

**SUBCHAPTER F: VEHICLE RETIREMENT AND MOBILE EMISSION
REDUCTION CREDITS
DIVISION 2: VEHICLE SCRAPPAGE PROGRAM
§§114.211 - 114.217, 114.219
Effective May 11, 2000**

§114.211. Purpose.

The provisions of this rule provide the minimum criteria which local agencies must use to establish a voluntary accelerated vehicle retirement (VAVR) program for on-road motor vehicles, including passenger cars and light-duty trucks, that could be used as a control measure for the nonattainment area state implementation plan. The VAVR rules provide for a voluntary program that local areas may choose to implement.

Adopted April 19, 2000

Effective May 11, 2000

§114.212. Enterprise Operator Responsibilities.

(a) Each participating enterprise operator shall have the responsibility, with commission oversight, to administer and audit the voluntary accelerated vehicle retirement (VAVR) program enterprises conducted within its jurisdiction to meet the requirements of §§114.211-114.217 of this title (relating to Purpose; Enterprise Operator Responsibilities; Vehicle Eligibility; Advertising; State Implementation Plan (SIP) Credits for the Voluntary Accelerated Vehicle Retirement Program; Records, Auditing, and Enforcement; and Credit Calculations).

(b) Each participating enterprise operator shall administer and monitor the use of credits generated under these regulations for SIP credit, and shall, with commission oversight, certify or reject the accuracy and validity of any credits generated, as required. Each enterprise operator shall administer the program in accordance with all state, federal, and local laws, rules, and regulations.

(c) Each participating enterprise operator shall retain the records received according to §114.216(a)(1) of this title for a period not less than the life of the related credits, or three years, whichever is longer.

(d) Enterprise operators may adopt requirements that are more stringent than those specified in §§114.211 - 114.217 of this title. The enterprise operators may add additional tests or adopt a more stringent version of specific tests; however, they may not omit or weaken any of the required functional or equipment tests.

Adopted April 19, 2000

Effective May 11, 2000

§114.213. Vehicle Eligibility.

(a) On-road vehicles are eligible for generation of state implementation plan (SIP) credit within the voluntary accelerated vehicle retirement (VAVR) program if these vehicles meet the following criteria.

(1) The vehicle must be registered with the Texas Department of Transportation (TxDOT) for at least the past immediate 12 consecutive months to an address within a participating county in which the VAVR program is being operated.

(2) Determination of an individual vehicle registration history shall be based on:

(A) registration data for that vehicle obtained from TxDOT records; or

(B) if subparagraph (A) of this paragraph provides inconclusive results for an individual vehicle, then copies of the applicable vehicle registration certificates.

(3) If a vehicle has been impounded by a law enforcement agency which approves of the recycling, the vehicle may be eligible for the VAVR program without meeting the requirements in subsections (a) and (c) of this section.

(b) Each vehicle must pass a functional and equipment eligibility inspection performed by an enterprise operator or designee. The following elements must be included in the inspection.

(1) The candidate vehicle must have been driven to the inspection site under its own power. If an enterprise operator or its designee has knowledge that a vehicle was towed or pushed for any portion of the trip to the inspection site, then the enterprise operator or its designee shall not approve the vehicle for eligibility in a VAVR program.

(2) The enterprise operator or its designee must inspect the vehicle to ensure it meets the following requirements and shall reject the vehicle for SIP credit generation if the vehicle fails to meet any of the following requirements.

(A) All doors shall be present and, at a minimum, one door per passenger compartment (i.e. front seat and back seat) shall be operable. Doors shall be deemed operable if they can open and remain closed without the use of ropes, wire, tape, or any other add-on device or material that was not part of the original design of the vehicle.

(B) The trunk lid shall remain closed utilizing a functional latching mechanism.

(C) The hood (metal cover providing access to the engine) shall open and shall remain closed utilizing a functional latching mechanism.

(D) The windshield and rear window shall be present.

(E) Interior pedals (flat surface attached to a lever controlling the brake, clutch, and accelerator) shall be present.

(F) The vehicle shall contain bumpers, fenders, exhaust system, and side and quarter panels as originally supplied by the manufacturer or aftermarket part equivalent, and they should not be damaged to the extent that the operability of the vehicle is impaired.

(G) Headlights, taillights, turn signal lights, and brake lights shall be present and operational. Burned out light bulbs shall not result in a failure of this requirement provided that the operability of the above lighting systems can be verified.

(H) There should be no obvious indications that the vehicle is not operated on a routine basis for extended periods of time.

(3) The enterprise operator or designee shall complete the following functional inspection, and shall reject the vehicle for SIP credit generation if the vehicle fails to complete any of the following requirements. Prior to implementing the functional inspection, the vehicle engine shall be turned off.

(A) The vehicle engine must start using keyed ignition system. In addition to the keyed ignition switch, an ignition or fuel kill switch may be activated if required to start engine.

(B) The vehicle must idle without the use of the accelerator pedal for a minimum of ten seconds.

(C) For vehicles with automatic transmissions, the transmission must be shifted into forward gear with brake pedal applied. The vehicle engine shall remain operating without use of the accelerator pedal for a minimum of ten seconds.

(D) The vehicle shall be driven forward and in reverse for a minimum of 25 feet each direction under its own power.

(E) Under its own power, the vehicle shall be driven forward for a minimum of 100 feet beginning at zero miles per hour, and the vehicle shall be completely stopped at the end of this test using the vehicle braking system. The vehicle shall travel the first 60 feet of this test within 5.5 seconds. After 100 feet have been traveled, the vehicle shall turn around and return to its point of origin.

(4) The enterprise operator or designee must reject the vehicle for SIP credit if any of the following occurs during implementation of the functional tests specified in paragraphs (2) and (3) of this subsection:

(A) the engine repeatedly shuts down subsequent to keyed ignition start;

(B) the engine emits excessive whining, grinding, clanking, squealing, knocking noises, or noises from engine backfire; or

(C) the brake pedal drops to the floor when the inspector or designee attempts to stop the vehicle.

(5) Upon satisfactory completion of the functional inspection, the enterprise operator or designee will complete a certificate of functional and equipment eligibility stating the vehicle is eligible for the VAVR program.

(6) Vehicles that do not meet the functional and equipment eligibility criteria of this section, as determined by the enterprise operator or designee, will not be eligible and cannot be retired to generate SIP credit through a VAVR enterprise.

(c) At time of final sale of a vehicle, the enterprise operator or designee shall verify that the person delivering the vehicle for sale is the legal owner, or a legal representative of the legal owner, properly empowered to complete the sale.

(d) A vehicle purchased as part of a VAVR program and whose accelerated retirement creates emission reductions that are to be used as the basis for generating SIP credits, shall be permanently destroyed by the enterprise operator, or the enterprise operator's contracted dismantler, within 60 days of the date it is sold to the enterprise operator. The vehicle may not be resold to the public or put into operation in any way, except such a vehicle may be briefly operated for purposes related to the disposal of the vehicle as part of normal disposal procedures.

(e) For purposes of this section, the vehicle will be considered destroyed when it has been crushed, shredded, or otherwise rendered permanently and irreversibly incapable of functioning as originally intended, and when all appropriate records maintained by the Department of Public Safety and TxDOT have been updated to reflect that the vehicle has been acquired by a licensed auto dismantler for the purposes of dismantling.

(f) The following guidelines apply to any retired vehicle for the purpose of generating SIP credit.

(1) Tires and batteries may be sold to an intermediary tire/battery recycler only. All facilities generating or receiving waste tires must use the services of a registered tire hauler/recycler. Battery recyclers must be registered and licensed to handle batteries.

(2) All parts may be recycled or sold with the following exceptions:

(A) the exhaust system, including the catalytic converter, tailpipe, muffler, exhaust inlet pipe, vapor storage canister, vapor liquid separator, and resonator. All of these items must be destroyed. The catalytic converter can be recycled for precious metals, but cannot be reused; and

(B) the engine with all components attached. The cylinder block and other engine components can be recycled only if the components are removed and recycled individually.

(g) All vehicles from which emission reduction credits are to be generated must be confined in a holding area separate from other vehicles procured by the enterprise operator or its designee until they are permanently destroyed or dismantled.

(h) All activities associated with retiring vehicles including, but not limited to, the disposal of vehicle fluids and vehicle components, shall comply with local water conservation regulations; state, county, and city energy and hazardous materials response regulations; and local water agency soil, surface, and ground water contamination regulations.

Adopted April 19, 2000

Effective May 11, 2000

§114.214. Advertising.

(a) Any advertising conducted by an enterprise operator for the purpose of recruiting vehicle owners to sell their cars into the voluntary accelerated vehicle retirement (VAVR) program shall include the following disclaimer statement conspicuously located: "This voluntary accelerated vehicle retirement program is conducted by {name of agency}. It is not operated by the State of Texas. State funds are not used for the purchase of vehicles. The resulting emission reductions will be used by the local air pollution agency to assist in meeting air quality goals within your area. Your participation is entirely voluntary."

(b) This disclaimer statement shall also be prominently displayed in any contracts or agreements between a vehicle seller and an enterprise operator or designee relating to the sale of a vehicle into the VAVR program.

Adopted April 19, 2000

Effective May 11, 2000

§114.215. State Implementation Plan (SIP) Credit for the Voluntary Accelerated Vehicle Retirement Program.

(a) SIP credit can be generated for reductions of emissions of oxides of nitrogen and volatile organic compounds, as provided in this section. The magnitude of the credit for each of these pollutants must be based on mobile emission reduction benefits as calculated using the methods outlined in §114.217 of this title (relating to Credit Calculations).

(b) Credit use must be in accordance with all federal, state, and local laws and regulations in effect at time of usage.

Adopted April 19, 2000

Effective May 11, 2000

§114.216. Records, Auditing, and Enforcement.

The following requirements for records, auditing, and enforcement shall be met by the enterprise operator.

(1) An enterprise operator must transmit the following information to the commission in an annual report at the end of each calendar year. The annual report must include each vehicle removed from operation for the purpose of the voluntary accelerated vehicle retirement (VAVR) program. The report shall include the following information for each vehicle:

- (A) vehicle identification number (VIN);
- (B) vehicle license plate number;
- (C) vehicle model year;
- (D) vehicle odometer reading;
- (E) vehicle make and model;
- (F) name, address, and phone number of legal owner selling vehicle to the enterprise operator for each vehicle;
- (G) name, address, and phone number of registered owner if different from subparagraph (F) of this paragraph;
- (H) name and business address of the enterprise operator or designee conducting the vehicle's eligibility inspection;
- (I) date of purchase of vehicle by enterprise operator;
- (J) date of vehicle retirement;
- (K) the SIP credit amount calculated in accordance with §114.217 of this title (relating to Credit Calculations); and
- (L) any other pertinent data requested by the commission.

(2) Upon request of the commission, the data contained in records required in paragraph (1)(A)-(L) of this subsection shall be transmitted to the state in paper copies or in an electronic database format, to be determined by mutual agreement between the state and the enterprise operator.

(3) The enterprise operator will maintain copies of the information listed in paragraph (1)(A) through (L) of this subsection for a minimum period of three years.

(4) The commission may conduct announced and unannounced audits and on-site inspections of VAVR enterprise program operations to ensure that they are being operated according to all applicable rules and regulations.

(5) Enterprise operators or designees and auto dismantlers shall allow the commission to conduct announced and unannounced audits and inspections, and shall cooperate fully in such situations.

(6) Upon notification by the commission that state implementation plan (SIP) credit miscalculations have been erroneously or fraudulently granted a higher credit amount for a particular vehicle or vehicles, the enterprise operator will make available additional credits to be used toward the SIP in the amount of the shortfall, prorated over the time period of the usage of the credit shortfall. The purpose of this paragraph is to provide immediate reductions equal to the excess emissions that have already occurred in the amount of the miscalculated mobile credits.

Adopted April 19, 2000

Effective May 11, 2000

§114.217. Credit Calculations.

(a) State implementation plan credits for the voluntary accelerated vehicle retirement program must be determined using the following formula.

$$\text{Total pounds of emission reduction} = \frac{VMT(ER1 - ER2)3yr}{454 g / lb.}$$

VMT = the annual vehicle miles traveled for the retired vehicle model year as estimated by the EPA MOBILE model.

ER1 = the emission rate of the vehicle being retired in grams per mile. This rate is determined by using one of the methods: 1) each participating vehicle is tested using an emissions analyzer that is capable of determining vehicle emissions in grams per mile (selected Texas Department of Public Safety vehicle inspection and maintenance waiver facilities have the capability to perform the required testing) or 2) using the most recent version of the EPA MOBILE model, estimate a three-year vehicle-emissions average for the model year of the vehicle being retired using the current calendar year plus the next two years.

ER2 = an average of the emission rates (in grams per mile) for the nonattainment area's fleet over the same three-year time period.

Three years is used to account for the presumed life of the credit.

454 g/lb is used to convert grams to pounds.

(b) Credit for a retired vehicle must be used within three years of the vehicle retirement.

Adopted April 19, 2000

Effective May 11, 2000

§114.219. Affected Counties.

The provisions of §§114.211-114.217 of this title (relating to Purpose; Enterprise Operator Responsibilities; Vehicle Eligibility; Advertising; State Implementation Plan (SIP) Credits for the Voluntary Accelerated Vehicle Retirement Program; Records, Auditing, and Enforcement; and Credit Calculations) are applicable only to the counties associated with ozone nonattainment areas within the state, except for the Dallas/Fort Worth (DFW) nonattainment area where the provisions are applicable to specified counties in the DFW area. However, other areas of the state are not prohibited from starting their own scrappage programs and may use the criteria included in §§114.211-114.217 of this title to ensure that their programs are sufficient if they may be included in the SIP at a future date. These areas and affected counties include:

- (1) Beaumont/Port Arthur which consists of Hardin, Jefferson, and Orange Counties;
- (2) Dallas/Fort Worth area which consists of Collin, Dallas, Denton, Ellis, Kaufman, Johnson, Parker, Rockwall, and Tarrant Counties;
- (3) El Paso which consists of El Paso County; and
- (4) Houston/Galveston which consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

Adopted April 19, 2000

Effective May 11, 2000

Derivation Table
Rule Log No. 97163-114-AI
Reformat of Chapter 114
Adopted November 5, 1997
Effective December 1, 1997

Chapter 114 - Control of Air Pollution From Motor Vehicles
Subchapter F : Vehicle Retirement and Mobile Emission Reduction Credits

This table is to track sections after rule revisions. The column on the left lists the sections after the revision that is to be effective on December 1, 1997. The column on the right lists where the section was prior to the revision.

New Section	Old Section
114.200(a)-(i)	114.29(b)-(j)
114.201	114.39
114.202	114.40