

The Texas Natural Resource Conservation Commission (TNRCC) proposes the repeal of §114.3, concerning Inspection Requirements, and §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers; and proposes new §114.3, concerning Vehicle Emissions Inspection Requirements; §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers; §114.6, concerning Waivers and Extensions for Inspection Requirements; and §114.7, concerning Inspection and Maintenance Fees. A revised control strategy which specifies the administrative, technical, and enforcement provisions of the Inspection/Maintenance (I/M) program is being proposed concurrently. The proposed amendments and mobile source control strategy modifications are proposed as a revision to the State Implementation Plan (SIP) for the control of ozone in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso nonattainment areas. This action is the result of Senate Bill (SB) 178 and the Governor's Executive Order which directs the TNRCC to design and develop a new plan for vehicle emissions testing to satisfy Federal Clean Air Act (FCAA) requirements. These proposed amendments and revisions to the SIP are also in response to the National Highway System Designation Act of 1995 signed into law on November 28, 1995.

Proposed new §114.3, concerning Vehicle Emissions Inspection Requirements, establishes the primary program requirements of the Texas Motorist's Choice Program for vehicle emissions testing and inspection. This section defines new terms for implementation of the program, the affected vehicle population, and the dates for program startup. New definitions include: adjusted annually, basic program area, core program area, emissions tune-up, enhanced program area, loaded mode I/M test,

motorist, on-road test, out-of-cycle test, primarily operated, program area, retest, revised Texas I/M SIP, testing cycle, test-only facilities, test-and-repair facilities, and uncommon part.

Section 114.3 also establishes control requirements for motorists and certain federal employees. The affected vehicles are required to comply with the air pollution emission control related requirements included in the annual vehicle safety inspection administered by the Texas Department of Public Safety (DPS), the vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP, and the on-road emissions test requirements. A motorist whose vehicle has failed the emissions test requirement must have emission-related repairs performed to receive a vehicle safety inspection sticker. Waiver provisions and time extensions are provided for the control requirements.

Section 114.3 prohibits persons, organizations, businesses, or other entities from activities related to the misrepresentation, misuse, or mishandling of vehicle emissions testing documents or certifications. This section establishes the certification requirements for inspection stations and the requirements for repair technicians allowed in the program. The commission requests specific comments on the amount of full-time automotive repair service experience required to qualify for repair technician recognition.

Proposed new §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers, establishes application, certification, maintenance, and service requirements for manufacturers or distributors of vehicle testing equipment seeking approval of an exhaust gas analyzer or analyzer system for use in the Texas I/M program. This section also requires applicants to comply

with all special provisions and conditions in the notice of approval and notifies applicants of enforcement consequences for misrepresentation or compliance failure.

Proposed new §114.6, concerning Waivers and Extensions for Vehicle Emissions Inspection Requirements, establishes two types of waivers and two types of time extensions, along with the associated qualification criteria. The Minimum Expenditure Waiver allows a motorist to forgo compliance with the control requirements after certain minimum expenditure levels are reached. The Individual Vehicle Waiver allows a motorist to forgo compliance with the control requirements after the motorist has taken reasonable measures to comply with the requirements of the vehicle emissions I/M program and the Director of DPS determines that such waiver shall have a minimal impact on air quality. The Minimum Expenditure and Individual Vehicle waivers are allowed once per test cycle. The Low Income Time Extension allows a motorist to forgo the control requirements due to financial considerations. A motorist may receive this waiver once every other test cycle. The Parts Availability Time Extension, allowed once per test cycle, provides a grace period for those vehicles which need repair parts that are temporarily unavailable.

Proposed new §114.7, concerning Inspection and Maintenance Fees, establishes fee schedules for the different counties which must be paid for the emissions inspection of a vehicle at an inspection station. This section instructs stations on how to charge for vehicle emissions inspections resulting from on-road testing.

In addition to the proposed rule changes, the proposed SIP revisions clarify the new program elements such as applicability changes; state resources for the program; the new program performance standard; emissions testing network type; emissions testing; affected vehicle populations; strategies for quality control and quality assurance; projection of waiver rates; enforcement actions related to vehicles and service providers; data collection, analysis, and reporting; inspector training, licensing, and certification; public information strategies; plans for improving repair effectiveness; on-road vehicle emissions testing; and the implementation schedule. The proposed SIP excludes the Beaumont/Port Arthur ozone nonattainment area from the I/M program requirements. The I/M program for Dallas and Tarrant counties being proposed exceeds the United States Environmental Protection Agency's (EPA) low enhanced performance standard for these counties. The proposed I/M programs for Harris and El Paso counties meet the low enhanced performance standard specified for these areas.

The TNRCC has prepared a Takings Impact Assessment for these rules pursuant to the Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rule is to provide for changes to the TNRCC I/M program as directed by Senate Bill 178 of the 74th Legislature. The rules will substantially advance this specific purpose by making the necessary revisions to current regulations which provide for a more convenient, less costly program that would meet the requirements of the FCAA. Promulgation and enforcement of these rules will not affect the value of private real property.

Steve Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on the TNRCC will be \$400,000 between 1996-1999 related to program design, oversight, and evaluation. The DPS has committed to dedicating no less than 28 full time equivalent employees to I/M program implementation, administration, and support. Revenues to the state will increase by an anticipated \$690,000 in revenue during Fiscal Year (FY) 1996, approximately \$6,200,000 in revenue during FY 1997, and approximately \$8,200,000 in revenue during FY 1998. Most of this revenue will go to the DPS.

Motorists and businesses owning vehicles registered in and primarily operated in Dallas, Tarrant, and El Paso counties will see current test fees increase from \$8.75 to \$13 at a test-and-repair facility or to market level at a test-only facility. Motorists in Harris County will begin paying an emissions fee of \$13 at a test-and-repair facility or market level at a test-only facility.

Motorists and businesses owning vehicles in Collin, Denton, Brazoria, Fort Bend, Galveston, Montgomery, Chambers, Liberty, and Waller counties may have to pay for the cost of repairs for emissions systems if their vehicle fails a remote sensing inspection.

Test facilities in Dallas, Tarrant, and El Paso counties will have to expend between \$4,000 and \$8,000 to upgrade existing test equipment to new state specifications. Facilities in Harris County will need to spend between \$15,000 to \$18,000 to acquire new testing equipment meeting state standards. Facilities

will have the option of leasing new testing equipment. Lease rates will vary greatly depending on the new cost of the equipment, the length of the leasing agreement, and the effective interest rate charged by the lessor.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be reduced aggregate emissions from vehicles, improved emission related repairs, improved consumer protection, and improved customer convenience in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

Public hearings on these proposals will be held in Houston on April 8, 1996 at 7:00 p.m. at the City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; in El Paso on April 9, 1996 at 7:00 p.m. at the City of El Paso Council Chambers, 2 Civic Center Plaza, 2nd Floor, El Paso; and in Irving on April 10, 1996 at 7:00 p.m. at the City of Irving Central Library Auditorium, 801 West Irving Boulevard, Irving. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearings; however, a TNRCC staff member will be available to discuss the proposal 1 hour prior to each hearing and will answer questions before and after the hearings.

Written comments may be mailed to Heather Evans, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087; faxed to (512) 239-4808; or

e-mailed to [hevans@smtpgate.tnrcc.state.tx.us](mailto:hevans@smtpgate.tnrcc.state.tx.us). All comments should reference Rule Log Number 96104-114-AI. Comments must be received by 5:00 p.m., April 26, 1996. For further information, please contact Thomas Ortiz, Air Policy and Regulations Division, (512) 239-1054.

The new sections are proposed under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed new sections implement the Health and Safety Code, §382.017.

## **MOTOR VEHICLES**

### **§§114.3, 114.4, 114.6, 114.7**

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

(a) Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (TNRCC), the terms used by the TNRCC 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 section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Adjusted annually** - Percentage, if any, by which the Consumer Price Index (CPI) for the preceding calendar year differs (as of August 31) from the CPI for 1989; adjustments shall be effective on January 1 of each year.

(2) **Basic program area** - Collin, Dallas, Denton, and Tarrant counties.

(3) **Core program area** - Dallas, El Paso, Harris, and Tarrant counties.

(4) **Emissions tune-up** - A basic tune-up along with functional checks and any necessary replacement or repair of emission control components.

(5) **Enhanced program areas** - Harris, Waller, Galveston, Montgomery, Chambers, Liberty, Fort Bend, Brazoria, and El Paso counties.

(6) **Loaded mode I/M 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 shall meet United States Environmental Protection Agency (EPA) requirements for Acceleration Simulation Modes equipment.

(7) **Motorist** - A person or other entity responsible for the inspection, repair and maintenance of a motor vehicle, which may include, but is not limited to, owners and lessees.

(8) **On-road test** - Utilizing remote sensing technology to identify vehicles operating within the core I/M program area that have a high probability of being high-emitters.

(9) **Out-of-cycle test** - Required emissions test not associated with vehicle safety inspection testing cycle.

(10) **Primarily operated** - Use of a motor vehicle greater than 60 continuous days per year in a county, motorists shall comply with emissions requirements for such county.

(11) **Program area** - County or counties in which the Texas Department of Public Safety (DPS), in coordination with the TNRCC, administers the vehicle emissions inspection and maintenance program contained in the revised Texas I/M State Implementation Plan (SIP). These counties include Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Harris, Galveston, Liberty, Montgomery, Tarrant, and Waller.

(12) **Retest** - Successive vehicle emissions inspections following the failing of an initial test by a vehicle during a single testing cycle.

(13) **Revised Texas I/M SIP** - The Texas SIP as revised in accordance with the 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992, and proposed revision dated February 28, 1996 as provided for in the National Highway Systems Designation Act of 1995, including the procedures and requirements of the vehicle emissions inspection and maintenance program. A copy of the revised Texas I/M SIP is available at the TNRCC, 12124 Park 35 Circle, Austin, Texas, 78753.

(14) **Testing cycle** - Annual or biennial cycle commencing with the first safety inspection certificate expiration date for which a motor vehicle is subject to a vehicle emissions inspection.

(15) **Test-only facilities** - Inspection facilities that are not engaged in repairing emissions control components of vehicles. Acceptable repairs in a test-only facilities shall be those related to oil changes, other non-emissions related repairs and/or maintenance, and the sale of auto convenience items.

(16) **Test-and-repair facilities** - Inspection facilities that engage in repairing emissions control components of a vehicle.

(17) **Uncommon part** - A part that takes more than 30 days for expected delivery and installation, where a motorist can prove that a reasonable attempt made to locate necessary emission control parts by retail or wholesale part suppliers will exceed the remaining time prior to expiration of the vehicle safety inspection certificate or the 30 day period following an out-of-cycle inspection.

(b) **Applicability.** The requirements of this section and those contained in the revised Texas I/M SIP shall be applied to model years 24 years and newer of gasoline-powered motor vehicles, excluding motorcycles and dual-fueled vehicles which cannot be operated using gasoline, and safety inspection facilities and inspectors certified by DPS to inspect vehicles, in the program areas in accordance with the following schedule:

(1) annual or biennial emissions inspection of vehicles registered in and primarily operated in Dallas and Tarrant Counties beginning on July 1, 1996;

(2) annual or biennial emissions inspection of vehicles registered in and primarily operated in El Paso and Harris Counties beginning on January 1, 1997, and

(3) on-road tests of vehicles registered in the program area and operating in the core program area beginning on September 1, 1997.

(c) Control requirements.

(1) No person may operate any motor vehicle which does not comply with:

(A) all applicable air pollution emission control related requirements included in the annual vehicle safety inspection requirements administered by DPS, as evidenced by a current valid inspection certificate affixed to the vehicle windshield; and

(B) the vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP.

(2) No person or entity may own, operate, or allow the operation of a vehicle registered in a program area, unless the vehicle has complied with all applicable vehicle emissions I/M requirements contained in the revised Texas I/M SIP.

(3) All federal government agencies shall 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 a program area to comply with all vehicle emissions I/M requirements contained in the revised Texas I/M SIP. Commanding officers or directors of federal facilities shall certify annually that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (FCAA). This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(4) Any motorist in an enhanced program area whose motor vehicle has been issued an emissions-related recall notice from an emissions inspection station shall furnish proof of compliance with the recall notice prior to having their vehicle emissions inspection for their next testing cycle. The motorist may present a written statement from the dealership or leasing agency indicating that emissions repairs have been completed as proof of compliance.

(5) 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 retest is free.

(6) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest must have emission-related repairs performed and must submit a properly completed Vehicle Repair Form (VRF) in order to receive a retest, a minimum expenditure waiver, or a parts availability time extension.

(7) A motorist whose motor vehicle is registered in a program area and has failed an on-road test administered by the TNRCC or DPS shall:

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

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the revised Texas I/M SIP within 60 days of written notice by the TNRCC or DPS.

(8) State, governmental, and quasi-governmental agencies which fall outside the normal registration renewal process shall be required to comply with all vehicle emissions I/M requirements contained in the Texas I/M SIP.

(d) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in §114.6 of this title (relating to Waivers and Extensions for Inspection Requirements), which defer the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(e) Biennial testing. If a vehicle has passed a loaded mode I/M test at a test-only facility, the vehicle is exempt from the emissions testing requirement for the following year.

(f) Prohibitions.

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

(2) No person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents which may be used to circumvent the vehicle emissions I/M requirements and procedures contained in the revised Texas I/M SIP.

(3) No organization, business, person, or other entity may represent itself as an inspector certified by the DPS, unless such certification has been issued pursuant to the certification requirements and procedures contained in the revised Texas I/M SIP.

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

(g) Requirements for recognized emissions repair technician of Texas.

(1) The following requirements must be met before DPS recognition:

(A) demonstration to the National Institute of Automotive Service Excellence (ASE) of a minimum of three years of full-time automotive repair service experience;

(B) certification in the following four tests offered by the ASE: Engine Repair (Test A1), Electrical Systems (Test A6), Engine Performance (Test A8), and beginning January 1, 1998 Advanced Engine Performance Specialist (Test L1);

(C) notification by DPS that verification of certification by the National Institute of Automotive Service Excellence is completed; and

(D) any other demonstration required by DPS rule.

(2) A recognized emissions repair technician shall perform the following duties:

(A) certify the emissions related repairs on the VRF form to be submitted to the DPS;

- (B) complete and certify the VRF form for customers;
- (C) notify the DPS in writing within 14 days of changes in the technician's

ASE testing status.

(h) Certified emission inspection station requirements. The following requirements must be met for certification to be issued and renewed:

(1) meet all requirements established by DPS rules and regulations;

(2) purchase or lease emissions testing equipment that has been certified as specified in §114.4 of this title (relating to Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers);  
and

(3) have a dedicated phone line for each vehicle exhaust gas analyzer to be used to inspect vehicles.

**§114.4. Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.**

(a) Any manufacturer or distributor of vehicle testing equipment may apply to the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) or his appointee, for approval of an exhaust gas analyzer or analyzer system for use in the Texas Inspection/Maintenance

(I/M) program administered by the Texas Department of Public Safety. Each manufacturer shall submit a formal certificate to the TNRCC stating that any analyzer sold or leased by the manufacturer or its authorized representative for use in the I/M program will satisfy all design and performance criteria set forth in "Specifications for Precondition Two Speed Idle Vehicle Exhaust Gas Analyzer Systems for Use in the Texas Motorist's Choice Vehicle Emissions Testing Program." Copies of this document are available at the TNRCC Central Office, 12100 Park 35 Circle, Austin, Texas 78753. The manufacturer shall also provide sufficient documentation to demonstrate conformance with these criteria including a complete description of all hardware components, the results of appropriate performance testing, and a point-by-point response to each specific requirement.

(b) All equipment shall be tested by an independent test laboratory. The cost of the certification shall be absorbed by the manufacturer. The conformance demonstration shall include, but is not limited to:

(1) certification that equipment design and construction conforms with the specifications referenced in subsection (a) of this section;

(2) documentation of successful results from appropriate performance testing;

(3) evidence of necessary changes to internal computer programming, display format, and data recording sequence;

(4) a commitment to fulfill all maintenance, repair, training, and other service requirements described in the specifications referenced in subsection (a) of this section. A copy of the minimum warranty agreement to be offered to the purchaser of an approved vehicle exhaust gas analyzer shall be included in the demonstration of conformance; and

(5) documentation of communication ability using protocol provided by the TNRCC or the TNRCC Texas Datalink contractor.

(c) If a review of the demonstration of conformance and all related support material indicates compliance with the criteria listed in subsections (a) and (b) of this section, the Executive Director or his appointee may issue a notice of approval to the analyzer manufacturer which endorses the use of the specified analyzer or analyzer system in the Texas I/M program.

(d) The applicant shall comply with all special provisions and conditions specified by the Executive Director or his appointee in the notice of approval.

(e) Any manufacturer or distributor which receives a notice of approval from the Executive Director or his appointee for a vehicle exhaust gas analyzer for use in the Texas I/M program may be subject to appropriate enforcement action and penalties prescribed in the Texas Clean Air Act or the rules and regulations promulgated thereunder if:

(1) Any information included in the conformance demonstration as required in subsection (b) of this section is misrepresented resulting in the purchase or operation of equipment in the Texas I/M program which does not meet the specifications referenced in subsection (a) of this section, or

(2) The applicant fails to comply with any requirement or commitment specified in the notice of approval issued by the Executive Director or implied by the representations submitted by the applicant in the conformance demonstration required by subsection (b) of this section.

**§114.6. Waivers and Extensions for Inspection Requirements.**

(a) Applicability. The waivers and extensions apply to any motorists who can satisfy the conditions of a specific waiver or extension. Applications must be made to the Department of Public Safety (DPS). For the minimum expenditure waiver, individual vehicle waiver, and parts availability time extension, the motorist may apply only once for each testing cycle. For the low income time extension, the motorist may apply every other test cycle.

(b) Minimum expenditure waiver. A motorist shall use any available warranty coverage to obtain needed repairs before expenditures shall be used in calculating the minimum repair expenditures to qualify for a minimum expenditure waiver, unless the warranty remedy has been denied in writing from the manufacturer or authorized dealer. A motorist may not use or attempt to use expenditures for

tampering-related repairs in calculating the minimum repair expenditures to qualify for a minimum expenditure waiver. A minimum expenditure waiver shall be valid for the remaining portion of the testing cycle. Tampering includes, but is not limited to, engine modifications, emission system modifications, or fuel-type modifications disapproved by the Texas Natural Resource Conservation Commission or United States Environmental Protection Agency. A minimum expenditure waiver may be granted in accordance with the following conditions:

(1) The motor vehicle must have a valid Vehicle Inspection Report (VIR), a valid Vehicle Repair Form (VRF), and have failed a retest after repairs, which meet the following conditions:

(A) The minimum expenditure shall be:

(i) at least \$300 until December 31, 1997 and beginning January 1, 1998 a minimum of \$450, adjusted annually, in enhanced program areas; or

(ii) at least \$75 for pre-1981 model year vehicles and at least \$200 for 1981 and later model year vehicles in basic program areas;

(B) After January 1, 1997, for 1981 and newer model year vehicles, all qualifying repairs shall be performed by a Recognized Emissions Repair Technician of Texas in order to count labor cost and/or diagnostic costs;

(C) Qualifying repairs must be directly applicable to the cause for the test failure; and

(D) After January 1, 1997, when repairs are not performed by a Recognized Emissions Repair Technician of Texas, only the purchase price of parts, applicable to the failure, qualify as a repair expenditure for the minimum expenditure waiver.

(2) The motorist provides to the DPS an original retest VIR, a properly completed VRF, and an original itemized receipt indicating the emissions-related repairs performed. If labor and/or diagnostic charges are being claimed towards the minimum expenditure, the VRF shall be completed by a Recognized Emissions Repair Technician of Texas after January 1, 1997.

(c) Low income time extension. A low income time extension may be granted in accordance with the following conditions:

(1) A motorist must supply proof that the subject vehicle failed the initial emissions inspection test in the form of an original failed vehicle inspection report.

(2) A motorist shall provide proof in writing to the DPS that the registered vehicle owner(s) meets the following conditions:

(A) the low income time extension applicant is the owner of the vehicle that has failed an I/M test; and

(B) the vehicle has not been granted a low income time extension waiver in the previous inspection cycle; and

(C) the applicant meets one of the following:

(i) the applicant receives financial assistance from the Texas Department of Human Services (subject to approval by the Director of DPS); or

(ii) the applicant's adjusted gross income is within the following maximum income limits (for families of more than 10 members, add \$267 for each additional person) or the current federal poverty income guidelines:

| <u>Household Size (Persons)</u> | <u>Adjusted Gross Income</u> |
|---------------------------------|------------------------------|
| 1                               | \$ 9,072                     |
| 2                               | \$ 12,264                    |

|    |           |
|----|-----------|
| 3  | \$ 15,468 |
| 4  | \$ 18,660 |
| 5  | \$ 21,864 |
| 6  | \$ 25,056 |
| 7  | \$ 28,260 |
| 8  | \$ 31,452 |
| 9  | \$ 34,656 |
| 10 | \$ 37,872 |

(D) the applicant shows proof of conformity with paragraph (2)(C) of this subsection by providing to the DPS one of the following, which the applicant certifies are true and correct:

(i) a federal income tax return; or

(ii) other documentation authorized by the Director of the DPS.

(3) After a motorist receives an initial low income time extension, the vehicle must pass an emissions test prior to receiving another low income time extension or any waiver or extension.

(d) Parts availability time extension. The parts availability time extension does not exempt the vehicle from the compliance requirements of the I/M program but merely extends the period for

compliance. By the end of the time extended, the vehicle must be repaired, retested, and receive a passing VIR or comply with paragraph (4) of this subsection. Only one parts availability time extension is allowed in each test cycle for each vehicle. A parts availability time extension may be granted in accordance with the following conditions:

(1) The motorist can document that emissions-related repairs cannot be completed before the expiration of the safety inspection certificate or before the 30-day period following an out-of-cycle inspection because the repairs require an uncommon part;

(2) The motorist shall provide to the DPS an original VIR indicating that the vehicle failed the emissions test and an original itemized documentation by a Recognized Emissions Repair Technician of Texas (after January 1, 1997), indicating parts ordered by name; description and catalog number; order number; source of parts, including address and phone number; and expected delivery and installation dates of uncommon parts before a parts availability time extension can be issued.

(3) The motorist shall return the motor vehicle through the DPS for a retest and verification of repairs upon completion of the repairs.

(4) The motorist shall provide to the DPS, prior to expiration of a parts availability time extension, adequate documentation that one of the following conditions exists:

(A) the motor vehicle passed a retest;

(B) the motorist qualifies for a Minimum Expenditure Waiver or Low Income Time Extension; or

(C) the motor vehicle shall no longer be operated in the program area.

(5) A vehicle which receives a parts availability time extension in one test cycle must have the vehicle repaired and retested prior to the expiration of such extension or the vehicle shall be ineligible for a parts availability time extension in the subsequent test cycle.

(6) The length of a parts availability time extension shall depend upon expected delivery and installation dates of uncommon parts as determined by the DPS representative on a case by case basis and issued for either 30, 60, or 90 days or longer if necessary, but shall not exceed one test cycle.

(e) Individual vehicle waiver. If a vehicle has failed an inspection and maintenance (I/M) test, a motorist may petition the Director of the DPS for an individual vehicle waiver. Upon demonstration that the motorist has taken reasonable measures to comply with the requirements of the vehicle emissions I/M program contained in the revised Texas I/M SIP and that such waiver shall have

minimal impact on air quality, the Director may approve the petition, and the motorist may receive a waiver. Motorists may apply for the individual vehicle waiver each test cycle.

**§114.7. Inspection and Maintenance Fees.**

(a) The following fees must be paid for an emissions inspection of a vehicle at an inspection station. This fee shall include one free retest should the vehicle fail the emissions inspection, provided that the motorist has the retest performed at the same station where the vehicle originally failed and submits, prior to the retest, a properly completed Vehicle Repair Form showing that emission-related repairs were performed and the retest is conducted within 15 days of the initial emissions test. For Dallas, Tarrant, Harris, and El Paso counties:

(1) Test and Repair Stations (Two Speed Idle / Annual Test): \$13.00. The inspection station shall remit \$1.75 to the Department of Public Safety (DPS).

(2) Test Only Stations (Two Speed Idle / Annual Test): Market Driven (Fee set by inspection station). The inspection station shall remit \$1.75 to the DPS.

(3) Test Only Stations (Loaded or Transient / Biennial Test): Market Driven (Fee set by inspection station). The inspection station shall remit \$1.75 to the DPS.

(4) The collection of inspection fees set forth in this subsection will coincide with the program start dates outlined in §114.3(b) of this title (relating to Applicability).

(b) The per-vehicle fee and the amount the inspection station remits to the DPS for a challenge test, at an inspection station designated by the DPS, shall be the same as the amounts set forth in subsection (a) of this section. The challenge fee shall not be charged if the vehicle is retested within 15 days of the initial test.

(c) Inspection stations performing out-of-cycle vehicle emissions inspections for the state's remote sensing element shall charge a motorist for an out-of-cycle emissions inspection, resulting from written notification that subject vehicle failed on-road testing, only, if such vehicle fails the emissions inspection and is registered outside the core program area. Inspection stations shall charge the DPS for all other vehicle emissions inspections resulting from on-road testing.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on

## **MOTOR VEHICLES**

The repeals are proposed under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the Texas Natural Resource Conservation Commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed repeals implement the Health and Safety Code, §382.017.

### **§114.3. Inspection Requirements. (Repeal.)**

### **§114.4. Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers. (Repeal.)**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on