

TDA Comments on the Notice of Receipt of a Clean Air Act Waiver Application to Increase the Allowable Ethanol Content of Gasoline to 15 Percent

The Texas Department of Agriculture (TDA) is designated as the lead state agency for the oversight of weights and measures and fuel quality. In accordance with this authority, the Texas Agriculture Code currently directs the department to regulate the labeling and sale of gasoline and diesel at retail fuel locations.

In regard to fuel content, state law requires TDA to ensure gasoline containing at least 10 percent ethanol by volume be labeled at the pump. For fuel with an ethanol content of 10 percent or more, the pump label must state the percentage of ethanol by volume to the nearest whole percent. The department is also responsible for regulating octane and water content, as well as the volumetric measuring accuracy of the fuel dispensing devices.

There are 271,000 gasoline-dispensing devices at approximately 13,500 retail fuel stations in Texas. To comply with state law regarding the regulation of fuel for ethanol content, TDA currently analyzes approximately 100 samples annually.

In the notice of receipt of the ethanol content waiver, published on April 21, 2009, EPA proposes three potential actions: deny the waiver, grant the waiver or approve a partial waiver.

If the waiver is denied, TDA will continue to operate under existing procedures. Should the waiver be granted fully or partially, with additional blends of ethanol available for sale at the pump, the agency would need to increase its regulatory functions for consumer protection purposes and to ensure blends above E-10 are correctly labeled to the nearest whole percent consistent with state law. This is not a significant regulatory concern today because the established standard of 10 percent ethanol is consistent with the state law threshold.

In total, TDA anticipates ethanol content analysis will need to be conducted on 3,300 additional samples to determine if the ethanol content is properly labeled. It is estimated that ethanol content analysis will cost \$300 per sample for a combined cost of \$999,000 annually.

The additional sample collections and related package preparations will require an increase in the expenditure of human resources by 3,300 hours, requiring an additional two full time employees. The cost in salary and benefits for the FTEs is estimated at \$90,243. Additionally, it is probable that more staff resources will be required for enforcement functions; however, the cost cannot be quantified at this time.

Initial inspector start up costs of \$68, 200 would be required in the first year of operation, and capital costs would average \$21,200 for years thereafter.

In conclusion, the estimated fiscal impact of performing regulatory functions should the E-10 blend standard be modified would be \$1,148,443 for the initial year of operation and \$1,101,443 for each subsequent year.