

The Texas Natural Resource Conservation Commission (commission) proposes an amendment to §114.3, concerning Vehicle Emissions Inspection Requirements. This proposal revises the definition of primarily operated to specify that the vehicle emissions inspection requirements apply to vehicles operated at least 60 calendar days of the year within a core program area rather than 60 continuous days.

Steve Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period this section is in effect there will be no major fiscal implications for state or local government as a result of enforcing or administering this section.

Mr. Minick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the efficient operation of the Texas Motorists' Choice Program. Some small businesses and individuals in the core program areas who had planned to exercise the exclusion opportunity could find themselves subject to program requirements including inspection fees and repair costs. While the cost of an inspection will be \$13.00, potential repair costs are not quantifiable.

The commission has prepared a Takings Impact Assessment for these rules pursuant to the Texas Government Code Annotated, §2007.043, and has determined this rule will have no effect on private real property.

A public hearing on the proposal will be held in Austin on November 19, 1996 at 10:00 a.m. in Building F, Room 2210 at the Texas Natural Resource Conservation Commission complex, located at 12100 North IH-35, Park 35 Technology Center, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Written comments may be mailed to Heather Evans, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 96166-114-AI. Comments must be received by 5:00 p.m., November 21, 1996. For further information, please contact Thomas Ortiz, Air Policy and Regulations Division, (512) 239-1054.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

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

The proposed new section implements the Health and Safety Code, §382.017.

**§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 (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 section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (10) (No change.)

(11) Primarily operated - Use of a motor vehicle greater than 60 calendar [continuous] days per testing cycle in a county, motorists shall comply with emissions requirements for such county. It is presumed that a vehicle is primarily operated in the county which it is registered.

(12) - (16) (No change.)

(b) - (h) (No change.)

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 October 9, 1996.