

# TCEQ Interoffice Memorandum

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**From:** Kristi Mills-Jurach, P.E., Director  
Office of Compliance and Enforcement

Richard Chism, Director  
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**Date:** April 1, 2026

**Subject:** Enforcement Discretion Addressing Temporary Waiver of Low Reid Vapor  
Pressure (RVP) Fuel Requirements to Concur with and Support the  
National Fuel Waiver to Create a Single National Gasoline Pool.

## Introduction:

On March 25, 2026, the U.S. Environmental Protection Agency (EPA), in consultation with the U.S. Department of Energy and in accordance with the federal Clean Air Act, issued a waiver regarding the requirements in 40 Code of Federal Regulations (CFR) § 1090.215 to address “extreme and unusual fuel supply circumstances” and to allow the production and distribution of a single national gasoline pool with 9 to 15 percent ethanol content at a common RVP standard of 10 pounds per square inch (psi).<sup>1</sup> The federal 10-psi waiver is effective from May 1, 2026, to May 20, 2026, thereby expanding nationwide ethanol blending limits. Additionally, effective March 25, 2026, until April 14, 2026, EPA is waiving federal enforcement of state-level fuel controls under 40 CFR §1090.215.<sup>2</sup> Collectively, the actions in EPA’s March 25th letter are referred to as the “Federal Fuel Rule and Enforcement Waiver.” In the Federal Fuel Rule and Enforcement Waiver, EPA advised that it remains at the discretion of the states to waive, or maintain, their state level enforcement of state level fuel requirements given the specific circumstances each state faces.

Two State Implementation Plan programs in Texas regulate the RVP of gasoline: the Texas Regional Low RVP Gasoline Program and the El Paso Low RVP Program.<sup>3</sup>

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<sup>1</sup> See <https://www.epa.gov/gasoline-standards/fuel-waivers#2026>.

<sup>2</sup> *Id.*

<sup>3</sup> See <https://www.tceq.texas.gov/airquality/mobilesource/vetech/fuelprograms.html>.

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The Texas Regional Low RVP Gasoline Program rules in 30 Texas Administrative Code (TAC) Chapter 114, Subchapter H, Division 1 require that all gasoline sold from retail gasoline-dispensing facilities in 89 central and eastern Texas counties not exceed a maximum RVP of 7.8 psi from June 1 through October 1 of each year.<sup>4</sup> Gasoline suppliers may not supply gasoline exceeding the 7.8 psi RVP standard into these affected counties from May 1 through October 1 of each year.<sup>5</sup>

The following 89 counties are included in the Texas Regional Low RVP Gasoline Program: 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 Augustine, San Jacinto, San Patricio, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, and Wood Counties.<sup>6</sup>

The El Paso Low RVP Program rules in 30 TAC Chapter 115, Subchapter C, Division 5, require that all gasoline sold from retail gasoline-dispensing facilities in El Paso County not exceed a maximum RVP of 7.0 psi from June 1 through September 16 of each year.<sup>7</sup> Gasoline suppliers may not supply gasoline exceeding the 7.0 psi RVP standard into El Paso County from May 1 through September 16 of each year.<sup>8</sup>

In order to support the effectiveness of the Federal Fuel Rule and Enforcement Waiver, TCEQ will use the enforcement discretion authorized by the EPA to allow the distribution and sale of gasoline with an RVP of up to 9.0 psi, or 10.0 psi when blended with 9 to 15 percent ethanol, in the counties subject to the Texas Regional Low RVP Gasoline Program (Affected Counties) and the El Paso Low RVP Program (El Paso County).

## Scope:

This enforcement discretion applies when the Federal Fuel Rule and Enforcement Waiver (including any new waivers effectively extending (renewing) the waiver) remains effective. To provide the regulated community with sufficient time to return to normal operating procedures, TCEQ will continue exercising enforcement discretion for a period of 45 days following the expiration of the Federal Fuel Rule and Enforcement Waiver. No reporting or record keeping requirements are waived by this memorandum, nor is TCEQ prevented from requesting additional information or information at additional times, consistent with applicable law.

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<sup>4</sup> 30 TAC § 114.301

<sup>5</sup> *Id.*

<sup>6</sup> 30 TAC § 114.309.

<sup>7</sup> *See* 30 TAC § 115.252.

<sup>8</sup> *See id.*

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## Enforcement Discretion Applicability:

This following procedure is discretionary and only applies under the 2026 Federal Fuel Rule and Enforcement Waiver:

- (1) Texas Regional Low RVP Gasoline Program – Any person who sells, offers for sale, supplies, offers for supply, dispenses, transfers, allows the transfer, places, stores, or holds in any stationary tank, reservoir, or other container any gasoline with a RVP greater than 7.8 psi, on a per gallon basis, which may ultimately be used to power a gasoline engine in the Affected Counties subject to the Texas Regional Low RVP Gasoline Program between May 1 through October 1, 2026, may request and receive enforcement discretion. The request must be submitted to TCEQ’s Regional Office for the Regional Area where that person is located.
- (2) El Paso Low RVP Program – Any person who places, stores, holds in any stationary tank, reservoir, or other container, transfers, or allows the transfer of gasoline which may ultimately be used in a motor vehicle in the El Paso area with an RVP greater than 7.0 psi between May 1 through September 16, 2026, may request and receive enforcement discretion. The request must be submitted to TCEQ’s Regional Office for the Regional Area where that person is located.
- (3) Enforcement discretion will be provided for the handling of gasoline with an RVP of up to 9.0 psi, or 10.0 psi when blended with 9 to 15 percent ethanol, that does not meet the requirements in Texas Regional Low RVP Gasoline Program section 114.301<sup>9</sup> and/or the El Paso Low RVP Program section 115.252.<sup>10</sup>
- (4) All persons must otherwise continue complying with all applicable Texas and federal statutes, and TCEQ and EPA rules, including all reporting and record keeping requirements.

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<sup>9</sup> 30 TAC § 114.301.

<sup>10</sup> 30 TAC § 115.252.