

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §114.301 (Control Requirements For Reid Vapor Pressure), §§114.305 - 114.307 (Approved Test Methods; Recordkeeping, Reporting, and Certification Requirements; and Exemptions), and §114.309 (Affected Counties); new §114.304 (Registration of Gasoline Producers and Importers); and repeal of §114.302 (Control Requirements for Sulfur), and §114.308 (Alternative Early Implementation). The commission adopts these revisions to Chapter 114 (Control of Air Pollution from Motor Vehicles), Subchapter H (Low Emission Fuels), Division 1 (Gasoline Volatility), and to the state implementation plan (SIP). Sections 114.304, 114.306, 114.307, and 114.309 are adopted with changes to the proposed text as published in the February 25, 2000 issue of the *Texas Register* (25 TexReg 1556). Sections 114.301 and 114.305 and the repeal of §114.302 and §114.308 are adopted without changes and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The commission adopts these revisions to Chapter 114 and the corresponding SIP in order to address the United States Environmental Protection Agency (EPA) concerns regarding the enforceability of the East Texas Regional Low Reid Vapor Pressure (RVP) Gasoline (regional gasoline) program, limit any increase in the use of methyl-tertiary-butyl-ether (MTBE) in gasoline to conform to the low RVP requirements, and remove the state limits on sulfur content which have been supplanted by federal regulations found in Title 40 Code of Federal Regulations (CFR) Part 80, Subpart H (Gasoline Sulfur). All parties in the gasoline distribution chain (producers, importers, terminals, pipelines, truckers, rail carriers, and retailers) will be required to maintain records of the transfer documents, and gasoline producers and importers will be required to submit annual reports certifying that the use of MTBE in

gasoline has not increased in order for the producer to conform with the low RVP requirements. The rules will also require gasoline producers and importers to register with the executive director.

The regional gasoline program, as established through the adoption of 30 TAC §§114.301, 114.302, and 114.305 - 114.309 in June 30, 1999, requires all conventional gasoline in 95 central and eastern Texas counties to be limited to a maximum RVP of 7.8 pounds per square inch (psi) from May 1 to October 1 of each year beginning May 1, 2000. Those rules established a seasonal limit on gasoline RVP. These rule revisions are a follow-up to those rules to complete the regional gasoline program.

The commission requested a Federal Clean Air Act (FCAA as codified in 42 United States Code (USC)) waiver from the EPA to allow state implementation of RVP limitations. During its review of rules, the EPA indicated that they would consider the RVP waiver if certain concerns regarding enforceability were addressed. These rule revisions address the EPA concerns over enforceability.

In addition, during the rulemaking for the original regional gasoline rules, the issue of MTBE was not addressed. The rules were written to provide refiners with the flexibility to decide for themselves how to best achieve the required RVP/sulfur levels. However, during the rule comment period, numerous comments were received regarding the potential for producers to increase the levels of MTBE to comply with the rule. Concerns were also expressed over the potential risk of MTBE contamination of ground and surface water. The decision was made at that time to delay further action regarding MTBE until the EPA MTBE Blue Ribbon Panel had provided its recommendations. The report ("Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline," EPA

420-R-99-021, dated September 15, 1999) included a recommendation that ". . . in order to minimize current and future threats to drinking water, the use of MTBE should be reduced substantially." This issue was addressed during the October 15, 1999 commissioner's work session. Staff was directed to develop proposed revisions to the regional fuel rule that would preclude any increased use of MTBE resulting from compliance with the regional fuel rule requirements. These rule revisions address the concerns over any increase in the use of MTBE in gasoline by producers in order to conform with the low RVP requirements.

The 95 central and eastern Texas counties affected by these rules consists of Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burlison, 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 Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood Counties.

The commission solicited comment on sliding the start date of the requirements of §114.301 for this upcoming ozone season by one month, from June 1, 2000 to July 1, 2000 for gasoline dispensing facilities and from May 1, 2000 to June 1, 2000 for all other affected facilities, due to the timing of this

rulemaking, and received four comments. These comments are discussed in the ANALYSIS OF TESTIMONY section of this preamble.

When adopting the control requirement on sulfur content on June 30, 1999, the commission was aware that the EPA was evaluating the feasibility and effectiveness of nationwide gasoline sulfur controls.

The commissioners agreed that if the outcome of those evaluations was a federal rule which covered the areas in Texas impacted by the state sulfur rule, then the commission would consider compliance with the national rule equally effective and would take steps to repeal the state sulfur requirements. Since the EPA adopted national sulfur controls on February 10, 2000 (65 FR 6697) which will include the counties of eastern Texas, these rule revisions address the removal of the state gasoline sulfur requirements from the regional gasoline program. These rules revisions repeal the year-round state requirement that gasoline sulfur levels not exceed 150 parts per million, that was scheduled to begin May 1, 2004, as well as the provisions to allow areas to request an accelerated compliance schedule.

The rule revisions regarding the enforceability of the RVP requirements and the removal of the state sulfur requirements are being submitted to the EPA to be considered in conjunction with the July 1999 SIP submittal entitled, "Requirements for Gasoline Volatility in East and Central Texas and Federal Clean Air Act §211(c)(4)(C) Waiver Request." However, new §114.301(c) and §114.306(c) are not being submitted to the EPA as revisions to the SIP and the commission is not requesting a waiver regarding those sections. In accordance with the FCAA, §211(c)(4)(A) (42 USC, §7545(c)(4)(A)), states may not, "prescribe or attempt to enforce, *for purposes of motor vehicle emission control*, any control or prohibition respecting any characteristic component of a fuel or fuel additive in a motor

vehicle or motor vehicle engine . . .” (emphasis added). The commission is adopting §114.301(c) and §114.306(c) under state authority to protect underground water resources, not air emissions from motor vehicles. Therefore, the preemption language in 42 USC, §7545 does not apply to this portion of the rulemaking and a waiver is not necessary.

SECTION BY SECTION DISCUSSION

The changes to §114.301 add language to prohibit the sale, supply, and dispensing of non-conforming gasoline in addition to the transfer and storage of gasoline. The rule also adds language to require RVP limits to be addressed on a "per gallon" basis in order to address the EPA concerns regarding enforcement. The changes also prohibit producers from increasing the use of MTBE in gasoline on an average per gallon basis during the period of May 1 through October 1 of any calendar year over that used in the period May 1 through October 1, 1998 to conform with the low RVP requirements.

The amendments to the regional gasoline rules repeal §114.302 because the newly adopted federal low sulfur regulations are applicable in the same 95 counties.

The new §114.304 requires all gasoline producers and importers that currently supply gasoline to the affected area to register with the executive director by July 1, 2000. Beginning July 1, 2000, gasoline producers and importers that are not supplying gasoline to the affected counties as of May 1, 2000, shall register within 30 days after producing or importing gasoline intended for the affected counties. The registration dates were changed in response to comment that a delay was necessary to facilitate

compliance with the recordkeeping and reporting requirements of the rules. This registration requirement addresses the EPA concerns with enforcement of the current low RVP program.

The changes to §114.305 add language to specify a single RVP test method in response to EPA and stakeholder comments, delete optional RVP test methods, and delete the two sulfur test methods. Also in response to EPA comments, the rule adds a correlation correction formula to the American Society for Testing Materials Test Method D5191-99 to calculate RVP equivalent to that determined by test methods prescribed in Title 40 CFR Part 80, Appendix E, Method 3, dated March 17, 1993.

The changes to §114.306 delete references to sulfur limits. Two new subsections are adopted. New §114.306(b) was changed from that proposed in the *Texas Register*. It requires that copies or records of product transfer documents be kept by all parties in the distribution chain, including the retail outlets, to address EPA concerns regarding enforcement of the current low RVP program. It also specifies that product transfer documents must include at least the following information: date of transfer; the name and address of the transferor and the transferee; in the case of transferors or transferees who are producers or importers, the registration number of those persons as assigned by the commission under §114.304; the volume of gasoline being transferred; the location of the gasoline at the time of transfer; and the following certification statement: "This product complies with the requirements for Reid vapor pressure (RVP) specified in Title 30 Texas Administrative Code, §114.301 (Control Requirements for Reid Vapor Pressure) and may be used in any Texas county requiring gasoline with a maximum RVP of 7.8 pounds per square inch." New §114.306(c) was changed from that proposed in the *Texas Register*. Section 114.306(c) enforces the MTBE limitation in §114.301(c) and requires producers and importers

to submit annual reports by November 30 of each year certifying that, during the period May 1 through October 1 of the current calendar year, the use of MTBE has not increased on an average per gallon basis over that produced for or imported into the affected counties in the period May 1 through October 1, 1998 in order to conform with the low RVP requirements. In addition, the title of §114.306 was changed to “Recordkeeping, Reporting, and Certification Requirements.”

The changes to §114.307 delete language referring to sulfur and language exempting retail outlets from the recordkeeping requirements in response to EPA concerns regarding enforcement of the low RVP program. The changes also reformat the section to improve readability.

The amendments to the regional gasoline rules also repeal §114.308, because this section has to do with sulfur controls and is no longer relevant since §114.302 is repealed.

The changes to §114.309 add clarifying language, delete references regarding sulfur controls, and delete subsection (b) which refers to compliance dates for Hardin, Jefferson, and Orange Counties. Because three counties were included for implementation of the sulfur portion of the rules only, they are no longer considered to be part of the affected area.

FINAL REGULATORY IMPACT ANALYSIS

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that this rulemaking action does not meet the definition of a “major environmental rule” as defined in the Texas Government Code, and it does not meet any of

the four applicability requirements listed in §2001.0225(a). The revisions in this rulemaking action will not have a significant impact on a sector of the economy. Specifically, the enforcement changes may add some paperwork responsibilities to parties in the gasoline production and distribution chain, but these responsibilities do not represent significant costs. The removal of the sulfur provisions of these rules should have no impact since they are mooted by the recent EPA adoption of federal sulfur controls. The prohibition on an increase in MTBE use to meet the RVP requirements and its corresponding certification requirements should not adversely impact fuel producers. According to industry representatives, there is no need to increase MTBE use to achieve the 7.8 psi RVP limit. The certification requirements are minimal and will not cost significant amounts of money to meet. Therefore, these rules do not meet the definition of a “major environmental rule.”

These rules also do not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Section 2001.0225 only applies to a major environmental rule, the result of which is to: 1. exceed a standard set by federal law, unless the rule is specifically required by state law; 2. exceed an express requirement of state law, unless the rule is specifically required by federal law; 3. exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4. adopt a rule solely under the general powers of the agency instead of under a specific state law. Specifically, the requirements within these rules were developed in order to address EPA concerns regarding the enforceability of the regional gasoline program, limit any increase in the use of MTBE in gasoline to conform to the low RVP requirements, and remove the state controls on sulfur which have been supplanted by federal regulations. These rules will also require gasoline producers and importers to

register with the executive director. All parties in the gasoline distribution chain (producers, importers, terminals, pipelines, truckers, rail carriers, and retailers) will be required to maintain records of the transfer documents and gasoline producers and importers will be required to submit annual reports certifying that no increase in the use of MTBE in gasoline has occurred in order for the producer to conform with the low RVP requirements. The regional gasoline program is a necessary element of the Texas SIP to enable nonattainment and near-nonattainment areas to achieve and maintain the ozone NAAQS. These rules are therefore authorized by the Texas Health and Safety Code, §382.011, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the states' air; §382.012, which requires the commission to develop plans for protection of the state's air; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the Texas Clean Air Act (TCAA); §382.019, which provides the commission with the authority to regulate emissions from motor vehicles; §382.037(g), which governs the conditions under which the commission may adopt fuel content standards; and §382.039, which provides the commission the authority to develop and implement transportation programs and other measures necessary to demonstrate attainment and protect the public from exposure to hazardous air contaminants from motor vehicles. These rules are also authorized by the Texas Water Code (TWC), §5.103, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC; and §28.011, which provides the commission with the authority to adopt and enforce rules to protect and preserve underground water quality. Specifically, the low RVP requirements within these rules were developed in order to meet the ozone NAAQS set by the EPA under 42 USC, §7409, and therefore meet a federal requirement. States are primarily responsible for ensuring attainment and maintenance of NAAQS once

EPA has established those standards. Under 42 USC, §7410 and related provisions, states must submit, for EPA approval, SIPs that provide for the attainment and maintenance of NAAQS through a control program directed to sources of the pollutants involved. These rules are not an express requirement of state law, but were developed specifically in order to meet the air quality standards established under federal law as NAAQS. The rules are intended to help bring ozone nonattainment areas into compliance and to help keep attainment and near nonattainment areas from going into nonattainment. These rules do not exceed a requirement of a delegation agreement. The rules were not developed solely under the general powers of the agency, but were specifically developed to meet the air quality standards established under federal law as NAAQS. No persons submitted comments on the draft regulatory impact analysis during the public comment period.

TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for these rules in accordance with to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purposes of this rulemaking action are to address EPA concerns regarding the enforceability of the regional gasoline program, limit any increase in the use of MTBE in gasoline to conform to the low RVP requirements, and remove the state controls on sulfur which have been supplanted by federal regulations. These rules will also require gasoline producers and importers to register with the executive director. All parties in the gasoline distribution chain (producers, importers, terminals, pipelines, truckers, rail carriers, and retailers) will be required to maintain records of the transfer documents and gasoline producers and importers will be required to submit annual reports certifying that no increase in the use of MTBE in gasoline has occurred in order for the producer to conform with

the low RVP requirements. Promulgation and enforcement of these rules should not burden private real property.

The requirements within these rules will limit any increase in the use of MTBE in gasoline to conform to the low RVP requirements. This action is being reasonably taken to prevent a public or private nuisance.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission determined that this rulemaking action relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this action for consistency in accordance with the rules of the Coastal Coordination Council, and determined that this rulemaking action is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking action is the goal in 31 TAC §501.12(l) to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas. A reduction of air pollutant emissions would enhance the quality and values of coastal natural resource areas. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations in 40 CFR, to protect and enhance

air quality in the coastal area (31 TAC §501.14(q)). No new sources of air contaminants will be authorized by the rule amendments. Another CMP policy applicable to this rulemaking action is the policy that state agencies with authority to manage non-point source (NPS) pollution shall cooperate in the development of a coordinated program to reduce NPS in order to restore and protect coastal waters (31 TAC §501.14(g)) and the amendments are expected to reduce the potential risk of MTBE contamination of water resources as a result of the limitation on any increase in the use of MTBE in gasoline by gasoline producers in order to conform with the low RVP requirements. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that these rules are consistent with CMP goals and policies.

No persons submitted comments on the consistency of the rules with the CMP during the public comment period.

HEARINGS AND COMMENTERS

The commission held public hearings on this proposal on March 22, 2000 in Longview; and on March 23, 2000 in Austin. The public comment period closed on March 27, 2000. The following 20 commenters provided oral testimony and/or submitted written testimony: Alamo Area Council of Governments (AACOG); CITGO Petroleum Corporation (CITGO); City of Longview Mayor David McWhorter (Longview); City of Marshall (Marshall); City of Tyler (Tyler); Conoco, Inc. (Conoco); ExxonMobil Corporation (ExxonMobil); Gregg County Commissioner Charles Davis (Commissioner Davis); Gregg County Judge Micky Smith (Judge Smith); East Texas Council of Governments (ETCOG); Koch Petroleum Group LP (Koch); Lyondell Chemical Company (Lyondell); Oxygenated

Fuels Association, Inc. (OFA); Texas Oil and Gas Association (TxOGA); Texas State Representative Leo Berman (Representative Berman); Texas State Senator William R. Ratliff (Senator Ratliff); Texas State Representative Tommy Merritt (Representative Merritt); Ultramar Diamond Shamrock Corporation (UDS); and three individuals. The following persons generally supported the proposal: AACOG, Representative Berman, Conoco, Commissioner Davis, ETCOG, Longview, Marshall, Representative Merritt, Senator Ratliff, Judge Smith, Tyler, and three individuals. The following persons generally opposed the proposal: Lyondell and OFA. The following persons suggested changes to the proposal as stated in the ANALYSIS OF TESTIMONY section of this preamble: AACOG, CITGO, Conoco, Representative Berman, ExxonMobil, Koch, Longview, Lyondell, OFA, Marshall, Representative Merritt, Senator Ratliff, Tyler, UDS, and one individual.

ANALYSIS OF TESTIMONY

AACOG requested that the commission extend the period during which gasoline was required to have an RVP of 7.8 psi from May 1 - October 1 to April 1 - October 31 in Bexar, Guadalupe, Wilson, and Comal Counties in order to have the control period coincide with the pattern of the area's of highest ozone readings.

The commission considered this request in the previous adoption of the regional gasoline program, and concluded that such an extension was impractical. The 7.8 psi RVP gasoline required by these rules applies to all of East Texas. For compliance and enforcement purposes, the commission feels that the overall state requirements should be the same for all areas affected by these rules. A local area could consider negotiating a voluntary arrangement with their regional

suppliers in order to expand the time period in which 7.8 psi RVP gasoline is supplied to the area if the area feels it has specialized needs. The commission has made no change to the rule language in response to this comment.

Koch and TxOGA commented that the control period for these rules should be revised to conform to the EPA's summer RVP gasoline control period of May 1 through September 15 at the terminal and June 1 through September 15 at the retail outlet.

The commission considered this comment in adoption of the regional gasoline program, and again disagrees with the comment. The control period designated for the 7.8 psi RVP gasoline rules was extended slightly to account for the longer ozone seasons experienced in Texas. The commission does not feel that extending the period from September 15 to October 1 will have a significant impact on refiner/supplier operations. The commission has made no change to the rule language in response to this comment.

Representative Merritt commented that the commission should implement a policy to eliminate the use of MTBE entirely. Senator Ratliff commented that the proposal could be interpreted to allow gasoline producers to increase the use of MTBE in gasoline as long as they claim the additional MTBE content was for some purpose other than to comply with the RVP requirements. Senator Ratliff further commented that the rules should simply prohibit increases in MTBE content, no matter what the motivation. Representative Berman, Longview, Representative Merritt, and Senator Ratliff urged the commission to ban the use of MTBE in gasoline statewide. One individual commented that the

commission should ensure that Texas is the first state to phase out the use of MTBE and that the commission should require the use of ethanol in gasoline statewide.

On March 20, 2000, the EPA announced that it was requesting the United States Congress to amend the FCAA to significantly reduce or eliminate the use of MTBE in gasoline, to strengthen the FCAA to ensure that clean air benefits are preserved, and to replace the existing oxygenate requirement for reformulated gasoline (RFG) in the FCAA with a renewable fuel standard for all gasoline. In addition, the EPA issued an Advance Notice of Proposed Rulemaking to ban MTBE from gasoline under Section 6 of the Toxic Substances Control Act. The commission acknowledges the concern for clean air and water in Texas and supports the EPA recommendations to Congress and the EPA rule proposal to ban MTBE through federal regulations. Because much of the use of MTBE is rooted in federal requirements, it is imperative that the issue is addressed on a national level. The commission remains committed to working with the EPA on finding national solutions that will provide alternatives to MTBE while preserving the air quality benefits associated with the use of RFG. At this time, the commission is only taking action to limit any increase in the use of MTBE to comply with the 7.8 psi RVP requirements. However, the commission continues to closely monitor water supplies to ensure that drinking water meets federal and state quality standards and to vigorously enforce existing underground storage tank upgrade requirements. The commission has made no change to the rule language in response to this comment. If these goals prove to be jeopardized by MTBE contamination in the future, the commission may consider further action at the state level.

Longview, Marshall, and Tyler urged the commission to halt its efforts to increase use of RFG containing MTBE in the eight perimeter counties surrounding the DFW ozone nonattainment area and stated that the commission should take no action which increases the potential for use of MTBE until the phase-out of MTBE announced by the EPA is complete.

Action regarding the expansion of the RFG program is beyond the scope of this rulemaking. The commission will consider this comment as part of the separate rulemaking proposed in December 1999 to expand the RFG program. The commission has made no change to the rule language in response to this comment.

Longview, Marshall, and Tyler requested that the commission investigate whether the low RVP gasoline supplied to the City of Austin in the summer of 1999 had been produced with levels of MTBE increased over that used in conventional gasoline sold previously in the area.

The low RVP rule requires no increase in the use of MTBE to comply with the 7.8 psi RVP gasoline requirements as of the effective date of these rules. Any use of MTBE in conventional gasoline to support voluntary efforts to provide a low RVP gasoline prior to the rule's effective date would be governed by federal mandates which limit the use of oxygenates in gasoline to 15% by volume. The commission believes this request is beyond the scope of this rulemaking. The commission has made no change to the rule language in response to this comment.

Koch and TxOGA commented that the commission should not delay the implementation date of the control period specified in the rules. CITGO commented that the commission should delay the implementation date by one month to facilitate optimum planning and tankage transitions and minimize the economic impact on additional refinery products. Conoco supported a one-month delay in the implementation date because it would provide the terminals and retail stations the needed time to ensure inventories were transitioned, especially those premium gasoline inventories where volume turnover is more difficult due to much lower demand.

The commission requested comment on delaying the implementation date by one month. Based on comments received, the commission made the decision that the original implementation date for these rules should not be delayed since many of the major producers have indicated that there should not be a significant problem in supplying compliant fuel to the affected areas beginning May 1, 2000. The commission has made no change in response to this comment.

Koch and TxOGA requested that the commission delay the implementation and enforcement of the recordkeeping and reporting requirements in the proposal in order to allow sufficient lead time to file any required registration, make any needed revisions to transfer documents, and other such items.

ExxonMobil commented that since §114.304 requires producers and importers to register at least 30 days prior to supplying gasoline to the affected area, the commission will need to consider a delay in enforcing this portion of the rules to allow producers and importers time to register after the rules become final. Koch and TxOGA commented that a refiner should not be required to provide advance registration in order to supply fuel to the affected areas and that the 30-day advance notice should be

removed from the proposal. Koch and TxOGA commented that the registration requirements are overly restrictive and unnecessary and could serve to restrict the number of available gasoline suppliers who may supply the affected area in the event that the production of one or more registered refineries is disrupted, and could also restrict the flexibility of the distribution system.

The commission agrees that a delay is needed to facilitate compliance with the recordkeeping and reporting requirements of the rules in regard to registration of producers and importers and that the requirement for a 30-day advance notice before supplying fuel should be modified. The commission made changes to the rule in response to this comment by revising the registration deadline in §114.304 from May 1, 2000 to July 1, 2000. In addition, the commission revised §114.304 to require producers and importers not supplying fuel to the affected areas as of May 1, 2000 to register, beginning July 1, 2000, "within 30 days after" the first date they supply fuel to the area. The commission does not want to inhibit the sale of low RVP gasoline and would encourage market forces which could lower its cost. The change in registration deadline for new entrants into the market will accomplish these goals while still maintaining a strong enforcement mechanism in place.

Koch, OFA, and TxOGA commented that §114.301(c) is unnecessary and should be deleted from the proposal because it is unlikely that MTBE use will increase as a result of this rule. OFA commented that the implementation of reduced volatility controls from 9.0 psi to 7.8 psi RVP has no correlation with MTBE use in gasoline because there is no intrinsic vapor pressure advantage in using MTBE since

it has a RVP of 8.0 psi. CITGO commented that the commission should not regulate MTBE use and should yield to future federal legislative or regulatory action that may be forthcoming.

The commission disagrees with these comments. The commission believes that §114.301(c) of these rules is necessary to prohibit any increase in the use of MTBE to comply with the RVP requirements in §114.301 in order to reduce the potential risk of surface and groundwater contamination from accidental gasoline spills. In discussions with stakeholders during the development of these rules, it was pointed out that there may be circumstances, however unlikely, where an increase in MTBE may be needed. The provisions of these rules regarding MTBE were developed because stakeholders requested the commission provide assurances in the rules that increases would not occur due to the low RVP requirement. The commission made no change to the rule language in response to this comment.

Lyondell commented that restricting the use of MTBE in conventional gasoline could jeopardize future improvements in air quality that would be achieved through the use of MTBE. OFA commented that only reducing RVP and limiting MTBE without controlling other constituents of gasoline, such as aromatics and olefins, could adversely impact air quality in the affected areas since refiners typically mix in low volatility blendstocks like reformate and heavy cracked naphtha to balance the removal of high volatility butanes and pentanes from gasoline, which could result in higher volatile organic compound (VOC) and toxic emissions upon combustion.

The commission disagrees with these comments. The commission acknowledges that the mandated use of oxygenates, such as MTBE, in RFG has contributed in the emission reductions associated with the federal RFG program. However, these rules provide a volatility standard for conventional gasoline which is not required to use oxygenates as part of the fuel's composition. The commission understands that MTBE is used mainly as an octane booster in conventional gasoline, and as such, MTBE is used, not for its air quality benefits, but for its anti-knock characteristics. The rules only prohibit any increase in the use of MTBE to comply with the 7.8 psi RVP requirements in §114.301(a). The commission has adopted the volatility standard in §114.301 as a VOC control strategy that realizes its emission reduction benefits through the control of evaporative emissions, not through combustion controls. The commission has made no change to the rule language in response to this comment.

OFA commented that limiting MTBE restricts refiners' flexibility and could adversely impact gasoline prices since capping MTBE will effectively reduce overall gasoline system capacity by as much as 15 volume percent, and under the current environment, MTBE could be added to keep prices in check and to quickly establish market equilibrium.

The rules in §114.301(a) only prohibit any increase in the use of MTBE to comply with the 7.8 psi RVP requirements and do not cap MTBE at a certain level. Discussions with stakeholders indicated that it would be very unlikely that there would be any need to increase MTBE to produce gasoline compliant with these rules. Therefore, the commission concluded that there

should be no increase in gasoline prices as a result of these rules. The commission has made no change to the rule language in response to this comment.

OFA commented that the commission focus should be on improved overall gasoline storage handling practice rather than limiting an individual gasoline constituent like MTBE. OFA encouraged the commission to target leaking underground storage tanks and surface water contamination by recreational boats. OFA asked why the commission would propose limits on MTBE and not target enhanced maintenance of existing underground pipelines, especially in light of the recent 500,000- gallon gasoline spill from an east Texas pipeline. Also, OFA asked why the commission would limit the use of MTBE to prevent potential surface water contamination while not limiting two-stroke engines in watercraft which release up to 25% of the fuel they use directly into drinking water reservoirs. OFA strongly recommended that the commission suspend the rules and advance new initiatives to enhance monitoring of underground storage tanks.

The commission made the decision to prohibit the increased use of MTBE to reduce the potential risk of surface and groundwater contamination from accidental gasoline spills. This decision is also based on the findings of the EPA Blue Ribbon Panel and the EPA March 20, 2000 announcement concerning the decision to reduce and/or eliminate the use of MTBE in gasoline as a safeguard against water contamination. Federal regulations regarding marine engine emission standards were finalized in 1996 and took effect with 1998 and 1999 engines, depending upon their use. These federal marine engine emission standards implement a corporate average standard which tightens each year through 2006. The commission will continue to closely monitor water

supplies to ensure that drinking water meets federal and state quality standards and to vigorously enforce existing underground storage tank upgrade requirements. The commission has made no change in response to this comment.

OFA recommended that the commission undertake an independent "third-party" gasoline market survey during the upcoming summer season to determine the overall average MTBE content of gasoline sold in the affected 95 counties. OFA stated that the overall survey cost would be substantially less than the administrative cost of compliance and would meet the commission's primary objective of no increase use of MTBE.

The commission disagrees with these comments. The rules provide the mechanism that will demonstrate the amount of MTBE being used in the affected areas during the control period through the requirement that producers and importers submit annual reports certifying the amount of gasoline and the amount of MTBE produced for or imported into the affected areas. The commission feels that this method of acquiring MTBE usage data is significantly less costly than using a "third party" to conduct an annual survey. The commission has made no change to the rule language in response to these comments.

TxOGA commented that the commission does not have the authority to limit any constituent of gasoline which is already regulated by federal statute. ExxonMobil suggested that §114.301(c) should be deleted because restrictions on fuel specifications in ozone nonattainment areas fall under the preemptive authority of the federal government and are therefore not an area that the commission can regulate in

this rule. Lyondell commented that the proposed amendments to §114.301 are in direct conflict with the FCAA, §211(c)(4)(A), even though the commission has argued to the contrary.

The commission disagrees that the authority to limit MTBE is preempted by 42 USC, §7545(c)(4)(A). This statute reads in part, “. . . no State (or political subdivision thereof) may prescribe or attempt to enforce, *for purposes of motor vehicle emission control*, any control or prohibition respecting any characteristic or component of a fuel or fuel additive in a motor vehicle or motor vehicle engine...” (emphasis added). The preemption in 42 USC applies only to measures which are adopted by states for purposes of air emissions. Case law regarding preemption has established the principle that preemption should be read as narrowly as possible. The preemption in 42 USC, §7545(c)(4)(A) clearly does not restrict states from regulating fuel for purposes of public safety, protecting water quality, or other measures not associated with air quality. Any other reading would make the clause, “for purposes of motor vehicle emission control” meaningless. In this case the commission is implementing this portion of the rule under the TWC for purposes of protecting the underground water supply from MTBE contamination and is therefore not preempted by federal law.

CITGO expressed opposition to the increase in reporting requirements in §114.306. Lyondell commented that the proposed amendments are unreasonably burdensome to gasoline producers, distributors, and retailers due to the requirement to maintain records and submit transfer documents for the purpose of tracking the amount of MTBE blended into gasoline.

The commission disagrees with these comments. The commission does not feel that registering, maintaining product transfer documents, and submitting an annual report is unreasonably burdensome, especially since federal RFG, anti-dumping, and gasoline detergent regulations all have similar requirements with which the gasoline industry is currently required to comply. The rules do not require affected entities to submit product transfer documents to the commission, but only that a copy or record of these documents must be kept for inspection. The commission believes that the recordkeeping and reporting provisions of the rules are essential for tracking compliance and ensuring proper enforcement measures are being taken. The commission has made no change to the rule language in response to these comments.

Koch and TxOGA commented that it may be impossible to segregate gallons of gasoline delivered to an affected county from gallons delivered outside affected counties for purposes of determining the average-per-gallon use of MTBE for the original baseline and for the annual report. TxOGA commented that the baseline of comparison for MTBE use calls for retroactive recordkeeping, provides for an un-level playing field for refiners, and provides for arbitrary enforcement opportunities.

TxOGA stated that a refiner should be able to choose to base its MTBE use evaluation on either the total gallons of conventional gasoline produced, on gallons delivered to the affected area, or on gallons actually used within the affected counties, if that information is available. UDS commented that a refiner should be allowed to base its MTBE compliance reporting on the total gallons of conventional gasoline supplied to product terminals that distribute gasoline to the affected counties. Lyondell commented that the proposed limitation on the use of MTBE is arbitrarily tied to a quantity used in 1998 that is, as of yet, undefined, and could be below that level which is necessary to meet customary

gasoline specifications or emission requirements and such action could jeopardize the supply of on-specification gasoline to the 95-county section of the state. CITGO suggested that it would be more appropriate for the rules to identify the May-October 1999 period as the baseline for limiting future MTBE use as this time period would be more typical of future refinery operations. UDS commented that the rules indirectly reward those companies that have historically been the greatest users of MTBE by allowing an historical baseline to be established. UDS commented that if the commission believes that it has the authority and a sound technical basis for regulating the use of MTBE in the affected areas, then it should be done on a fair and uniform basis in order to maintain a level playing field for the various producers.

The commission revised §114.306(b) to allow those producers and importers, to certify and report on the basis of gasoline for which the producer or importer has included on the transfer documents the certification required by §114.306(b)(7). This revision would allow a producer or importer to certify and report based upon the fuel that is actually produced instead of having to establish where the fuel will be sold. The commission feels that these methods are fair and will provide equal opportunity to all affected producers and importers in regard to quantifying MTBE use.

Koch, TxOGA, and UDS commented that a refiner should be allowed more than two weeks at the end of the ozone season to prepare an annual report accounting of MTBE use. Koch, TxOGA, and UDS commented that EPA RFG batch reports are due 60 days after the end of a reporting period and that a

more appropriate deadline would be November 30 to coincide with the deadline for third quarter RFG batch reports. ExxonMobil suggested that the reporting deadline be changed to the last day of October.

The commission agrees with these comments and revised the rule language to allow entities subject to the reporting requirements of the rules until November 30 to submit the required reports.

Koch and TxOGA commented that importers should be required to submit an annual accounting of their MTBE use and a certification that MTBE use was not increased to manufacture 7.8 RVP gasoline for the gasoline that is imported for use in the affected counties.

The commission agrees with this comment and revised the rule language to require importers to submit an annual accounting of their MTBE use and a certification statement that MTBE use was not increased to manufacture 7.8 RVP gasoline for the gasoline that is imported for use in the affected counties.

Koch and TxOGA commented that the EPA currently uses random sampling and analysis of gasoline within the distribution system to enforce the EPA 7.8 RVP gasoline rules and, if a nonconforming sample is discovered, that all upstream parties in the distribution system are sampled to determine if they are in compliance. Koch and TxOGA further commented that the commission should adopt the same sort of enforcement mechanisms used by EPA for enforcing this proposal. Koch and TxOGA stated that the EPA currently recognizes an enforcement tolerance of 0.3 psi for the gasoline volatility standard specified in 40 CFR §80.27 and that the commission should adopt a similar enforcement

tolerance. Koch and TxOGA commented that the transfer documents, coupled by random sampling and analysis for RVP, would provide far greater assurance that the correct RVP gasoline is used in an affected area than a refiner registration requirement.

The enforcement tolerance of 0.3 psi for the volatility standard for gasoline specified in 40 CFR §80.27 is currently recognized for enforcement purposes in the El Paso Low-RVP Gasoline program and the commission feels this would be appropriate for enforcement of these rules as well. The enforcement of these rules will be handled by the commission primarily through the random inspection of product transfer documents and the monitoring of required reports.

Random sampling and analysis remains an option for the commission to use to ensure compliance and, if prescribed, would follow along the same guidelines as the federal testing. Sampling and analysis of gasoline for compliance may also be conducted during enforcement investigations. The registration of producers and importers is required by the commission to facilitate communication with affected producers and importers and to assist the commission in determining compliance and proper enforcement procedures. The commission has made no change to the rule language in response to these comments.

Koch and TxOGA asked whether it was the commission intention that the provisions of these rules become enforceable immediately upon a refiner's registration and acceptance of the rules, even if the EPA has not yet approved a waiver for the program, since regardless of the registration status, approval by EPA is required in order for the commission to enforce this program.

Prior to the EPA approval of the waiver, the commission will enforce all registration, recordkeeping, and reporting requirements. The commission intends to enforce the RVP and MTBE certification requirements immediately upon EPA approval of the RVP waiver. The commission has made no change to the rule language in response to these comments.

Koch and TxOGA commented that the original refiner should not be penalized simply because one of its costumers decided to sell some of its product to an affected county and in this respect the rules are defective as they imposes burdens on interstate commerce that are beyond the commission authority .

The commission disagrees that the rules burden interstate commerce. The low RVP requirements placed upon refiners are not new to this rulemaking. Only the new registration, reporting, and recordkeeping requirements have been added. Generally refiners may not know which gasoline station will receive their fuel but they know the area to which it will be sent. This is especially true given the language of §114.306(b)(7) requiring that all parties in the distribution chain include a statement of compliance with these rules. If a refinery receives a fuel order which specifies a low RVP fuel to be delivered in the vicinity of an affected county, the refiner should either assume the fuel is for use in the affected county or request confirmation from the purchaser that the fuel will not be sold within the affected county. Meeting the requirements of these rules is an obligation of selling fuel within Texas. The rules will not be enforced against entities whose fuel is not eventually sold in an affected county and the rules do not discriminate between in-state and out-of-state refiners. Any cost borne by refiners is outweighed by the state's interest in protecting the air quality and the health of its citizens. Therefore, the commission does not

believe these rules impose an excessive burden on interstate commerce. The commission has made no change to the rule language in response to this comment.

Koch, TxOGA, and UDS commented that transfer documents should contain only the information necessary to convey that the fuel is compliant with the requirements of the rule and that the commission should delete the requirement to list the batch number on the transfer documents for low RVP gasoline. In addition, Koch, TxOGA, and UDS commented that identification of test results on each transfer document and certification that the fuel complies with the requirements specified in §114.301 should be eliminated from the rules and that as an alternative, the transfer document should list the maximum RVP that the fuel is intended to meet. Koch, TxOGA, and UDS commented that the commission should not require the address of the transferee on the transfer documents and suggested that the commission use language similar to 40 CFR §80.158(a)(1) to allow for maximum flexibility in the distribution system. ExxonMobil commented that §114.306(b) requiring retail fuel dispensing facilities to maintain records serves little purpose while adding to the already extensive record retention requirements for these facilities and that, as an alternative, the need for product tracking can be met by requiring a statement on the delivery documents that accompany every gasoline shipment that the gasoline "complies with the requirements of Chapter 114, Subchapter H, Low Emission Fuels." Koch and TxOGA requested a clarification of the term "blend identity" and asked whether it would be "7.8 psi RVP gasoline." Also, Koch and TxOGA questioned how the identification of "container or transport type" on the transfer document enhances the enforcement of the rules and suggested that this requirement be deleted from the proposal.

The commission made changes to §114.304(b) to require information similar to that required on product transfer documents by the federal anti-dumping regulations concerning conventional gasoline in 40 CFR §80.106. The commission revised the rule by removing the requirement for batch identity, batch number, container and transport type, and test results from the information required to be included on the product transfer documents while retaining the requirements for date of transfer, names and addresses of transferors and transferees, volume of gasoline transferred, location of the gasoline at the time of transfer, and a certification statement that the gasoline complies with the RVP standards. The commission feels that requiring retail fuel dispensing facilities to maintain copies or records of product transfer documents will not significantly increase their current recordkeeping activities and this requirement is crucial to ensure compliance and to provide an enforcement mechanism at the lowest point in the distribution system.

ExxonMobil suggested that the commission make the report required by §114.306(c) as similar as possible to its federal RFG program counterpart to make completion of the report as simple as possible.

The commission will take this comment into consideration. The commission made no change to the rule language in response to this comment.

STATUTORY AUTHORITY

The amendments and new sections are adopted under the Texas Health and Safety Code, TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.012, which provides the commission the authority to prepare and develop a general, comprehensive plan for the control of the state's air; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; §382.019, which provides the commission with the authority to adopt rules to control and reduce emissions from engines used to propel land vehicles; §382.037(g), which provides the commission the authority to regulate fuel content if it is necessary for attainment of the national ambient air quality standards; and §382.039, which provides the commission the authority to develop and implement transportation programs and other measures necessary to demonstrate attainment and protect the public from exposure to hazardous air contaminants from motor vehicles. The amendments and new sections are also authorized by the TWC, §5.103, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC; and §28.011, which provides the commission with the authority to adopt and enforce rules to protect and preserve underground water quality.

SUBCHAPTER H: LOW EMISSION FUELS

DIVISION 1: GASOLINE VOLATILITY

§§114.301, 114.304 - 114.307, 114.309

§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.

(c) No producer shall the increase the use of methyl-tertiary-butyl-ether in gasoline on an average per gallon basis during the period of May 1 through October 1 of any calendar year over that used in the period May 1 through October 1, 1998 to conform with subsection (a) of this section.

§114.304. Registration of Gasoline Producers and Importers.

Each producer and importer that, as of May 1, 2000, sells, offers for sale, supplies, or offers for supply from its production facility or import facility gasoline to counties listed in §114.309 of this title (relating to Affected Counties) shall register with the executive director, or his designated representative, by July 1, 2000. Beginning July 1, 2000, gasoline producers and importers that are not supplying gasoline to the affected counties as of May 1, 2000, shall register within 30 days after the first date that such person will produce or import gasoline intended to be sold, offered for sale, supplied, or offered for supply from its production or import facility to counties listed in §114.309 of this title. Registration shall be on forms prescribed by the executive director, or his designated representative, and shall include a statement of acceptance of the standards and enforcement provisions of this division; and shall include a statement of consent by the registrant that the executive director, or his designated representative, shall be permitted access to documentation and records. The executive director, or his designated representative, shall maintain a listing of all registered producers and importers.

§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.

Figure: 30 TAC §114.305(a) (No change.)

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

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.”

§114.306. Recordkeeping, Reporting, and Certification 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, 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) in the case of transferors or transferees who are producers or importers, the registration number of those persons as assigned by the commission under §114.304 of this title (relating to Registration of Gasoline Producers and Importers);

(5) the volume of gasoline being transferred;

(6) the location of the gasoline at the time of transfer; and

(7) 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.”

(c) Each producer and importer subject to the provisions of §114.301 of this title shall submit to the executive director, or his designated representative, by November 30 of each year, a report which includes a quantification of the total gallons of gasoline and the total gallons of MTBE contained in gasoline for which the transfer documents contain the statement in subsection (b)(7) of this section during the periods May 1 through October 1 of 1998 and May 1 through October 1 of the current calendar year. The certifying report shall attest that all information contained in the report is true and accurate and is based on knowledge of the certifying official. The report must also include either:

(1) a certification statement that the use of MTBE in gasoline for which the transfer documents contain the statement in subsection (b)(7) of this section during the period May 1 through October 1 of the current calendar year has not increased on an average per gallon basis over that in the period May 1 through October 1, 1998; or

(2) if the average per gallon use of MTBE during the period May 1 through October 1 of the current calendar year exceeds the average per gallon use of MTBE during the period May 1 through October 1, 1998, documentation and explanation of the basis for the increased use in a manner sufficient to demonstrate that the producer or importer did not increase the use of MTBE during the period covered by the certification to conform with §114.301(a) of this title.

§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, Reporting, and Certification 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) 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 and during the control period so long as it is not ultimately intended for use or used to power a gasoline engine in the affected counties during the control period.

§114.309. Affected Counties.

All affected persons in the following counties shall be in compliance with §§114.301 and 114.304-114.307 of this title (relating to Control Requirements for Reid Vapor Pressure; Registration of Gasoline Producers and Importers; Approved Test Methods; Recordkeeping, Reporting, and Certification 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 Jacinto, San Patricio, San Augustine, Shelby, Judge Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood.

SUBCHAPTER H: LOW EMISSION FUELS

DIVISION 1: GASOLINE VOLATILITY

§114.302, §114.308

STATUTORY AUTHORITY

The repeals are adopted under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, which provides the commission with the authority to adopt rules; and Texas Water Code (TWC), §5.103, which requires the commission to adopt rules any time it is repealing any agency statement of general applicability that describes its procedure or practice requirements.

§114.302. Control Requirements for Sulfur.

§114.308. Alternative Early Implementation.

