

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

**Docket No. 2021-1008-RUL**  
**Rule Project No. 2021-029-114-AI**

Earthea Nance, PhD, PE  
Regional Administrator  
U.S. Environmental Protection Agency - Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270

Dear Dr. Nance:

On March 30, 2022, the Texas Commission on Environmental Quality (Commission) adopted revisions to the State Implementation Plan (SIP).

The Commission adopted amendments to §§114.1, 114.50, and 114.82 in 30 Texas Administrative Code Chapter 114, Control of Air Pollution from Motor Vehicles; and corresponding revisions to the SIP. The adopted rulemaking will implement applicable sections of Senate Bill 604, 86th Legislature, 2019, relating to the display of a vehicle's registration insignia on a digital license plate in lieu of attaching the registration insignia to the inside of the vehicle's windshield.

Enclosed are the proposed revisions to the SIP, a public hearing certification, a complete record of the public hearing, and the accompanying order. I look forward to your expeditious approval of these SIP revisions.

Sincerely,

A handwritten signature in blue ink that reads "Jon Niermann".

Jon Niermann  
Chairman

JN/GR

Enclosures

cc: The Honorable Greg Abbott, Governor of Texas  
Ms. Catarina Gonzales, Office of Budget and Policy, Office of the Governor  
Mr. Toby Baker, Executive Director, Texas Commission on Environmental Quality

# Texas Commission on Environmental Quality



**Docket No. 2021-1008-RUL**  
**Project No. 2021-029-114-AI**

THE STATE OF TEXAS

COUNTY OF TRAVIS

This is to certify that the attached electronic file is included and that the electronic file is a true and correct copy of documents for a revision to the Texas State Implementation Plan, adopted on March 30, 2022, pursuant to 40 Code of Federal Regulations § 51.104. I am the records administrator for the Air Quality Division of the Texas Commission on Environmental Quality (Commission).

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Donna F. Huff  
Deputy Director, Air Quality Division  
Texas Commission on Environmental Quality

Texas Commission on Environmental Quality

Public Hearing on January 4, 2022

30 TAC Chapter 114

SB 604: Chapter 114 I/M Updates

Rule Project No. 2021-029-114-AI

## INTRODUCTION

The Texas Commission on Environmental Quality (commission) held a public hearing in Austin, Texas, on January 4, 2022, to receive testimony regarding proposed revisions to §§114.1, 114.50, 114.82, 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, and corresponding revisions to the state implementation plan.

The following rules are to be submitted to the United States Environmental Protection Agency as revisions to the SIP: §§114.1, 114.50, 114.82

The adopted rulemaking implements applicable sections of Senate Bill 604, 86th Legislature, 2019, relating to the display of a vehicle's registration insignia on a digital license plate in lieu of attaching the registration insignia to the inside of the vehicle's windshield.

The comment period closed on January 5, 2022. All testimony and comments have been reviewed and seriously considered. This hearing record contains a complete record of the public hearing and is divided into the following four sections:

- Public Notification and Proposal
- Written and Oral Testimony
- Evaluation of Testimony
- Staff Recommendations (includes the Order and *Texas Register* publication)

Additional copies of this hearing record are maintained in the commission's central office at 12100 Park 35 Circle, Austin, Texas, 78753. For further information, please contact Nicholas Landuyt, Office of Legal Services, Environmental Law Division, at (512) 239-4905.

# ***NOTICE & PROPOSAL***

## PUBLIC NOTIFICATION

Notification to the public of the proposed revisions was conducted by the following procedures:

1. Publication of the notice of the public hearing in the following newspaper on the date listed:

- *Austin American Statesman*: November 19, 2022
- *Dallas Morning News*: November 19, 2022
- *El Paso Times*: November 19, 2022
- *Houston Chronicle*: November 19, 2022

2. Publication in the *Texas Register* of the proposed rulemaking (46 TexReg 8204) and public hearing notice (46 TexReg 8269) on December 3, 2021.

3. Correspondence forwarding the notice of public hearings to the following officials and agencies:

Speaker of the House

Lieutenant Governor

Alamo Area Council of Governments

Arkansas Department of Pollution Control & Ecology

Capital Area Planning Council

City of Dallas Department of Aviation

City of El Paso

City of Fort Worth

City of Houston

City of Victoria Planning Department

El Paso Metropolitan Planning Organization

East Texas Council of Governments

Federal Highway Administration

Galveston County Health District

Harris County Public Health and Environmental Services

Houston-Galveston Area Council

Louisiana Department of Environmental Quality

New Mexico Environmental Department

North Central Texas Council of Governments

Office of Environmental Quality

Oklahoma Department of Environmental Quality

Southeast Texas Regional Planning Commission

Texas Department of Transportation

United States Environmental Protection Agency

Austin American Statesman:


Newspaper Classified Ad

November 19, 2022

TCEQ OFF OF LEGAL SERVICES  
PO BOX 13087  
AUSTIN, TX 78711-3087

Invoice/Order Number:	0000668479
Ad Cost:	\$605.36
Paid:	\$605.36
Balance Due:	\$0.00

**Texas Commission on Environmental Quality**



**NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS TO 30 TAC CHAPTER 114 AND TO THE STATE IMPLEMENTATION PLAN**

The commission will hold a virtual public hearing on this proposal on **January 4, 2022, at 10:00 A.M. Central Standard Time** that will be conducted remotely using an internet meeting service. The hearing is offered to receive testimony regarding the proposed revision to Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, 55114.1, 114.50, and 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, 3382.017; Texas Government Code, Chapter 2001, Subchapter B; and Title 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs. For information about this rule project and how to register, please visit the Rule Proposals webpage at <https://www.tceq.texas.gov/rules/prop.html>. Individuals without internet access or with special communication or other accommodation needs who plan to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Accommodation requests should be made as far in advance as possible.

11/19/21  
0000668479-01



**Austin American-Statesman**  
statesman.com

**PROOF OF  
PUBLICATION  
STATE OF TEXAS**

**PUBLIC NOTICE**

Before the undersigned authority personally appeared James Mickler, who on oath says that he/she is a Legal Advertising Agent of the Austin American-Statesman, a daily published newspaper that is generally circulated in Bastrop, Bell, Blanco, Burnet, Caldwell, Comal, Coryell, Fayette, Gillespie, Guadalupe, Hays, Kerr, Lampasas, Lee, Llano, Milam, Travis, and Williamson Counties, and State of Texas, and that the attached advertisement was published in said newspaper, to wit: TCEQ OFF OF LEGAL SERVICES, first published in issue dated 11/19/2021, last published in issue dated 11/19/2021, published 1 time(s), and that the attached is a true copy of said advertisement.

TCEQ OFF OF LEGAL SERVICES  
PO BOX 13087  
AUSTIN, TX 78711-3087

Invoice/Order Number:	0000668479
Ad Cost:	\$605.36
Paid:	\$605.36
Balance Due:	\$0.00

*James Mickler*

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*Dallas Morning News*

Newspaper Classified Ad

November 19, 2021

Affidavit of Publication

State of Texas:

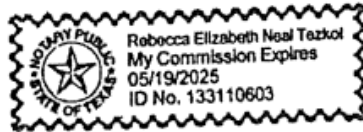
County of Dallas

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared the Newspaper Representative at the The Dallas Morning News a daily newspaper published in the City of Dallas and in Dallas County, Texas, and generally circulated in the Counties of: Dallas, Tarrant, Collin, Denton, Ellis, Kaufman, Rockwall, Parker, Hunt, Hood and that publication, of which the annexed herein, or attached to, is a true and correct copy of said advertisement, was published to-wit: Texas Commission on Environmental Quality, Office of Legal Services; Legal Notice Publication on November 19, 2021; and cost in the amount of \$1,062.00

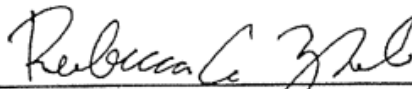
Max Tezkol



Signature of Newspaper Representative



Sworn and subscribed to before me, this 19 Day of November, 2021



Signature of Notary Public in and for the State of Texas

**NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS TO 30 TAC****NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS  
TO 30 TAC CHAPTER 114 AND TO THE STATE IMPLEMENTATION PLAN**

The commission will hold a virtual public hearing on this proposal on **January 4, 2022, at 10:00 A.M.** Central Standard Time that will be conducted remotely using an internet meeting service. The hearing is offered to receive testimony regarding the proposed revision to Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles; §§114.1, 114.50, and 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter B; and Title 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs. For information about this rule project and how to register, please visit the Rule Proposals webpage at <https://www.tceq.texas.gov/rules/prop.html>. Individuals without internet access or with special communication or other accommodation needs who plan to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Accommodation requests should be made as far in advance as possible.

Appeared in: *The Dallas Morning News* on Friday, 11/19/2021

[Home](#)

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El Paso Times

Newspaper Classified Ad

November 19, 2021

# El Paso Times

PART OF THE USA TODAY NETWORK

### Affidavit of Publication

Ad # 0004982558

This is not an invoice

TCEQ - AIR GRANTS  
PO BOX 13087

AUSTIN, TX 78711-3087

#### NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS TO 30 TAC CHAPTER 114 AND TO THE STATE IMPLEMENTATION PLAN

The commission will hold a virtual public hearing on this proposal on January 4, 2022, at 10:00 A.M. Central Standard Time that will be conducted remotely using an internet meeting service. The hearing is offered to receive testimony regarding the proposed revision to Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, §§114.1, 114.50, and 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter 8; and Title 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs. For information about this rule project and how to register, please visit the Rule Proposals webpage at <https://www.tceq.texas.gov/rules/prop.html>. Individuals without internet access or with special communication or other accommodation needs who plan to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Accommodation requests should be made as far in advance as possible.  
#4982558, El Paso Times, November 19, 2021

I, being duly sworn say: El Paso Times, a daily newspaper of general circulation published in the City and County El Paso, State of Texas, which is a newspaper of general circulation and which has been continuously and regularly published for the period of not less than one year in the said County of El Paso, and that he/she was upon the dates herein mentioned in the EL PASO TIMES.

That the LEGAL copy was published in the EL PASO TIMES for the date(s) of such follows DAY(s) to wit

11/19/2021

Linda Futt  
Legal Clerk

Subscribed and sworn before me this November 19, 2021.

Vicky Felty  
State of WI, County of Brown  
NOTARY PUBLIC  
9/19/25  
My commission expires

Ad # 0004982558  
PO #: 1/4/22 Pub Hearing  
# of Affidavits 1

This is not an invoice

VICKY FELTY  
Notary Public  
State of Wisconsin

Houston Chronicle

Newspaper Classified Ad

November 19, 2021



AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared, the Newspaper Representative at the HOUSTON CHRONICLE, a daily newspaper published in Harris County, Texas, and generally circulated in the Counties of: HARRIS, TRINITY, WALKER, GRIMES, POLK, SAN JACINTO, WASHINGTON, MONTGOMERY, LIBERTY, AUSTIN, WALLER, CHAMBERS, COLORADO, BRAZORIA, FORT BEND, GALVESTON, WHARTON, JACKSON, and MATAGORDA and that the publication, of which the annexed herein, or attached to, is a true and correct copy, was published to-wit:

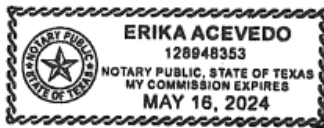
TCEQ OFFICE OF LEGAL SERVICE      0034160047  
RAN A LEGAL NOTICE  
SIZE BEING: 3 x21 L

Product	Date	Class	Page
HOU Chronicle	Nov 19 2021	Legal Notices	B 5
HOU Chronicle	Nov 19 2021	Legal Notices	B 5

*Victoria Bond A/R Clerk*

NEWSPAPER REPRESENTATIVE

Sworn and subscribed to before me, this 19th Day of November A.D. 2021



*Erika Acevedo*  
Notary Public in and for the State of Texas

**NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS  
TO 30 TAC CHAPTER 114 AND TO THE STATE IMPLEMENTATION PLAN**

The commission will hold a virtual public hearing on this proposal on **January 4, 2022, at 10:00 A.M.** Central Standard Time that will be conducted remotely using an internet meeting service. The hearing is offered to receive testimony regarding the proposed revision to Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, §§114.1, 114.50, and 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter B; and Title 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs. For information about this rule project and how to register, please visit the Rule Proposals webpage at <https://www.tceq.texas.gov/rules/prop.html>. Individuals without internet access or with special communication or other accommodation needs who plan to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Accommodation requests should be made as far in advance as possible.

bris were disposed of at the facility in unauthorized areas; and 30 TAC §§330.133(b), 330.141(a), and 330.543(a), by failing to immediately remove and properly dispose of MSW deposited in unauthorized areas of the landfill including waste located outside the permitted boundary, buffer zones, and rights-of-way; PENALTY: \$11,025; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(3) COMPANY: City of Scottsville; DOCKET NUMBER: 2019-0935-WQ-E; TCEQ ID NUMBER: RN110729662; LOCATION: 7651 East Highway 80, Marshall, Harrison County; TYPE OF FACILITY: Sugar Creek Lift Station Sanitary Sewer Overflow; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state - specifically, a sanitary sewer overflow occurred at the Sugar Creek Lift Station's wet well, discharging wastewater to the area surrounding the lift station and into an unnamed tributary of Eight Mile Creek; PENALTY: \$7,875; STAFF ATTORNEY: Ben Warms, Litigation, MC 175, (512) 239-5144; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202104655  
Charmaine Backens  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: November 19, 2021

◆ ◆ ◆  
**Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 7**

The Texas Commission on Environmental Quality (TCEQ and commission) will conduct a public hearing to receive testimony regarding proposed revision to 30 Texas Administrative Code Chapter 7, Memoranda of Understanding, §7.103, under the requirements of Texas Government Code, Chapter 2001, Subchapter B.

This rulemaking is in response to Senate Bill 703, 87th Texas Legislature, which would amend the Memorandum of Understanding between the TCEQ, the Texas Parks and Wildlife Department, and the Texas Department of Agriculture regarding interagency coordination on regulating the aquaculture industry.

**Virtual Public Hearing**

The commission will hold a virtual public hearing on this proposal on January 4, 2022, at 2:00 p.m. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the virtual hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

**Registration**

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must register by January 3, 2022. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on January 3, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ZjQ-1MjYxMGUzMzFjMi00NTBkLTlTYzQtNWQ5ZDRiYjY0Yjc2%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atru%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjQ-1MjYxMGUzMzFjMi00NTBkLTlTYzQtNWQ5ZDRiYjY0Yjc2%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atru%7d&btype=a&role=a)

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

**Written Comments**

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the *eComments* system. All comments should reference Rule Project Number 2021-021-007-OW. The comment period closes January 5, 2022. Please choose one of the methods provided to submit your *written* comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Laurie Fleet, Water Quality Division, (512) 239-5445.

TRD-202104669  
Guy Henry  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: November 19, 2021

◆ ◆ ◆  
**Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 114 and to the State Implementation Plan**

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revision to 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, §§114.1, 114.50, 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter B; and 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs.

The proposed rulemaking would implement revisions required by Senate Bill 604, 86th Texas Legislature, Title 30 TAC Chapter 114 to comply with Texas Transportation Code, Chapter 504. This rule project, if adopted, will be submitted to the EPA to revise the SIP.

**Virtual Public Hearing**

The commission will hold a virtual public hearing on this proposal on January 4, 2022, at 10:00 a.m. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the virtual hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

## Registration

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must register by January 3, 2022. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on January 3, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MmM-0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWJjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmM-0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWJjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a)

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

## Written Comments

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the *eComments* system. All comments should reference Rule Project Number 2021-029-114-AI. The comment period closes January 5, 2022. Please choose one of the methods provided to submit your *written* comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Nicholas Landuyt, Air Quality Division, (512) 239-4905.

TRD-202104667

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 19, 2021

## Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 336

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revision to 30 Texas Administrative Code Chapter 336, Radioactive Substance Rules, §336.357, under the requirements of Texas Government Code, Chapter 2001, Subchapter B.

The proposed rulemaking would implement United States Nuclear Regulatory Commission (NRC) compatibility requirements regarding physical protection of Category 1 and Category 2 quantities of radioactive materials.

## Virtual Public Hearing

The commission will hold a virtual public hearing on this proposal on January 6, 2022, at 10:00 a.m. The hearing is structured for the receipt

of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the virtual hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

## Registration

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must register by January 5, 2022. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on January 5, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MmM-0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWJjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmM-0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWJjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a)

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

## Written Comments

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the *eComments* system. All comments should reference Rule Project Number 2021-026-336-WS. The comment period closes January 10, 2022. Please choose one of the methods provided to submit your *written* comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Hans Weger, Radioactive Materials Division, (512) 239-6465.

TRD-202104665

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 19, 2021

## Texas Ethics Commission

### List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Scarlett Scalzo at (512) 463-5800.

**Deadline: Semiannual Report due July 15, 2021 for Political Committees**



(6) The TCEQ and TPWD will continue to develop and provide to applicants, permit conditions and, as appropriate, guidance related to disease, quarantine conditions, and emergency plans.

~~[(e) Application Review Committee.]~~

~~[(1) Purpose.]~~

~~[(A) The application review committee (ARC) will review wastewater discharge authorization applications to ensure that the proposed discharges will not adversely affect a bay, an estuary, or other water in the state.]~~

~~[(B) The commission, TPWD, and TDA recognize the importance of integrating and coordinating among themselves to ensure that this ultimate goal, stated in subparagraph (A) of this paragraph, is achieved.]~~

~~[(C) In order to accomplish this, the ARC will function as a forum for discussion, answering questions and resolving differences; in an attempt to come to consensus regarding the controls needed to meet the ultimate goal.]~~

~~[(D) The ARC shall primarily be used as a means for settling unresolved disputes concerning aquaculture between the agencies.]~~

~~[(2) Membership.]~~

~~[(A) Each agency, the commission, TPWD, and TDA, will appoint one member to the ARC.]~~

~~[(B) Each agency shall appoint an alternate member of the committee.]~~

~~[(C) If a member or alternate is unable to attend a meeting, then that member or alternate will temporarily delegate his or her decision-making authority to other staff of that agency for that meeting only.]~~

~~[(D) At meetings of the ARC, technical specialists representing the agencies may participate in or contribute to the committee's discussions and other activities.]~~

~~[(E) Within two weeks of the adoption of this MOU, each agency will inform the other two agencies of the member and alternates.]~~

~~[(F) An agency may change its member or alternate by providing notice to each of the other members and alternates.]~~

~~[(3) Applicability. The ARC may consider any wastewater discharge application when disputes can not be resolved at the staff level.]~~

~~[(4) Functioning of the ARC.]~~

~~[(A) Meetings.]~~

~~[(i) Meetings will be on an as needed basis.]~~

~~[(ii) Any member of the ARC may request a meeting of the committee to consider one or more discharge applications.]~~

~~[(iii) Any meeting of the ARC to consider a specific discharge permit application should, whenever possible, be requested prior to the public notice of the application and preliminary decision.]~~

~~[(iv) It is the responsibility of the member requesting the meeting to notify all the members and alternates, and to establish a mutually agreeable meeting time and location.]~~

~~[(v) The meeting shall take place within seven calendar days of the request.]~~

~~[(vi) It is the responsibility of the agency requesting the meeting to take minutes of the meeting, to provide the minutes for review and comment by the other parties, and to provide a final version of the minutes which reflects any comments received.]~~

~~[(B) Decision making. The ARC will strive for unanimous consent on all decisions. In the event that unanimous agreement cannot be reached among members of the committee, the matter under consideration may be referred to officials of the agencies for resolution in an expeditious manner. The agencies agree that, while recognizing the areas of expertise and authority of the members, decision-making deliberations will focus on the agencies' mutual purpose of ensuring that the proposed discharge will not adversely affect a bay, an estuary, or other water in the state.]~~

~~[(C) Confidentiality. The ARC supports an open government policy and it is understood and agreed that information subject to public disclosure under the Texas Public Information Act shall be released upon written request.]~~

~~(f) General conditions.~~

~~(1) The term of this MOU shall be from the effective date until amendment or termination of this agreement. Any amendment to the MOU shall be made by mutual agreement of the parties [and shall be adopted by rule by all parties].~~

~~(2) Each party shall adopt the MOU by rule, including subsequent amendments. [All amendments shall also be adopted by rule.] This MOU, and any subsequent amendment, shall become effective on the effective date of the rule [20 days after the date on which the rule is filed in the Office of the Secretary of State].~~

~~[(3) By signing this MOU, the signatories acknowledge that they are acting upon proper authority from their governing bodies.]~~

~~(3) [(4)] Reservation of rights. Each agency has and reserves the right to take whatever actions necessary to pursue or preserve any legal remedies available to that agency, and nothing in this MOU is intended to waive or foreclose any such right.~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

TRD-202104668  
Guy Henry  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Earliest possible date of adoption: January 2, 2022  
For further information, please call: (512) 239-2809



## CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§114.1, 114.50, and 114.82.

If adopted, amended §§114.1, 114.50, and 114.82 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) in a future SIP revision.

## Background and Summary of the Factual Basis for the Proposed Rules

Senate Bill (SB) 604, 86th Texas Legislature, 2019, added digital license plates to Chapter 504 of the Texas Transportation Code (TTC). This proposed rulemaking would update TCEQ rules to be consistent with the TTC, relating to the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

The inspection and maintenance (I/M) rules require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). Currently, motorists are required to demonstrate compliance with the I/M program by displaying a current valid vehicle registration insignia sticker affixed to the vehicle's windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS. The I/M rules also require denying renewal of registration until a vehicle complies with I/M program requirements.

### Demonstrating Noninterference under Federal Clean Air Act, §110(l)

The proposed amendments to Chapter 114 would allow a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Because the emissions inspection is still required within 90 days of the registration expiration, these amendments are not intended or expected to impact the compliance rate and the effectiveness of the I/M program. The proposed rulemaking would not negatively impact the state's progress towards attainment of the 2008 and 2015 eight-hour ozone National Ambient Air Quality Standards.

### Section by Section Discussion

The following proposed amendments would ensure compliance with Chapter 504 of the TTC and that proof of compliance with I/M requirements are consistent between the TCEQ, the Texas Department of Motor Vehicles (DMV), and the DPS.

The commission proposes non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble.

#### §114.1, Definitions

The current definition for vehicle registration insignia sticker includes language that it be affixed on the windshield of a vehicle. The proposed revisions remove the restrictive language and add language to allow for alternative forms of proof of compliance with I/M requirements provided for by the DPS or the DMV.

#### §114.50, Vehicle Emissions Inspection Requirements

The proposed revisions to §114.50(b)(1)(B) remove language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the proposed revisions add language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

#### §114.82, Control Requirements

The proposed revisions to §114.82(a)(2) remove language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the proposed revisions add language to allow

for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

### Fiscal Note: Costs to State and Local Government

Jené Bears, Acting Deputy Director of the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

### Public Benefits and Costs

Ms. Bears determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated would be continued compliance with the Texas Transportation Code. The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

### Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

### Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

### Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

### Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create, expand, repeal, or limit an existing regulation, nor does the proposed rulemaking increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules would not impact positively or negatively the state's economy.

### Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rules do

not meet the definition of a "Major environmental rule." TGC, §2001.0225(g)(3), states that a "Major environmental rule" is "a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state." The proposed rulemaking does not constitute a major environmental rule under TGC, §2001.0225(g)(3), because: (1) the specific intent of the proposed rulemaking is not to protect the environment or reduce risks to human health from environmental exposure, but rather to modify administrative aspects of an existing program by implementing SB 604, which allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield; and (2) as discussed in the Fiscal Note, Public Benefits And Costs, Small Business Regulatory Flexibility Analysis, and the Local Employment Impact Statement sections of this preamble, the proposed rulemaking would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs, nor would the proposed rules adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state because the amendments are merely administrative changes to the existing program.

Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule.

TGC, §2001.0225, applies only to a major environmental rule which: (1) exceeds a standard set by federal law, unless the rule is specifically required by state law; (2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; (3) exceeds 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) adopts a rule solely under the general powers of the agency instead of under a specific state law.

The specific intent of the proposed rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. The proposed rulemaking: (1) does not exceed a standard set by federal law; (2) does not exceed an express requirement of state law; (3) is not proposed solely under the general powers of the agency; and (4) does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. Because the proposed rulemaking is not a major environmental rule, it is not subject to a regulatory impact analysis under TGC, §2001.0225.

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Takings Impact Assessment

The commission evaluated the proposed rules and performed an analysis of whether the proposed rules constitute a taking under TGC, Chapter 2007. The commission's preliminary assessment indicates TGC, Chapter 2007, does not apply.

Under TGC, §2007.002(5), taking means: (A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the proposed rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia sticker. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Therefore, the proposed rulemaking does not have any impact on private real property.

Promulgation and enforcement of the proposed rules would be neither a statutory nor a constitutional taking of private real property. These rules would not be burdensome, restrictive, or limiting of rights to private real property because the proposed rules do not affect a landowner's rights in private real property. This rulemaking does not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these rules would not constitute a taking under TGC, Chapter 2007.

#### Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor would they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Announcement of Virtual Hearing

The commission will hold a virtual public hearing on this proposal on *January 4, 2022, at 10:00 a.m.* The virtual hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, staff will be available to discuss the proposal 30 minutes prior to the hearing and after the virtual hearing via the Teams Live Event Question & Answer chat function.

#### Registration

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must register by Monday, *January 3, 2022.* To register for the

hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on *January 3, 2022*, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_Mm-M0MTczNDAfY2MyNS00NDM2LWJiMjMtNGJlZWJfMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3a%22true%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_Mm-M0MTczNDAfY2MyNS00NDM2LWJiMjMtNGJlZWJfMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3a%22true%7d&btype=a&role=a)

Persons who have special communication or other accommodation needs who are planning to register to provide formal oral comments and/or attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

#### Submittal of Comments

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/> File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2021-029-114-AI. The comment period closes on January 5, 2022. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Nicholas Landuyt, Air Quality Planning Section, (512) 239-4905.

## SUBCHAPTER A. DEFINITIONS

### 30 TAC §114.1

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions

From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

#### §114.1. Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Dual-fuel vehicle--Any motor vehicle or motor vehicle engine engineered and designed to be operated on two different fuels, but not a mixture of the two.

(2) Emergency vehicle--A vehicle defined as an authorized emergency vehicle according to Texas Transportation Code, §541.201(1).

(3) Emissions--The emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, particulate, or any combination of these substances.

(4) First safety inspection certificate--Initial Texas Department of Public Safety (DPS) certificates issued through DPS-certified inspection stations for every new vehicle found to be in compliance with the rules and regulations governing safety inspections. Beginning on the single sticker transition date as defined in this section, the safety inspection certificates will no longer be used.

(5) First vehicle registration--Initial vehicle registration insignia sticker issued through the Texas Department of Motor Vehicles for every new vehicle found to be in compliance with the rules and regulations governing vehicle registration prior to the single sticker transition date as defined in this section and vehicle registration and safety inspections beginning on the single sticker transition date.

(6) Gross vehicle weight rating--The value specified by the manufacturer as the maximum design loaded weight of a vehicle. This is the weight as expressed on the vehicle's registration, and includes the weight the vehicle can carry or draw.

(7) Heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and is required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the heavy-duty class is divided into the following subclasses:

(A) Light heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 8,500 pounds, but less than or equal to 10,000 pounds.

(B) Medium heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 10,000 pounds, but less than or equal to 19,500 pounds.

(C) Heavy heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 19,500 pounds.

(8) Inherently low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(9) Law enforcement vehicle--Any vehicle controlled by a local government and primarily operated by a civilian or military police officer or sheriff, or by state highway patrols, or other similar law enforcement agencies, and used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

(10) Light-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a gross vehicle weight rating (GVWR) less than or equal to 8,500 pounds and registered or required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the light-duty class is divided into the following subclasses:

(A) Light-duty vehicle--Any passenger vehicle capable of seating 12 or fewer passengers that has a GVWR less than or equal to 6,000 pounds.

(B) Light-duty truck 1--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR less than or equal to 6,000 pounds.

(C) Light-duty truck 2--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR greater than 6,000 pounds but less than or equal to 8,500 pounds.

(11) Loaded mode inspection and maintenance test--A measurement of the tailpipe exhaust emissions of a vehicle while the drive wheel rotates on a dynamometer, which simulates the full weight of the vehicle driving down a level roadway. Loaded test equipment specifications must meet United States Environmental Protection Agency requirements for acceleration simulation mode equipment.

(12) Low emission vehicle (LEV)--A vehicle in a class or category of vehicles that has been certified by the United States Environmental Protection Agency for any model year to meet:

(A) the LEV standards applicable under 42 United States Code, Part C, Subchapter II, §§7581 *et seq.*; [*et seq.*] or

(B) emission limits at least as stringent as the applicable LEV standards for the Federal Clean Fuel Fleet program under 40 Code of Federal Regulations §§88.104-94, 88.105-94, and 88.311-93, as published in the *Federal Register* on September 30, 1994 (59 FR 50042).

(13) Mass transit authority--A transportation or transit authority or department established under Chapter 141, 63rd Legislature (1973), as defined in Texas Transportation Code, Chapters 451 - 453 (relating to Metropolitan Rapid Transit Authorities, Regional Transportation Authorities, and Municipal Transit Departments) that operates a mass transit system under any of those laws.

(14) Reformulated gasoline--Gasoline that has been certified as a reformulated gasoline under the federal certification regulations adopted in accordance with 42 United States Code, §7545(k).

(15) Single sticker transition date--The transition date of the single sticker system is the later of March 1, 2015, or the date that the Texas Department of Motor Vehicles and the Texas Department of Public Safety concurrently implement the single sticker system required by Texas Transportation Code, §502.047.

(16) Texas Inspection and Maintenance State Implementation Plan--The portion of the Texas state implementation plan that includes the procedures and requirements of the vehicle emissions inspection and maintenance program as adopted by the commission May 29, 1996, in accordance with 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992; the United States Environmental Protection Agency flexibility amendments dated September 18, 1995; and the National Highway Systems Designation Act of 1995. A copy of the Texas Inspection and Maintenance State Implementation Plan is available at the Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, Texas, 78753; mailing address: P.O. Box 13087, MC 166, Austin, Texas 78711-3087.

(17) Tier I federal emission standards--The standards are defined in 42 United States Code, §7521, and in 40 Code of Federal Regulations Part 86. The phase-in of these standards began in model year 1994.

(18) Ultra low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(19) Vehicle registration--Vehicle characteristics, corresponding owner information, and registration expiration date contained in the Texas Department of Motor Vehicles registration system.

(20) Vehicle registration insignia sticker--The sticker issued through the Texas Department of Motor Vehicles (DMV) or county tax assessor-collector for [to be affixed on the windshield of] a vehicle compliant with the DMV regulations. Beginning on the single sticker transition date as defined in this section, the vehicle registration insignia sticker, a current valid VIR, or other form of proof authorized by the DPS or the DMV will be used as proof of compliance with inspection and maintenance program requirements, the DMV's rules and regulations governing vehicle registration, and the Texas Department of Public Safety's rules and regulations governing safety inspections.

(21) Zero emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

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Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2809

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SUBCHAPTER C. VEHICLE INSPECTION  
AND MAINTENANCE; LOW INCOME  
VEHICLE REPAIR ASSISTANCE, RETROFIT,  
AND ACCELERATED VEHICLE RETIREMENT

# PROGRAM; AND EARLY ACTION COMPACT COUNTIES

## DIVISION 1. VEHICLE INSPECTION AND MAINTENANCE

### 30 TAC §114.50

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

#### *§114.50. Vehicle Emissions Inspection Requirements.*

(a) *Applicability.* The requirements of this section and those contained in the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) must be applied to all gasoline-powered motor vehicles 2 - 24 years old and subject to an annual emissions inspection beginning with the first safety inspection. Military tactical vehicles, motorcycles, diesel-powered vehicles, dual-fueled vehicles that cannot operate using gasoline, and antique vehicles registered with the Texas Department of Motor Vehicles are excluded from the program. Safety inspection facilities and inspectors certified by the Texas Department of Public Safety (DPS) must inspect all subject vehicles in the following program areas as defined in §114.2 of this title (relating to Inspection and Maintenance Definitions), in accordance with the following schedule.

(1) This paragraph applies to all vehicles registered and primarily operated in the Dallas-Fort Worth (DFW) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties equipped with on-board diagnostic (OBD) systems must be tested using United States Environmental Protection Agency (EPA)-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties must be tested using an acceleration simulation mode (ASM-2) test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(2) This paragraph applies to all vehicles registered and primarily operated in the extended DFW (EDFW) program area.

(A) Beginning May 1, 2003, all 1996 and newer model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(3) This paragraph applies to all vehicles registered and primarily operated in the Houston-Galveston-Brazoria (HGB) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Harris County equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Harris County must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(D) Beginning May 1, 2003, all 1996 and newer model year vehicles equipped with OBD systems and registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using EPA-approved OBD test procedures.

(E) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using the ASM-2 test procedures or a vehicle emissions test approved by the EPA.

(4) This paragraph applies to all vehicles registered and primarily operated in the El Paso program area.

(A) All vehicles must be tested using a two-speed idle (TSI) test through December 31, 2006.

(B) Beginning January 1, 2007, all 1996 and newer model year vehicles equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(C) Beginning January 1, 2007, all pre-1996 model year vehicles must be tested using a TSI test.

(D) Beginning January 1, 2007, all vehicle emissions inspection stations in the El Paso program area must offer both the TSI test and OBD test.

(b) Control requirements.

(1) No person or entity may operate, or allow the operation of, a motor vehicle registered in the DFW, EDFW, HGB, and El Paso program areas that does not comply with:

(A) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(B) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS, as evidenced by a current valid vehicle registration insignia sticker [~~affixed to the vehicle windshield~~], a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(C) the vehicle emissions I/M requirements contained in this subchapter.

(2) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the federal government agency and located in a program area to comply with all vehicle emissions I/M requirements specified in Texas Health and Safety Code, Subchapter G, §§382.201 - 382.216 (concerning Vehicle Emissions), and this chapter. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 *et seq.*) [~~et seq.~~]. This requirement will not apply to visiting federal government agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(3) Any motorist in the DFW, EDFW, HGB, or El Paso program areas who has received a notice from an emissions inspection station that there are recall items unresolved on his or her motor vehicle should furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(4) A motorist whose vehicle has failed an emissions test may request a challenge retest through the DPS. If the retest is conducted within 15 days of the initial inspection, the retest is free.

(5) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or whose vehicle has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form (VRF) in order to receive a retest. In order to receive a waiver or time extension, the mo-

torist shall submit a VRF or applicable documentation as deemed necessary by the DPS.

(6) A motorist whose vehicle is registered in the DFW, EDFW, HGB, or El Paso program areas or in any county adjacent to a program area and whose vehicle has failed an on-road test administered by the DPS shall:

(A) submit the vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the DPS; and

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program specified in 37 TAC Chapter 23, Subchapter E (relating to Vehicle Emissions Inspection and [And] Maintenance Program).

(7) A subject vehicle registered in a county without an I/M program that meets the applicability criteria of subsection (a) of this section and the ownership of which has changed through a retail sale as defined by Texas Occupations Code, §2301.002, is not eligible for title receipt or registration in a county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report (VIR) or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this paragraph.

(8) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements for vehicles primarily operated in I/M program areas.

(c) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in 37 TAC Chapter 23, Subchapter E, which defers the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(d) Prohibitions.

(1) No person may issue or allow the issuance of a VIR, as authorized by the DPS unless all applicable air pollution emissions control-related requirements of the annual vehicle safety inspection and the vehicle emissions I/M requirements are completely and properly performed in accordance with the rules and regulations adopted by the DPS and the commission. Prior to taking any enforcement action regarding this provision, the commission must consult with the DPS.

(2) Before the single sticker transition date as defined in §114.1 of this title, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection certificates, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603 (concerning Fictitious or Counterfeit Inspection Certificate or Insurance Document). Beginning on the single sticker transition date, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen vehicle registration insignia stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603.

(3) No organization, business, person, or other entity may represent itself as an emissions inspector certified by the DPS unless such certification has been issued under the certification requirements

and procedures contained in Texas Transportation Code, §§548.401 - 548.404.

(4) No person may act as or offer to perform services as a Recognized Emissions Repair Technician of Texas, as designated by the DPS, without first obtaining and maintaining DPS recognition.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

TRD-202104690

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: January 2, 2022

For further information, please call: (512) 239-2809



### DIVISION 3. EARLY ACTION COMPACT COUNTIES

#### 30 TAC §114.82

##### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

##### §114.82. Control Requirements.

(a) No person or entity may operate, or allow the operation of, a motor vehicle registered in the affected early action compact (EAC) counties that does not comply with:

(1) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the Texas Department of Public Safety (DPS) as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(2) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced by a current valid vehicle registration insignia sticker [affixed to the vehicle windshield] or a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(3) the vehicle emissions inspection and maintenance (I/M) requirements contained in this subchapter.

(b) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the agency and located in an affected EAC county to comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq.). This requirement does not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(c) A motorist in an affected EAC county who has received a notice from an emissions inspection station that there are unresolved recall items on the motor vehicle shall furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(d) A motorist whose vehicle has failed an emissions test may request a challenge retest through DPS. If the retest is conducted within 15 days of the initial inspection, the cost of the retest is free.

(e) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a vehicle repair form or applicable documentation as considered necessary by the DPS.

(f) A motorist whose vehicle is registered in an affected EAC county, or in any county adjacent to an affected EAC county, and has failed an on-road test administered by the DPS shall:

(1) submit the vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the DPS; and

(2) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision.



(g) A vehicle registered in a county without an I/M program that meets the applicability criteria of §114.80(c) of this title (relating to Applicability), and the ownership of which has changed through a retail sale as defined by Texas Motor Vehicle Commission Code, Article 4413(36), §1.03 (moved to Texas Occupations Code, §2301.002, effective June 1, 2003), is not eligible for title receipt or registration in an affected EAC program county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this subsection.

(h) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision for vehicles primarily operated in I/M program areas.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

TRD-202104691

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: January 2, 2022

For further information, please call: (512) 239-2809

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CHAPTER 336. RADIOACTIVE SUBSTANCE  
RULES  
SUBCHAPTER D. STANDARDS FOR  
PROTECTION AGAINST RADIATION

**30 TAC §336.357**

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to §336.357.

Background and Summary of the Factual Basis for the Proposed Rule

The commission proposes changes to Chapter 336, Subchapter D, that would revise the commission's rules concerning physical protection of category 1 and category 2 quantities of radioactive materials to ensure compatibility with federal regulations promulgated by the Nuclear Regulatory Commission (NRC), which is necessary to preserve the status of Texas as an Agreement State under Title 10 Code of Federal Regulations (CFR) Part 150 and under the "Articles of Agreement between the United States Atomic Energy Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended." Rules which are designated by NRC as compatibility items must be adopted by an Agreement State within three years of the effective date of the NRC rules, in most cases.

Section Discussion

The commission proposes administrative changes throughout this rulemaking to be consistent with *Texas Register* requirements and agency rules and guidelines.

**§336.357, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**

The commission proposes to amend the requirements regarding physical protection of category 1 and category 2 quantities of radioactive materials in §336.357(j).

The commission proposes to amend §336.357(e)(3)(A) and §336.357(e)(3)(B) to update the contact information for the NRC to ensure compatibility with federal regulations promulgated by the NRC.

The commission proposes to amend §336.357(j)(4)(B), §336.357(j)(4)(C), §336.357(j)(4)(C)(i), §336.357(j)(4)(E), §336.357(j)(4)(F), §336.357(j)(4)(G), and §336.357(j)(4)(H)(ii) to add "list of individuals that have been approved for unescorted access" to the list of information for which access must be controlled. These rule amendments are proposed to ensure compatibility with federal regulations promulgated by the NRC.

The commission proposes to amend §336.357(u)(1)(A) to update the name for a specific NRC division to ensure compatibility with federal regulations promulgated by the NRC.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Ms. Bearse determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated would be compliance with federal regulations promulgated by the Nuclear Regulatory Commission. The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rule is in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rule is in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

## NOTICE OF PUBLIC HEARING ON PROPOSED REVISIONS TO 30 TAC CHAPTER 114 AND TO THE STATE IMPLEMENTATION PLAN

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revision to Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, §§114.1, 114.50, and 114.82, and corresponding revisions to the state implementation plan (SIP) under the requirements of the Texas Health and Safety Code, §382.017; Texas Government Code, Chapter 2001, Subchapter B; and Title 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) concerning SIPs.

The proposed rulemaking would implement revisions required by Senate Bill 604, 86th Texas Legislature, Title 30 TAC Chapter 114 to comply with Texas Transportation Code, Chapter 504. This rule project, if adopted, will be submitted to the EPA to revise the SIP.

### **Virtual Public Hearing**

The commission will hold a virtual public hearing on this proposal on **January 4, 2022, at 10:00 A.M.** The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the virtual hearing; however, commission staff will be available to discuss the proposal 30 minutes prior to the hearing.

### **Registration**

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must **register by January 3, 2022**. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on **January 3, 2022**, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MmM0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWVjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3a%22true%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmM0MTczNDAtY2MyNS00NDM2LWJiMjMtNGJlZWVjMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3a%22true%7d&btype=a&role=a)

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Written Comments**

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the *eComments* system. All comments should reference Rule Project Number 2021-029-114-AI. The comment period closes January 5, 2022. Please choose one of the methods provided to submit your *written* comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Nicholas Landuyt, Air Quality Division, (512) 239-4905.

# ***TESTIMONY***

*Index of Written Testimony*

No written testimony was received concerning the rulemaking proposal.

# ***ORAL TESTIMONY***

*Index of Oral Testimony*

No oral testimony was received concerning the rulemaking proposal.

## Registration for Virtual Rule Public Hearing

*Date:* 1/4/2022

*Time:* 10:00 a.m.

**Rule Project No.:** 2021-029-114-AI

**Short Title:** SB 604: Chapter 114 I/M Updates

**Location:** Virtual Rule Public Hearing via Teams Live Event

**Concerning:** This rulemaking would implement applicable sections of Senate Bill (SB) 604, 86th Legislature, 2019, relating to the display of a vehicle's registration insignia on a digital license plate in lieu of attaching the registration insignia to the inside of the vehicle's windshield.

Name and Phone No. or E-mail Address (Please Print)	Representing	Presenting Oral Testimony? (Circle One)
		<b>Yes    No</b>
		<b>Yes    No</b>
		<b>Yes    No</b>
		<b>Yes    No</b>



# Texas Commission on Environmental Quality



## HEARING OFFICER REPORT

**Docket No. 2021-1008-RUL**

I am the hearing officer assigned to conduct the public hearing regarding *Rule Project No. 2021-029-114-AI; SB 604: Chapter 114 I/M Updates*

The public hearing was scheduled for 10:00 a.m. via Microsoft Teams live event on January 4, 2022. Texas Commission on Environmental Quality (TCEQ) staff were present for the public hearing.

At 9:30 a.m. TCEQ staff were available to the public for an informal question and answer period. At 15 minutes after the start of the scheduled public hearing it was determined that there would be no participants joining the public hearing. Therefore, the public hearing was not formally opened for comment and a transcript was not prepared.

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Hearing Officer

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Date signed

# ***EVALUATION***

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** 3/11/2022

**Thru:** Laurie Gharis, Chief Clerk  
Toby Baker, Executive Director

**From:** Tonya Baer, Director  
Office of Air

**Docket No.:** 2021-1008-RUL

**Subject:** Commission Approval for Rulemaking Adoption  
Chapter 114, Control of Air Pollution from Motor Vehicles  
Rule Project No. 2021-029-114-AI

### **Background and reason(s) for the rulemaking:**

This adopted rulemaking will ensure that the Inspection and Maintenance (I/M) program rules are consistent with the different forms of proof of compliance allowed by the Texas Department of Public Safety (DPS) and the Texas Department of Motor Vehicles (DMV). This rulemaking is necessary to implement applicable sections of Senate Bill (SB) 604, 86th Texas Legislature, 2019. SB 604 amended the Texas Transportation Code (TTC), Chapter 504, License Plates, allowing the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

### **Scope of the rulemaking:**

#### **A.) Summary of what the rulemaking will do:**

This adopted rulemaking will amend Chapter 114 to remove language requiring that the vehicle registration insignia sticker be affixed to the vehicle windshield, and to add language to allow for different forms of compliance.

#### **B.) Scope required by federal regulations or state statutes:**

This adopted rulemaking is necessary to incorporate changes to TTC, Chapter 504, License Plates, as amended by SB 604, and to ensure that program requirements are consistent between the Texas Commission on Environmental Quality, DMV, and DPS. Corresponding revisions to the State Implementation Plan (SIP) will be completed in a future SIP revision.

#### **C.) Additional staff recommendations that are not required by federal rule or state statute:**

None.

### **Statutory authority:**

This rule revision is adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent

Re: Docket No. 2021-1008-RUL

with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties. The rule revisions implement amendments to TTC, §§504.151 - 504.157, which were amended by SB 604, 86th Legislature, 2019.

**Effect on the:**

**A.) Regulated community:**

None.

**B.) Public:**

None.

**C.) Agency programs:**

None.

**Stakeholder meetings:**

The commission did not hold any stakeholder meetings related to this rulemaking; however, a virtual rule public hearing was offered during the public comment period.

**Public comment:**

The comment period opened on December 3, 2021, and the commission offered a public hearing on January 4, 2022. The comment period closed on January 5, 2022. No public comments were received.

**Significant changes from proposal:**

None.

Commissioners

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3/11/2022

Re: Docket No. 2021-1008-RUL

**Potential controversial concerns and legislative interest:**

No controversial concerns or legislative interest is anticipated.

**Will this rulemaking affect any current policies or require development of new policies?**

None.

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?**

If this rulemaking does not go forward, the language in Chapter 114 would not align with the language in TTC, Chapter 504.

**Key points in the rulemaking adoption schedule:**

*Texas Register* proposal publication date: 12/03/2021

Anticipated *Texas Register* adoption publication date: 4/15/2022

Anticipated effective date: 4/21/2022

Six-month *Texas Register* filing deadline: 06/03/2022

**Agency contacts:**

Nicholas Landuyt, Rule Project Manager, Air Quality Division, (512) 239-4905

Sierra Redding, Staff Attorney, (512) 239-2496

Cecilia Mena, Texas Register Rule/Agenda Coordinator, (512) 239-6098

**Attachments:**

SB 604

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Jim Rizk  
Morgan Johnson  
Brody Burks  
Office of General Counsel  
Nicholas Landuyt  
Sierra Redding  
Cecilia Mena

## EVALUATION OF TESTIMONY

### CHAPTER 114: CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§114.1, 114.50, and 114.82.

Amendments to §§114.1, 114.50, and 114.82 are adopted without changes to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8204) and, therefore, will not be republished.

Amended §§114.1, 114.50, and 114.82 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) in a future SIP revision.

#### **Background and Summary of the Factual Basis for the Adopted Rules**

Senate Bill (SB) 604, 86th Texas Legislature, 2019, added digital license plates to Chapter 504 of the Texas Transportation Code (TTC). This adopted rulemaking will update TCEQ rules to be consistent with the TTC, relating to the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

The inspection and maintenance (I/M) rules require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). Currently, motorists are required to demonstrate compliance with the I/M program by displaying

a current valid vehicle registration insignia sticker affixed to the vehicle's windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS. The I/M rules also require denying renewal of registration until a vehicle complies with I/M program requirements.

### **Demonstrating Noninterference under Federal Clean Air Act, §110(l)**

The adopted amendments to Chapter 114 will allow a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Because the emissions inspection is still required within 90 days of the registration expiration, these amendments are not intended or expected to impact the compliance rate and the effectiveness of the I/M program. The adopted rulemaking will not negatively impact the state's progress towards attainment of the 2008 and 2015 eight-hour ozone National Ambient Air Quality Standards.

### **Section by Section Discussion**

The following adopted amendments will ensure compliance with Chapter 504 of the TTC and that proof of compliance with I/M requirements are consistent between the TCEQ, the Texas Department of Motor Vehicles (DMV), and the DPS.

The commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble.

### **§114.1, Definitions**

The definition for vehicle registration insignia sticker included language that it be affixed on the windshield of a vehicle. The adopted revisions removed the restrictive language and added language to allow for alternative forms of proof of compliance with I/M requirements provided for by the DPS or the DMV.

### **§114.50, Vehicle Emissions Inspection Requirements**

The adopted revisions to §114.50(b)(1)(B) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

### **§114.82, Control Requirements**

The adopted revisions to §114.82(a)(2) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

### **Final Regulatory Impact Determination**

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the adopted rules do not meet the definition of a "Major environmental rule." TGC, §2001.0225(g)(3), states that a "Major environmental rule" is "a rule the specific intent of which is to protect the environment or reduce risks to human health from



environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state." The adopted rulemaking does not constitute a major environmental rule under TGC, §2001.0225(g)(3), because: (1) the specific intent of the adopted rulemaking is not to protect the environment or reduce risks to human health from environmental exposure, but rather to modify administrative aspects of an existing program by implementing SB 604, which allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield; and (2) as discussed in the Fiscal Note, Public Benefits and Costs, Small Business Regulatory Flexibility Analysis, and the Local Employment Impact Statement sections of this preamble, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs, nor will the adopted rules adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state because the amendments are merely administrative changes to the existing program.

Additionally, the adopted rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule. TGC, §2001.0225, applies only to a major environmental rule which: (1) exceeds a standard set by federal law, unless the rule is specifically required by state law; (2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; (3) exceeds 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) adopts a rule solely under the general powers of the agency instead of under a specific state law.

The specific intent of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. The adopted rulemaking: (1) does not exceed a standard set by federal law; (2) does not exceed an express requirement of state law; (3) is not adopted solely under the general powers of the agency; and (4) does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. Because the adopted rulemaking is not a major environmental rule, it is not subject to a regulatory impact analysis under TGC, §2001.0225.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the regulatory impact analysis determination.

### **Takings Impact Assessment**

The commission evaluated the adopted rulemaking and performed an analysis of whether the adopted rules constitute a taking under TGC, Chapter 2007. The commission's preliminary assessment indicates TGC, Chapter 2007, does not apply.

Under TGC, §2007.002(5), taking means: (A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that

requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia sticker. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Therefore, the adopted rulemaking does not have any impact on private real property.

Promulgation and enforcement of the adopted rulemaking will be neither a statutory nor a constitutional taking of private real property. These rules will not be burdensome, restrictive, or limiting of rights to private real property because the adopted rules do not affect a landowner's rights in private real property. This rulemaking does not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these rules will not

constitute a taking under TGC, Chapter 2007.

### **Consistency with the Coastal Management Program**

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the CMP.

### **Public Comment**

The comment period opened on December 3, 2021, and the commission offered a public hearing on January 4, 2022. The comment period closed on January 5, 2022. The commission received no comments.

# ***RECOMMENDATION***

## SUBCHAPTER A: DEFINITIONS

### §114.1

#### **Statutory Authority**

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of

motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to adopt an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

#### **§114.1. Definitions.**

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Dual-fuel vehicle--Any motor vehicle or motor vehicle engine engineered and designed to be operated on two different fuels, but not a mixture of the two.

(2) Emergency vehicle--A vehicle defined as an authorized emergency vehicle according to Texas Transportation Code, §541.201(1).

(3) Emissions--The emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, particulate, or any combination of these substances.

(4) First safety inspection certificate--Initial Texas Department of Public Safety (DPS) certificates issued through DPS-certified inspection stations for every new vehicle found to be in compliance with the rules and regulations governing safety inspections. Beginning on the single sticker transition date as defined in this section, the safety inspection certificates will no longer be used.

(5) First vehicle registration--Initial vehicle registration insignia sticker issued through the Texas Department of Motor Vehicles for every new vehicle found to be in compliance with the rules and regulations governing vehicle registration prior to the single sticker transition date as defined in this section and vehicle registration and safety inspections beginning on the single sticker transition date.

(6) Gross vehicle weight rating--The value specified by the manufacturer as the maximum design loaded weight of a vehicle. This is the weight as expressed on the vehicle's registration, and includes the weight the vehicle can carry or draw.

(7) Heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and is required to be registered under Texas



Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the heavy-duty class is divided into the following subclasses:

(A) Light heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 8,500 pounds, but less than or equal to 10,000 pounds.

(B) Medium heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 10,000 pounds, but less than or equal to 19,500 pounds.

(C) Heavy heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 19,500 pounds.

(8) Inherently low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(9) Law enforcement vehicle--Any vehicle controlled by a local government and primarily operated by a civilian or military police officer or sheriff, or by state highway patrols, or other similar law enforcement agencies, and used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

(10) Light-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a gross vehicle weight rating (GVWR) less than or equal to 8,500 pounds and registered or required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the light-duty class is divided into the following subclasses:

(A) Light-duty vehicle--Any passenger vehicle capable of seating 12 or fewer passengers that has a GVWR less than or equal to 6,000 pounds.

(B) Light-duty truck 1--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR less than or equal to 6,000 pounds.

(C) Light-duty truck 2--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR greater than 6,000 pounds but less than or equal to 8,500 pounds.

(11) Loaded mode inspection and maintenance test--A measurement of the tailpipe exhaust emissions of a vehicle while the drive wheel rotates on a dynamometer, which simulates the full weight of the vehicle driving down a level roadway. Loaded test equipment specifications must meet United States

Environmental Protection Agency requirements for acceleration simulation mode equipment.

(12) Low emission vehicle (LEV)--A vehicle in a class or category of vehicles that has been certified by the United States Environmental Protection Agency for any model year to meet:

(A) the LEV standards applicable under 42 United States Code, Part C, Subchapter II, §§7581 et seq.; or

(B) emission limits at least as stringent as the applicable LEV standards for the Federal Clean Fuel Fleet program under 40 Code of Federal Regulations §§88.104-94, 88.105-94, and 88.311-93, as published in the *Federal Register* on September 30, 1994 (59 FR 50042).

(13) Mass transit authority--A transportation or transit authority or department established under Chapter 141, 63rd Legislature (1973), as defined in Texas Transportation Code, Chapters 451 - 453 (relating to Metropolitan Rapid Transit Authorities, Regional Transportation Authorities, and Municipal Transit Departments) that operates a mass transit system under any of those laws.

(14) Reformulated gasoline--Gasoline that has been certified as a reformulated gasoline under the federal certification regulations adopted in accordance with 42 United States Code, §7545(k).

(15) Single sticker transition date--The transition date of the single sticker system is the later of March 1, 2015, or the date that the Texas Department of Motor Vehicles and the Texas Department of Public Safety concurrently implement the single sticker system required by Texas Transportation Code, §502.047.

(16) Texas Inspection and Maintenance State Implementation Plan--The portion of the Texas state implementation plan that includes the procedures and requirements of the vehicle emissions inspection and maintenance program as adopted by the commission May 29, 1996, in accordance with 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992; the United States Environmental Protection Agency flexibility amendments dated September 18, 1995; and the National Highway Systems Designation Act of 1995. A copy of the Texas Inspection and Maintenance State Implementation Plan is available at the Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, Texas, 78753; mailing address: P.O. Box 13087, MC 166, Austin, Texas 78711-3087.

(17) Tier I federal emission standards--The standards are defined in 42 United States Code, §7521, and in 40 Code of Federal Regulations Part 86. The phase-in of these standards began in model year 1994.

(18) Ultra low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(19) Vehicle registration--Vehicle characteristics, corresponding owner information, and registration expiration date contained in the Texas Department of Motor Vehicles registration system.

(20) Vehicle registration insignia sticker--The sticker issued through the Texas Department of Motor Vehicles (DMV) or county tax assessor-collector for a vehicle compliant with the DMV regulations. Beginning on the single sticker transition date as defined in this section, the vehicle registration insignia sticker, a current valid VIR, or other form of proof authorized by the DPS or the DMV will be used as proof of compliance with inspection and maintenance program requirements, the DMV's rules and regulations governing vehicle registration, and the Texas Department of Public Safety's rules and regulations governing safety inspections.

(21) Zero emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

**SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE  
REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT  
PROGRAM; AND EARLY ACTION COMPACT COUNTIES  
DIVISION 1: VEHICLE INSPECTION AND MAINTENANCE**

**§114.50**

**Statutory Authority**

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to adopt rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce

emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

#### **§114.50. Vehicle Emissions Inspection Requirements.**

(a) Applicability. The requirements of this section and those contained in the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) must be applied to all gasoline-powered motor vehicles 2 - 24 years old and subject to an annual emissions inspection beginning with the first safety inspection. Military tactical vehicles, motorcycles, diesel-powered vehicles, dual-fueled vehicles that cannot operate using gasoline, and antique vehicles registered with the Texas Department of Motor Vehicles are excluded from the program. Safety inspection facilities and inspectors certified by the Texas Department of Public Safety (DPS) must inspect all subject vehicles in the following program areas as defined in §114.2 of this title (relating to Inspection and Maintenance Definitions), in accordance with the following schedule.

(1) This paragraph applies to all vehicles registered and primarily operated in the Dallas-Fort Worth (DFW) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties equipped with on-board diagnostic (OBD) systems must be tested using United States Environmental Protection Agency (EPA)-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties must be tested using an acceleration simulation mode (ASM-2) test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(2) This paragraph applies to all vehicles registered and primarily operated in the extended DFW (EDFW) program area.

(A) Beginning May 1, 2003, all 1996 and newer model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall



Counties equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(3) This paragraph applies to all vehicles registered and primarily operated in the Houston-Galveston-Brazoria (HGB) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Harris County equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Harris County must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(D) Beginning May 1, 2003, all 1996 and newer model year vehicles equipped with OBD systems and registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using EPA-approved OBD test procedures.

(E) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using the ASM-2 test procedures or a vehicle emissions test approved by the EPA.

(4) This paragraph applies to all vehicles registered and primarily operated in the El Paso program area.

(A) All vehicles must be tested using a two-speed idle (TSI) test through December 31, 2006.

(B) Beginning January 1, 2007, all 1996 and newer model year vehicles equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(C) Beginning January 1, 2007, all pre-1996 model year vehicles must be tested using a TSI test.

(D) Beginning January 1, 2007, all vehicle emissions inspection stations in the El Paso program area must offer both the TSI test and OBD test.

(b) Control requirements.

(1) No person or entity may operate, or allow the operation of, a motor vehicle registered in the DFW, EDFW, HGB, and El Paso program areas that does not comply with:

(A) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(B) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS, as evidenced by a current valid vehicle registration insignia sticker, a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(C) the vehicle emissions I/M requirements contained in this subchapter.

(2) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the federal government agency and located in a program area to comply with all vehicle emissions I/M requirements specified in Texas Health and Safety Code, Subchapter G, §§382.201 - 382.216 (concerning Vehicle Emissions), and this chapter. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq. This requirement will not apply to visiting federal government agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(3) Any motorist in the DFW, EDFW, HGB, or El Paso program areas who has received a notice from an emissions inspection station that there are recall items unresolved on his or her motor vehicle should furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(4) A motorist whose vehicle has failed an emissions test may request a challenge retest through the DPS. If the retest is conducted within 15 days of the initial inspection, the retest is free.

(5) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or whose vehicle has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form (VRF) in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a VRF or applicable documentation as deemed necessary by the DPS.

(6) A motorist whose vehicle is registered in the DFW, EDFW, HGB, or El Paso program areas or in any county adjacent to a program area and whose vehicle has failed an on-road test administered by the DPS shall:

(A) submit the vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the DPS; and

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program specified in 37 TAC Chapter 23, Subchapter E (relating to Vehicle Emissions Inspection and Maintenance Program).

(7) A subject vehicle registered in a county without an I/M program that meets the applicability criteria of subsection (a) of this section and the ownership of which has changed through a retail sale as defined by Texas Occupations Code,

§2301.002, is not eligible for title receipt or registration in a county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report (VIR) or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this paragraph.

(8) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements for vehicles primarily operated in I/M program areas.

(c) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in 37 TAC Chapter 23, Subchapter E, which defers the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(d) Prohibitions.

(1) No person may issue or allow the issuance of a VIR, as authorized by the DPS unless all applicable air pollution emissions control-related requirements of the annual vehicle safety inspection and the vehicle emissions I/M requirements are completely and properly performed in accordance with the rules and regulations adopted by the DPS and the commission. Prior to taking any enforcement action regarding this provision, the commission must consult with the DPS.

(2) Before the single sticker transition date as defined in §114.1 of this title, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection certificates, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603 (concerning Fictitious or Counterfeit Inspection Certificate or Insurance Document). Beginning on the single sticker transition date, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen vehicle registration insignia stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603.

(3) No organization, business, person, or other entity may represent itself as an emissions inspector certified by the DPS unless such certification has been issued under the certification requirements and procedures contained in Texas Transportation Code, §§548.401 - 548.404.

(4) No person may act as or offer to perform services as a Recognized Emissions Repair Technician of Texas, as designated by the DPS, without first obtaining and maintaining DPS recognition.

**SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE  
REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT  
PROGRAM; AND EARLY ACTION COMPACT COUNTIES  
DIVISION 3: EARLY ACTION COMPACT COUNTIES**

**§114.82**

**Statutory Authority**

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce



emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

**§114.82. Control Requirements.**

(a) No person or entity may operate, or allow the operation of, a motor vehicle registered in the affected early action compact (EAC) counties that does not comply with:

(1) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the Texas Department of Public Safety (DPS) as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(2) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced by a current valid vehicle registration insignia sticker or a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(3) the vehicle emissions inspection and maintenance (I/M) requirements contained in this subchapter.

(b) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the agency and located in an affected EAC county to comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq.). This requirement does not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(c) A motorist in an affected EAC county who has received a notice from an emissions inspection station that there are unresolved recall items on the motor vehicle shall furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(d) A motorist whose vehicle has failed an emissions test may request a challenge retest through DPS. If the retest is conducted within 15 days of the initial inspection, the cost of the retest is free.

(e) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a vehicle repair form or applicable documentation as considered necessary by the DPS.

(f) A motorist whose vehicle is registered in an affected EAC county, or in any county adjacent to an affected EAC county, and has failed an on-road test administered by the DPS shall:

(1) submit the vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the DPS; and

(2) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision.

(g) A vehicle registered in a county without an I/M program that meets the applicability criteria of §114.80(c) of this title (relating to Applicability), and the ownership of which has changed through a retail sale as defined by Texas Motor

Vehicle Commission Code, Article 4413(36), §1.03 (moved to Texas Occupations Code, §2301.002, effective June 1, 2003), is not eligible for title receipt or registration in an affected EAC program county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this subsection.

(h) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision for vehicles primarily operated in I/M program areas.

***ORDER AND  
ADOPTED TEXAS REGISTER  
PUBLICATION***

# Texas Commission on Environmental Quality



## ORDER ADOPTING AMENDED RULES

Docket No. 2021-1008-RUL

Rule Project No. 2021-029-114-AI

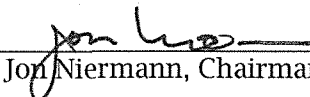
On March 30, 2022, the Texas Commission on Environmental Quality (Commission) adopted amended rules in 30 Texas Administrative Code Chapter 114, concerning Control of Air Pollution from Motor Vehicles. The proposed rules were published for comment in the December 3, 2021 issue of the *Texas Register* (46 TexReg 8204).

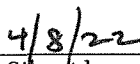
IT IS THEREFORE ORDERED BY THE COMMISSION that the amended rules are hereby adopted. The Commission further authorizes staff to make any non-substantive revisions to the rules necessary to comply with *Texas Register* requirements. The adopted rules and the preamble to the adopted rules are incorporated by reference in this Order as if set forth at length verbatim in this Order.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Tex. Gov't Code Ann., Chapter 2001 (West 2016).

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
Jon Niermann, Chairman

  
\_\_\_\_\_  
Date Signed

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 1, 2022.

TRD-202201144

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: April 21, 2022

Proposal publication date: December 24, 2021

For further information, please call: (512) 438-3161



## TITLE 30. ENVIRONMENTAL QUALITY

### PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

#### CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§114.1, 114.50, and 114.82.

Amendments to §§114.1, 114.50, and 114.82 are adopted *without changes* to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8204) and, therefore, will not be republished.

Amended §§114.1, 114.50, and 114.82 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) in a future SIP revision.

Background and Summary of the Factual Basis for the Adopted Rules

Senate Bill (SB) 604, 86th Texas Legislature, 2019, added digital license plates to Chapter 504 of the Texas Transportation Code (TTC). This adopted rulemaking will update TCEQ rules to be consistent with the TTC, relating to the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

The inspection and maintenance (I/M) rules require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). Currently, motorists are required to demonstrate compliance with the I/M program by displaying a current valid vehicle registration insignia sticker affixed to the vehicle's windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS. The I/M rules also require denying renewal of registration until a vehicle complies with I/M program requirements.

Demonstrating Noninterference under Federal Clean Air Act, §110(I)

The adopted amendments to Chapter 114 will allow a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Because the emissions inspection is still required within 90 days of the registration expiration, these amendments are not intended or expected to impact the compliance rate and the effectiveness of the I/M program. The adopted rule-

making will not negatively impact the state's progress towards attainment of the 2008 and 2015 eight-hour ozone National Ambient Air Quality Standards.

Section by Section Discussion

The following adopted amendments will ensure compliance with Chapter 504 of the TTC and that proof of compliance with I/M requirements are consistent between the TCEQ, the Texas Department of Motor Vehicles (DMV), and the DPS.

The commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble.

#### §114.1, Definitions

The definition for vehicle registration insignia sticker included language that it be affixed on the windshield of a vehicle. The adopted revisions removed the restrictive language and added language to allow for alternative forms of proof of compliance with I/M requirements provided for by the DPS or the DMV.

#### §114.50, Vehicle Emissions Inspection Requirements

The adopted revisions to §114.50(b)(1)(B) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

#### §114.82, Control Requirements

The adopted revisions to §114.82(a)(2) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

#### Final Regulatory Impact Determination

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the adopted rules do not meet the definition of a "Major environmental rule." TGC, §2001.0225(g)(3), states that a "Major environmental rule" is "a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state." The adopted rulemaking does not constitute a major environmental rule under TGC, §2001.0225(g)(3), because: (1) the specific intent of the adopted rulemaking is not to protect the environment or reduce risks to human health from environmental exposure, but rather to modify administrative aspects of an existing program by implementing SB 604, which allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield; and (2) as discussed in the Fiscal Note, Public Benefits and Costs, Small Business Regulatory Flexibility Analysis, and the Local Employment Impact Statement sections of this preamble, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, compe-

tion, or jobs, nor will the adopted rules adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state because the amendments are merely administrative changes to the existing program.

Additionally, the adopted rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule.

TGC, §2001.0225, applies only to a major environmental rule which: (1) exceeds a standard set by federal law, unless the rule is specifically required by state law; (2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; (3) exceeds 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) adopts a rule solely under the general powers of the agency instead of under a specific state law.

The specific intent of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. The adopted rulemaking: (1) does not exceed a standard set by federal law; (2) does not exceed an express requirement of state law; (3) is not adopted solely under the general powers of the agency; and (4) does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. Because the adopted rulemaking is not a major environmental rule, it is not subject to a regulatory impact analysis under TGC, §2001.0225.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the regulatory impact analysis determination.

#### Takings Impact Assessment

The commission evaluated the adopted rulemaking and performed an analysis of whether the adopted rules constitute a taking under TGC, Chapter 2007. The commission's preliminary assessment indicates TGC, Chapter 2007, does not apply.

Under TGC, §2007.002(5), taking means: (A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia sticker. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

Therefore, the adopted rulemaking does not have any impact on private real property.

Promulgation and enforcement of the adopted rulemaking will be neither a statutory nor a constitutional taking of private real property. These rules will not be burdensome, restrictive, or limiting of rights to private real property because the adopted rules do not affect a landowner's rights in private real property. This rulemaking does not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these rules will not constitute a taking under TGC, Chapter 2007.

#### Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the CMP.

#### Public Comment

The comment period opened on December 3, 2021, and the commission offered a public hearing on January 4, 2022. The comment period closed on January 5, 2022. The commission received no comments.

## SUBCHAPTER A. DEFINITIONS

### 30 TAC §114.1

#### Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule



to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to adopt an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 1, 2022.

TRD-202201121

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: April 21, 2022

Proposal publication date: December 3, 2021

For further information, please call: (512) 239-0600



## SUBCHAPTER C. VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM; AND EARLY ACTION COMPACT COUNTIES

### DIVISION 1. VEHICLE INSPECTION AND MAINTENANCE

#### 30 TAC §114.50

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to adopt rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods

Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-0600



## DIVISION 3. EARLY ACTION COMPACT COUNTIES

### 30 TAC §114.82

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Sub-

chapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Commission on Environmental Quality

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For further information, please call: (512) 239-0600

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## CHAPTER 305. CONSOLIDATED PERMITS

### SUBCHAPTER P. ADDITIONAL CONDITIONS FOR TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMITS

#### 30 TAC §§305.542 - 305.544

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts new §§305.542 - 305.544.

New §§305.542 - 305.544 are adopted *without changes* to the text as published in the October 8, 2021, issue of the *Texas Register* (46 TexReg 6884), and, therefore, will not be republished.

#### Background and Summary of the Factual Basis for the Adopted Rules

This rulemaking is being adopted in response to a quadrennial rule review wherein the commission determined that 30 TAC Chapter 308 Subchapters C and J, were obsolete (Non-Rule Project Number 2019-034-308-OW; December 13, 2019, issue of the *Texas Register* (44 TexReg 7718)). Additionally, the executive director identified several rules related to the Texas Pollutant Discharge Elimination System (TPDES) program that would be more appropriately consolidated into Chapter 305, Subchapter P. These rules include 30 TAC Chapters 308, 314, and 315, which contain adoption by reference of federal regulations similar to Chapter 305, Subchapter P. Consolidating these rules will improve the overall organization of TCEQ rules related to the TPDES program.

This rulemaking adopts by reference federal regulations that were previously adopted by reference in Chapters 308, 314, and 315, except for Chapter 308, Subchapters C and J, which were identified as obsolete. Subchapter C in its entirety and Subchapter J as relating to compliance dates were not re-proposed in this rulemaking. Subchapter J relating to cooling water

intakes will be adopted in the new rule §305.544. Additionally, this rulemaking adopts by reference federal regulations related to cooling water intake structures at oil and gas facilities (40 Code of Federal Regulations (CFR) Part 125, Subpart N) that were not previously adopted in Chapter 308 because TCEQ didn't have authority to regulate oil and gas facilities until the United States Environmental Protection Agency (EPA) granted TPDES program authority for wastewater discharges from oil and gas facilities in January 2021. Concurrently with this rulemaking, the commission is repealing 30 TAC Chapters 308, 314, and 315.

#### Section by Section Discussion

##### §305.542. *Pretreatment Standards.*

Adopted new §305.542 adopts by reference 40 CFR Part 403, as amended, with the following exceptions. The commission is not adopting 40 CFR §§403.16 or 40 CFR §403.19 because 40 CFR §403.16 is less stringent than 30 TAC §305.535 and 40 CFR §403.19 expired in 2005. Additionally, the adopted rule states that where 40 CFR §403.11 provides procedures for requesting and holding a public hearing, the commission shall instead require notice of and hold a public meeting. Public meetings conducted by the executive director provide an opportunity for public comment and follow the procedures described in 40 CFR §403.11.

The federal regulations in 40 CFR Part 403 establish responsibilities of Federal, State, and local government, industry, and the public to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works or which may contaminate sewage sludge.

The federal regulations in 40 CFR Part 403, which were in effect on the date of TPDES program authorization (i.e., September 1998), were previously adopted by reference, as amended, in 30 TAC Chapter 315. EPA amended 40 CFR Part 403 several times after 1998. The adopted rule adopts by reference the most current version of 40 CFR Part 403 adopted on November 2, 2020, as amended.

##### §305.543. *Toxic Pollutant Effluent Standards and Prohibitions.*

Adopted new §305.543 adopts by reference 40 CFR Part 129, Subpart A, as in effect on the date of TPDES program authorization, as amended. No changes to these federal regulations have been adopted by EPA since the date of TPDES program authorization in September 1998. The federal regulations in 40 CFR Part 129 establish effluent standards or prohibitions for the discharge of toxic pollutants.

##### §305.544. *Criteria and Standards for Texas Pollutant Discharge Elimination System Permits.*

Adopted new §305.544(1), (2), (4), and (8) adopts by reference 40 CFR Part 125, Subparts A, B, G, and M, respectively, as each of these subparts were in effect on the date of TPDES program authorization, as amended. No changes to these federal regulations have been adopted by EPA since the date of TPDES program authorization in September 1998.

The federal regulations in 40 CFR Part 125, Subpart A establish criteria and standards for the imposition of technology-based treatment requirements in permits under Clean Water Act (CWA) §301(b), including the application of EPA promulgated effluent limitations and case-by-case determinations of effluent limitations under CWA §402(a)(1). 40 CFR Part 125, Subpart B estab-

## United States

# ENVIRONMENTAL PROTECTION AGENCY

## State Implementation Plans (SIPs) Summary

### Section 110

Plan Name: TX\_Chapter 114 Senate Bill 604 IM Updates\_12182023

State(s): TX

Submitted By: Jamie M Zech, TX

Submitted: December 18, 2023, 10:48 AM (EST)

### Plan Submission Information

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Enter a brief title of the plan or plan elements you are submitting. TX\_Chapter 114 Senate Bill 604 IM Updates\_12182023

What type of material are you submitting?

Rule revisions to 30 Texas Administrative Code Chapter 114, Control of Air Pollution from Motor Vehicles, concerning the implementation of applicable sections of Senate Bill 604, 86th Legislature, 2019.

### Document Upload

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#### Completeness Certification

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Verify that all applicable completeness requirements are included in this submittal. I have included all of the applicable completeness requirements in my submittal.

Does this SIP submission include additional documentation (e.g., large modeling files) that is not submitted through this electronic system? No

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## Uploaded Documentation

FILE NAME	FILE TYPE	FILE DESCRIPTION
<a href="#">21029114_EPA signed_letter.pdf</a>	pdf	Chapter 114 SB 604 Updates Signed Letter
<a href="#">21029114_HearingBook_033022Ado.pdf</a>	pdf	Chapter 114 SB 604 Updates Hearing Book
<a href="#">21029114_Cert dfh.pdf</a>	pdf	Chapter 114 SB 604 Updates Certification Letter