) - (3) of this subsection for each of the producer's production facilities or for each of the importer's import facilities:

(1) the total volume of LED produced or imported during the calendar quarter that is subject to the requirements of this section, and if the volume of LED required to be reported in this paragraph was produced with the use of an additive, the total volume of additive used to produce the LED must also be included in the quarterly report;

(2) a reconciliation of the records required in subsection (c)(7) of this section for each sample collected and analyzed during the calendar quarter; and

(3) any other information determined by the executive director to be necessary to demonstrate that the producer or importer has produced or imported LED that has satisfied the requirements specified in §§114.312, 114.313, or 114.318 of this title.

(g) Each producer or importer electing to sell, offer for sale, supply, or offer to supply LED in accordance with §114.312(c) of this title shall provide to the executive director, as applicable, a copy of the executive order issued by the CARB for the Certified Diesel Fuel Formulation used to produce the LED or documentation demonstrating that the LED has been produced to meet all specifications for diesel fuel under regulations adopted by the CARB, except for those approved for small refinery compliance, that were in effect as of August 4, 2005.

Adopted August 22, 2012

Effective September 13, 2012

§114.317. Exemptions to Low Emission Diesel Requirements.

(a) Any diesel fuel subject to the low emission diesel (LED) requirements specified in §114.312 of this title (relating to Low Emission Diesel Standards) that is either in a research, development, or test status; or is sold to petroleum, automobile, engine, or component manufacturers for research, development, or test purposes; or any diesel fuel to be used by, or under the control of, petroleum, additive, automobile, engine, or component manufacturers for research, development, or test purposes, is exempted from the provisions of this division (relating to Low Emission Diesel), provided that:

(1) the diesel fuel is kept segregated from non-exempt product, and the person possessing the product maintains documentation identifying the product as research, development, or testing fuel, as applicable, and stating that it is to be used only for research, development, or testing purposes; and

(2) the diesel fuel is not sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a retail fuel dispensing facility. It shall also not be sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a wholesale purchaser-consumer facility, unless such facility is associated with fuel, automotive, or engine research, development, or testing.

(b) Any diesel fuel subject to the LED requirements specified in §114.312 of this title that is refined, sold, dispensed, transferred, or offered for sale, dispensing, or transfer as competition racing fuel is exempted from the provisions of this division, provided that:

(1) the fuel is kept segregated from non-exempt fuel, and the party possessing the fuel for the purposes of refining, selling, dispensing, transferring, or offering for sale, dispensing, or transfer as competition racing fuel maintains documentation identifying the product as racing fuel, restricted for non-highway use in competition racing motor vehicles or engines;

(2) each pump stand at a regulated facility, from which the fuel is dispensed, is labeled with the applicable fuel identification and use restrictions described in paragraph (1) of this subsection; and

(3) the fuel is not sold, dispensed, transferred, or offered for sale, dispensing, or transfer for highway use in a motor vehicle.

(c) The owner or operator of a retail fuel dispensing outlet is exempt from all requirements of §114.316 of this title (relating to Monitoring, Recordkeeping, and Reporting Requirements) except §114.316(e) of this title.

(d) Diesel fuel that does not meet the LED requirements of §114.312 of this title is not prohibited from being transferred, placed, stored, and/or held within the affected counties so long as it is not ultimately used to power a diesel fueled compression-ignition internal combustion engine operating in a motor vehicle or in non-road equipment in the counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates), except for that used in conjunction with purposes stated in subsections (a) and (b) of this section.

§114.318. Alternative Emission Reduction Plan.

(a) Diesel fuel that is sold, offered for sale, supplied, or offered for supply by a producer who submits an alternative emission reduction plan in accordance with subsection (b) of this section that is approved by the executive director will be considered in compliance with the low emission diesel (LED) requirements of §114.312(a) of this title (relating to Low Emission Diesel Standards).

(b) The alternative emission reduction plan must demonstrate, using the Unified Model as described in the United States Environmental Protection Agency (EPA) staff discussion document, Strategies and Issues in Correlating Diesel Fuel Properties with Emissions, Publication Number EPA420-P-01-001, published July 2001, that the average fuel properties of all on-road diesel fuel produced in any given calendar quarter that is sold, offered for sale, supplied, or offered for supply by the producer for use in the affected counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates) achieve at least a 5.5% reduction in nitrogen oxides (NOX) emissions for the year 2007; and the average fuel properties of all non-road diesel produced in any given calendar quarter that is sold, offered for sale, supplied, or offered for supply by the producer for use in the affected counties listed in §114.319 of this title achieve at least a 6.2% reduction in NOX emissions.

(c) An alternative emission reduction plan must be approved by the executive director prior to the use of that plan for compliance with the requirements of this section.

(d) The executive director shall approve or disapprove alternative emission reduction plans that have been submitted by producers in accordance with subsection (b) of this section within 45 days of submittal.

(e) Alternative emission reduction plans submitted to the executive director in accordance with subsection (b) of this section must contain sufficient documentation to validate the average diesel fuel properties used to satisfy the requirements specified in subsection (b) of this section.

Adopted August 22, 2012

Effective September 13, 2012

§114.319. Affected Counties and Compliance Dates.

(a) All affected persons in the counties listed in subsection (b) of this section shall continue to comply with §§114.312 - 114.317 of this title (relating to Low Emission Diesel Standards; Designated Alternate Limits; Registration of Diesel Producers and Importers; Approved Test Methods; Monitoring, Recordkeeping, and Reporting

Requirements; and Exemptions to Low Emission Diesel Requirements) as required by subsection (d) of this section, as applicable, for any diesel fuel as defined in §114.6(6)(A) of this title (relating to Low Emission Fuel Definitions) that may ultimately be used to power a diesel-fueled compression-ignition internal combustion engine in a motor vehicle or in non-road equipment in any of the counties listed in subsection (b) of this section.

(b) The counties specified in paragraphs (1) - (4) of this subsection are subject to subsection (a) of this section:

(1) Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant;

(2) Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller;

(3) Hardin, Jefferson, and Orange; and

(4) Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Karnes, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Polk, Rains, Red River, Refugio, Robertson, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood.

(c) All affected persons in the counties listed in subsection (b) of this section shall continue to comply with §§114.312 - 114.317 of this title as required by subsection (d) of this section, as applicable, for any diesel fuel as defined in §114.6(6)(B) of this title that may ultimately be used to power a diesel-fueled compression-ignition internal combustion engine located on a marine vessel in any of the counties listed in subsection (b)(2) of this section.

(d) For all counties affected by this section, the final compliance dates for control requirements are given within the subsections relating to counties and compliance schedules for provisions specified in this division if the final compliance date of any provision is after the date of adoption of the current revision to this division. If the compliance dates are not specified for any provision, the compliance date is past and all affected persons must be and remain in compliance with the provision as of the original compliance date.

Adopted August 22, 2012

Effective September 13, 2012