

The commission proposes new §114.420 (Definitions), §114.421 (Emission Specifications), §114.422 (Control Requirements), §114.427 (Exemptions), and §114.429 (Affected Counties and Compliance Schedules). The commission proposes these revisions to new Division 3 (Non-Road Large Spark-Ignition Engines), Subchapter I (Non-Road Engines), Chapter 114 (Control of Air Pollution from Motor Vehicles), and to the State Implementation Plan (SIP).

These new sections are proposed in order to control ground-level ozone in the Dallas/Fort Worth (DFW) ozone nonattainment area by restricting the sale and use of non-road, large spark-ignition (LSI) engines 25 horsepower (hp) and larger produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such engines; to LSI engines that are certified under Title 13, California Code of Regulations, Chapter 9, concerning Off-Road Vehicles and Engines Pollution Control Devices (13 CCR 9), as adopted by the California Air Resources Board (CARB) on October 19, 1999 and effective November 18, 1999. The commission is incorporating the California rules by reference including all future revisions due to the need for the Texas program to remain identical to the program in California. For any state program that differs from the federal standards, the Federal Clean Air Act (FCAA), §209(e)(2)(B), requires the state programs to be identical. The rules are proposed to be effective in DFW ozone nonattainment area, which includes Collin, Dallas, Denton, and Tarrant Counties; as well as the eight other counties in the DFW consolidated metropolitan statistical area (CMSA), which include Ellis, Henderson, Hood, Hunt, Johnson, Kaufman, Parker, and Rockwall Counties.

The North Texas Clean Air Steering Committee (steering committee) representing the DFW ozone nonattainment area counties requested an ozone pollution control strategy restricting the sale of non-road,

LSI engines to reduce oxides of nitrogen (NO_x) emissions necessary for the counties included in the DFW ozone nonattainment area to be able to demonstrate attainment with the national ambient air quality standard (NAAQS) for ozone.

At the request of the steering committee, the commission developed a non-road LSI engine strategy in the DFW CMSA which restricts the sale and use of non-road, LSI engines 25 hp and larger produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such engines to LSI engines that are certified under 13 CCR 9 as adopted by the CARB on October 19, 1999 and effective on November 18, 1999. The proposed rules are necessary for the counties included in the DFW area to be able to demonstrate attainment with the ozone NAAQS.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The United States Environmental Protection Agency (EPA) has been regulating highway (on-road) cars and trucks since the early 1970s and continues to set increasingly stringent emissions standards for such vehicles. After considerable progress has been made in controlling the emissions from on-road vehicles, EPA has turned its attention to non-road (also called off-road) engines, which also contribute significantly to air pollution. Although emissions from non-road, LSI engines have not yet been regulated by EPA, the CARB has adopted exhaust emission standards for these engines. Non-road, LSI engines are primarily used to power industrial equipment such as forklifts, generators, pumps, compressors, aerial lifts, sweepers, and large lawn tractors. The engines are similar to automotive engines and can use similar automotive technology, such as closed-loop engine control and three-way catalysts, to reduce emissions.

The CARB has determined these standards to be a technologically feasible and cost effective strategy (at \$.25 per pound of NO_x and hydrocarbons (HC) reduced) towards reducing NO_x and HC from these engines. HC (also called volatile organic compounds or VOC) and NO_x are precursor chemicals that contribute to the production of ground-level ozone. Adopting the California standards for non-road, LSI engines in the 12-county DFW CMSA will reduce the amount of VOC and NO_x emissions from these sources and, therefore, help control ground-level ozone in the DFW nonattainment area. Emission reductions of NO_x from these affected engines are projected by the commission to be 2.2 tons per day. The program is estimated to cost about \$500 per ton of NO_x reduced, which compares very favorably with the cost per ton of other emission control strategies.

The commission solicits comments regarding the applicability and possible extension of the program to attainment and other nonattainment areas of the state. The commission also solicits comments regarding the implementation of these proposed rules in phases.

SECTION-BY-SECTION DISCUSSION

Subchapter I is a new subchapter which is being proposed as part of a concurrent rulemaking (Rule Log Number 99055E-114-AI) in this issue of the *Texas Register*.

The intent of these proposed rules is to adopt non-road, LSI standards in Texas that are **identical** to those in California.

The proposed new §114.420 incorporates by reference the 42 definitions found in 13 CCR 9, §2431 (Definitions). The proposed new §114.420 also includes two new definitions for “non-road, large spark-ignition engine” and “new non-road, large spark-ignition engine.”

The proposed new §114.421 (Emission Specifications) incorporates by reference the exhaust emissions standards for new non-road, LSI engines found in subsections (a) and (b) of 13 CCR 9, §2433 (Exhaust Emission Standards and Test Procedures -- Off-Road Large Spark-Ignition Engines). This rule as proposed concerns the replacement of engines, not the equipment in which the engines are installed.

The proposed new §114.422 incorporates by reference the California off-road, LSI engine certification requirements found in 13 CCR 9, Article 4.5 (Off-Road Large Spark-Ignition Engines); the California emission certification label requirements found in 13 CCR 9, §2434 (Emission Control Labels -- 2001 and Later Off-Road Large Spark-Ignition Engines); the California warranty requirements found in 13 CCR 9, §2435 and §2436 (Defects Warranty Requirements for 2001 and Later Off-Road Large Spark-Ignition Engines and Emission Control System Warranty Statement); and the California corrective measures for engine recalls found in 13 CCR 9, §2439 (Procedures for In-Use Engine Recalls for Large Off-Road Spark-Ignition Engines with an Engine Displacement Great than 1.0 Liter).

The proposed new §114.427 exempts construction and farm equipment engines below 175 hp, which is consistent with the preemption of state authority provisions in the FCAA, §7543(b)(1)(A). The proposed section also exempts marine propulsion engines, engines used in devices that operate on rails or tracks, recreational vehicles, snowmobiles, and gas turbines.

The proposed new §114.429 specifies the counties that are subject to the new requirements, which includes all twelve counties in the DFW CMSA. Proposed §114.429 also specifies the compliance schedule for engine manufacturers.

FISCAL NOTE

Bob Orozco, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed amendments to Chapter 114 are in effect there will be no significant fiscal implications for any single unit of state and local government as a result of administration or enforcement of the proposed amendments unless that unit of government replaces between 200 to 1,000 of these engines annually. The proposed amendments to Chapter 114 would require units of state and local government, businesses, and individuals in the 12-county DFW CMSA that own or operate non-road, LSI engines of 25 hp and larger produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such engines, to use LSI engines certified under 13 CCR 9.

Non-road, LSI engines are primarily used to power industrial equipment such as forklifts, generators, pumps, compressors, aerial lifts, sweepers, and large lawn tractors. The engines are similar to automotive engines and can use similar automotive technologies to reduce emissions. The CARB has determined the proposed standards are technologically feasible and has adopted exhaust emission standards for these engines designed to reduce NO_x and VOC emissions. NO_x and VOC are precursor chemicals that contribute to the production of ground-level ozone.

The proposed amendments include exemptions for: 1. engines less than 175 horsepower used in construction and agriculture; 2. engines operated on or in any device used exclusively upon stationary rails or tracks; 3. engines used to propel marine vessels; 4. internal combustion engines attached to a foundation at a location for at least 12 consecutive months; 5. recreational vehicles and snowmobiles; and 6. stationary or transportable gas turbines for power generation.

The steering committee representing the DFW ozone nonattainment area counties requested an air pollution control program, including the use of CARB-certified LSI engine standards, be established to reduce NO_x emissions necessary for the counties included in the DFW nonattainment area to be able to demonstrate attainment with the ozone NAAQS. Dallas, Collin, Denton, and Tarrant Counties are in the DFW nonattainment area. The proposed amendments are part of the commission response to the request from the steering committee and one element of the proposed DFW Attainment Demonstration SIP. A SIP is a plan developed for any region where existing (measured and/or modeled) ambient levels of pollutant exceeds the levels specified in a national standard. The plan sets forth a control strategy that provides emission reductions necessary for attainment and maintenance of the national standards.

The proposed amendments will affect all owners and operators of non-road, LSI engines of 25 hp and larger and vehicles using those engines in the DFW CMSA, except as exempted. Equipment that uses these types of engines are primarily used to power industrial equipment such as forklifts, generators, pumps, compressors, aerial lifts, sweepers, and large lawn tractors.

PUBLIC BENEFIT

Mr. Orozco also has determined that for each year of the first five years the proposed amendments to Chapter 114 are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be the potential reduction of NO_x and VOC emissions, potentially improved air quality, and contribution toward demonstration of attainment with the ozone NAAQS.

There are no significant fiscal implications anticipated to individuals, state and local government agencies, and businesses in the DFW CMSA that own or operate affected equipment powered by LSI engines as a result of implementing the proposed amendments unless an entity replaces between 200 and 1,000 of these engines annually. The proposed amendments to Chapter 114 would require units of state and local government, businesses, and individuals in the 12-county DFW CMSA that own or operate non-road, LSI engines of 25 hp and larger produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such engines, to use LSI engines certified under 13 CCR 9. Affected owners and operators of this equipment will not be required to retrofit or purchase new engines for their existing inventory. However, if equipment is replaced with equipment produced after May 1, 2002, the new equipment must meet the proposed standards. The proposed amendments allow manufacturers that supply the DFW CMSA to continue to sell in-stock equipment that predates the proposed amendments in a phase-down manner. The phase-down requires that 25% of the equipment sold in year 2002 must have CARB-certified engines; 50% in year 2003; and 100% in year 2004 and thereafter. It is estimated that 25% of the engines sold in the DFW CMSA in year 2002 will be CARB-certified engines that meet the proposed standards. It is also estimated that 50% of the engines sold in year 2003 will be CARB-certified engines. In years 2004 and thereafter, it is estimated that all engines sold will be CARB-certified engines. The EPA NONROAD computer model estimates that 542 CARB-certified engines will be purchased in the CMSA

during year 2002; 1,075 certified engines in year 2003; 2,191 in 2004; 1,930 in 2005; 2,101 in 2006; and 2,291 in 2007 for a total of 10,130 CARB-certified engines during calendar years 2002 through 2007.

The cost of the technology needed to reduce emissions from these engines to comply with the standards is projected by an environmental consultant (Environ) to be approximately \$100 to \$500 depending upon the engine size and typical engine type. Engines that currently apply closed-loop control would require less additional equipment reducing the overall cost of meeting the new standard. It is estimated that the total cost impact of reducing emissions from the 10,130 engines projected to be purchased during calendar years 2002 through 2007 will be in the range of \$1 million to \$5.1 million or an average of approximately \$168,000 to \$844,000 per year from 2002 through 2007.

The following is quoted from an EPA Engine Programs and Compliance Division Memorandum, "California Requirements for Large SI Engines and Possible EPA Approaches," dated January 29, 1999: "Upgrading to modern engine technologies greatly improves the capability of these engines to control emissions and will generally improve engine performance. Electronically-controlled closed-loop operation also provides the potential for great improvement in engine operation. For example, improving control of combustion may allow a fuel economy improvement of 15 to 20%. Also, feedback control of air-fuel ratios eliminates much of the need to maintain and adjust a large number of fuel system calibrations, resulting in reduced product inventories and, more importantly, less downtime and maintenance for equipment in the field. Finally, improved control of the upgraded engines should lead to significantly longer engine lifetime. The net present value of these benefits would likely be considerably greater than the incremental cost of improving the engines."

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSES

There are no significant fiscal implications anticipated to small businesses and micro-businesses as a result of implementing the proposed amendments unless an entity replaces from 200 to 1,000 of these engines annually. Although estimates of the number of small and micro-businesses in the 12-county CMSA that own and operate non-road equipment powered by LSI engines of 25 hp and larger are not available at this time, it is anticipated that costs will be similar to those for business at large as indicated in the PUBLIC BENEFIT section of this preamble. The cost of the technology required to reduce emissions from these engines to comply with the standards is projected by Environ to be approximately \$100 to \$500 depending upon the engine size and typical engine type. Engines that currently apply closed-loop control would require less additional equipment reducing the overall cost of meeting the new standard. The costs will be less dependent on the relative size of the company than on the size and number of non-road equipment powered by LSI engines that they own and operate. There is no feasible way to draft these proposed rules to mitigate the cost to small and micro-businesses.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking does not meet the definition of a “major environmental rule” as defined in that statute. “Major environmental rule” means 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 amendments to Chapter 114 are intended to protect the environment or reduce risks

to human health from environmental exposure to ozone but are not anticipated to 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 amendments would require units of state and local government, businesses, and individuals in the 12-county DFW CMSA that own or operate non-road, LSI engines of 25 hp and larger produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such engines, to use LSI engines certified under 13 CCR. The increased cost of \$100 to \$500 per engine would not cause material impact given the high total cost of this type of equipments. This air pollution control program is part of the strategy to reduce emissions of NO_x necessary for the counties included in the DFW nonattainment area to be able to demonstrate attainment with the ozone NAAQS. The steering committee representing the DFW ozone nonattainment area counties requested an air pollution control program, including the use of CARB-certified LSI engine standards, be established to reduce NO_x emissions necessary for the counties included in the DFW nonattainment area to be able to demonstrate attainment with the ozone NAAQS. The proposed amendments are part of the commission response to the request and one element of the proposed DFW Attainment Demonstration SIP. In addition, Texas Government Code, §2001.0225, only applies to a major environmental rule, the result of which is to: 1. exceed a standard set by federal law, unless the rule is specifically required by state law; 2. exceed an express requirement of state law, unless the rule is specifically required by federal law; 3. exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4. adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability requirements. Specifically, the use of CARB-certified, LSI engine standards within this proposal were developed in order to meet the ozone NAAQS set by the EPA under the FCAA, §7409,

and therefore meet a federal requirement. States are primarily responsible for ensuring attainment and maintenance of NAAQS once EPA has established those standards. Under the FCAA, §7410 and related provisions, states must submit, for EPA approval, SIPs that provide for the attainment and maintenance of NAAQS through control programs directed to sources of the pollutants involved. This proposal is not an express requirement of state law, but was developed specifically in order to meet the air quality standards established under federal law as NAAQS. This proposal is intended to help bring ozone nonattainment areas into compliance and to help keep attainment and near nonattainment areas from going into nonattainment. The proposed amendments do not exceed a standard set by federal law, exceed an express requirement of state law unless specifically required by federal law, nor exceed a requirement of a delegation agreement. The proposed amendments were not developed solely under the general powers of the agency but were specifically developed to meet the air quality standards established under federal law as NAAQS, as authorized under the Texas Clean Air Act (TCAA), §§382.012, 382.017, 382.019, and 382.039. The commission invites public comment on the draft regulatory impact analysis.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for these rules in accordance with Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rulemaking is to restrict the sale of non-road, LSI engines 25 hp and larger produced on or after May 1, 2002 and all equipment and vehicles produced on or after May 1, 2002 that use such engines to LSI engines that are certified under 13 CCR 9, as adopted by the CARB on October 19, 1999, and effective on November 18, 1999, in the 12-county DFW CMSA. This proposed rulemaking will act as an air pollution control strategy to reduce NO_x emissions necessary for the four counties included in the DFW ozone

nonattainment area to be able to demonstrate attainment with the ozone NAAQS. The proposed affected area consists of the twelve counties contained in the DFW CMSA. Promulgation and enforcement of the proposed rules will not burden private, real property. Although the proposed rules do not directly prevent a nuisance or prevent an immediate threat to life or property, they do prevent a real and substantial threat to public health and safety, and partially fulfill a federal mandate under the FCAA, §7410. Specifically, the emissions limitations and delays within this proposal were developed in order to meet the ozone NAAQS set by the EPA under the FCAA, §7409. States are primarily responsible for ensuring attainment and maintenance of the NAAQS, once the EPA has established them. Under the FCAA, §7410 and related provisions, states must submit, for EPA approval, SIPs that provide for the attainment and maintenance of NAAQS through control programs directed to sources of the pollutants involved. Therefore, the purpose of the rule proposal is to implement a cleaner-burning, non-road, LSI engine program necessary for the DFW nonattainment area to meet the air quality standards established under federal law as NAAQS.

Consequently, the exemption which applies to these proposed rules is that of an action reasonably taken to fulfill an obligation mandated by federal law. Therefore, these proposed revisions will not constitute a takings under the Texas Government Code, Chapter 2007.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resource Code, §§33.201 et. seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3), relating to actions and rules subject to the

CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations in 40 CFR, to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). No new sources of air contaminants will be authorized by the rule amendments. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

PUBLIC HEARING

The commission will hold public hearings on this proposal at the following times and locations: January 24, 2000, 2:00 p.m., City of El Paso Council Chambers, 2 Civic Center Plaza, 2nd floor, El Paso; January 25, 2000, 10:00 a.m., Building E, Room 201S, Texas Natural Resource Conservation Commission Complex, 12100 Park 35 Circle, Austin; January 26, 2000, 10:00 a.m., Longview City Hall Council Chambers, 300 West Cotton Street, Longview; January 26, 2000, 7:00 p.m., City of Irving Central Library Auditorium, 801 West Irving Boulevard, Irving; January 27, 2000, 10:00 a.m., Dallas Public Library Auditorium, 1515 Young Street, Dallas; January 27, 2000, 7:00 p.m.; Lewisville City Council Chambers, Municipal Center, Lewisville; January 28, 2000, 10:00 a.m., Council Chambers, 2nd floor, Fort Worth City Hall, 1000 Throckmorton Street, Fort Worth; January 31, 2000, 1:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont; and January 31, 2000, 7:00 p.m., Houston-Galveston Area Council, 3555 Timmons Lane, Houston. The hearings are 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 occur during the hearing; however, agency staff members will be available to discuss the proposal 30 minutes before the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs, who are planning to attend the hearing, should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Ms. Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 99055G-114-AI. Comments must be received by 5:00 p.m., February 1, 2000. For further information, please contact Alan Henderson at (512) 239-1510 or Corey Lipps at (512) 239-6341.

STATUTORY AUTHORITY

The new sections are proposed under the Texas Health and Safety Code, TCAA, §382.011, which provides the commission the authority to control the quality of the state's air; §382.012, which provides the commission the authority to prepare and develop a general, comprehensive plan for the control of the state's air; §382.017, which provides the commission the authority to adopt rules consistent with the policy and purposes of the TCAA; §382.019, which provides the commission the authority to adopt rules to control and reduce emissions from engines used to propel land vehicles; and §382.039, which provides the

commission the authority to develop and implement transportation programs and other measures necessary to demonstrate attainment and protect the public from exposure to hazardous air contaminants from motor vehicles.

The new sections implement TCAA, §382.002, relating to Policy and Purpose; §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.019, relating to Methods Used to Control and Reduce Emissions from Land Vehicles; and §382.039, relating to Attainment Program.

CHAPTER 114: CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

SUBCHAPTER I : NON-ROAD ENGINES

DIVISION 3 : NON-ROAD LARGE SPARK-IGNITION ENGINES

§114.420. Definitions.

Unless specifically defined in the 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 division, shall have the following meanings, unless the context clearly indicates otherwise.

(1) The definitions found in Title 13, California Code of Regulations, Chapter 9, §2431, concerning Definitions, as effective on November 18, 1999 and all future revisions, are hereby incorporated by reference.

(2) **Non-road, large spark-ignition (LSI) engine** - Any engine that produces a gross horsepower (hp) of 25 hp or greater, or is designed (e.g. through fueling, engine calibrations, valve timing, engine speed modifications, etc.) to produce 25 hp or greater. For engine families which have models at or greater than 25 hp, as well as models below 25 hp, only the models at or above 25 hp are considered LSI engines. The engine operating characteristics are significantly similar to the theoretical Otto combustion cycle, with the primary means of controlling power output being the limit on the amount of air that is throttled into the combustion chamber of the engine. LSI engines or alternate fuel-powered LSI internal

combustion engines are designed for, but not limited to, powering forklift trucks, sweepers, generators, industrial equipment, and other miscellaneous applications.

(3) New non-road, large spark-ignition (LSI) engine - Non-road, LSI engines produced on or after May 1, 2002, and all equipment and vehicles produced on or after May 1, 2002 that use such an engine.

§114.421. Emission Specifications.

(a) The provisions of this division shall apply to new non-road, large spark-ignition (LSI) engines as defined in §114.420 of this title (relating to Definitions), that are produced on or after May 1, 2002.

(b) Exhaust emissions from new non-road, LSI engines manufactured for sale, sold, or offered for sale, or that are introduced, delivered or imported for introduction into commerce shall not exceed the requirements of Title 13, California Code of Regulations, Chapter 9 (13 CCR 9), §2433(b), concerning Exhaust Emission Standards and Test Procedures -- Off-Road Large Spark-Ignition Engines, as effective on November 18, 1999 and all future revisions.

(c) New non-road, LSI engines operated in the counties listed in §114.429 of this title (relating to Affected Counties and Compliance Schedules) shall not exceed the requirements of 13 CCR 9, §2433(b).

(d) Beginning on January 1, 2004, a new non-road, LSI engine intended solely to replace an engine in a piece of non-road equipment that was originally produced with an engine manufactured prior to the applicable implementation date as described in subsection (a) of this section, shall not be subject to the emissions requirements of subsection (a) of this section provided that the requirements of 13 CCR 9, §2433(e), have been met.

§114.422. Control Requirements.

(a) The emissions standards for new non-road, large spark-ignition (LSI) engines as certified for use in the State of California in accordance with Title 13, California Code of Regulations, Chapter 9 (13 CCR 9), Article 4.5, concerning Off-Road Large Spark-Ignition Engines, §§2430 - 2439, as effective on November 18, 1999 and all future revisions, are hereby incorporated by reference.

(b) The emission control label requirements for new non-road, LSI engines found in 13 CCR 9, §2434, concerning Emission Control Labels -- 2001 and Later Off-Road Large Spark-Ignition Engines, as effective on November 18, 1999 and all future revisions, are hereby incorporated by reference.

(c) The warranty statement and requirements for new non-road, LSI engines found in 13 CCR 9, §2435 and §2436, concerning Defects Warranty Requirements for 2001 and Later Off-Road Large Spark-Ignition Engines, and Emission Control System Warranty Statement, as effective on November 18, 1999 and all future revisions, are hereby incorporated by reference.

(d) In the event the a new non-road, LSI engine is recalled in the State of California under 13 CCR 9, §2439, concerning Procedures for In-Use Engine Recalls for Large Off-Road Spark-Ignition Engines with an Engine Displacement Greater than 1.0 Liter, the manufacturer shall take identical corrective action to remedy the cause of the recall.

§114.427. Exemptions.

(a) All engines and equipment that fall within the scope of preemption as specified in the FCAA, §209(e)(1)(A), as amended on November 15, 1990 (42 United States Code, §7543(e)(1)(A)), and Title 40 Code of Federal Regulations, §85.1604, concerning Adoption of California Standards by Other States, as amended on December 30, 1997, are specifically excluded from the requirements of this division.

(b) The following new non-road, large spark-ignition engines are exempt from the requirements of this division:

(1) engines operated on or in any device used exclusively upon stationary rails or tracks;

(2) engines used to propel marine vessels;

(3) internal combustion engines attached to a foundation at a specific location for at least 12 consecutive months;

(4) non-road, recreational vehicles and snowmobiles; and

(5) stationary or transportable gas turbines used for power generation.

§114.429. Affected Counties and Compliance Schedules.

(a) The provisions of this division shall apply in the following counties: Collin, Dallas, Denton, Ellis, Henderson, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties.

(b) For new non-road, large spark-ignition engines which have larger than a one-liter displacement, manufacturers shall show that all engine sales in the affected counties comply with §114.421 of this title (relating to Emissions Specifications) no later than December 31, 2002.