

The commission proposes the repeal of §114.200, concerning the Accelerated Vehicle Retirement (AVR or vehicle scrappage) Program.

#### EXPLANATION OF PROPOSED RULE

This proposal is part of the regulatory reform effort. Regulatory reform projects identify rules and regulations which need clarification for the benefit of the public; are outdated; impose regulatory requirements in excess of their contribution to the commission's mission; or are duplicated, unnecessary, or inconsistent. This rule is inconsistent with the current Inspection/Maintenance (I/M) program, which lacks a loaded mode I/M 240 test. Additionally, this rule is currently not being used by the agency and is not required by state or federal law. Repeal of the rule will allow staff time to address any environmental justice issues which may arise due to trading of scrappage credits to offset compliance with other mandatory environmental regulations.

The commission supports and will continue to work closely with local areas in developing scrappage programs as potential emission reduction strategies to assist them in moving towards attainment.

The proposed repeal will allow further flexibility for local areas to create their own vehicle scrappage programs based on guidance from the agency.

#### FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the repeal is in effect there will be no significant fiscal implications for state or local

government as a result of administration or enforcement of the repeal. Although this rule was proposed and adopted as part of the commission's efforts to address air emissions from mobile sources, as a result of changes to the I/M program the rule is no longer consistent with the program and has not been implemented.

#### PUBLIC BENEFIT

Mr. Minick has also determined that for each year of the first five years the repeal of the rule is in effect the public benefit anticipated as a result of the repeal will be the elimination of regulatory requirements that are no longer applicable and improved consistency between the commission's regulations and current air quality programs. There is no anticipated economic cost to persons, including any small business, subject to the rule proposed for repeal.

#### 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 is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the act, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this proposal under Texas Government Code, §2007.043. Promulgation and enforcement of this rule making will not affect private real property.

#### COASTAL MANAGEMENT PLAN

The commission has determined that the proposed rule making 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 CMP. 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 proposed action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council and has determined that the proposed 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 at Title 40, Code of Federal Regulations (40 CFR), to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). This proposal does not change existing requirements which already comply with regulations at 40 CFR, and is therefore consistent with this policy.

#### PUBLIC HEARING

A public hearing on the proposal will be held in Austin on April 14, 1998, at 10:00 a.m. in Building F, Room 2210 of 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 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 will answer questions before and after the hearing.

#### SUBMITTAL OF COMMENTS

Written comments may be submitted to Heather Evans, 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 No. 98009-SIP-AI. Comments must be received by 5:00 p.m.

April 20, 1998. For further information, please contact Bill Jordan of the Air Policy and Regulations Division, Office of Policy and Regulatory Development, (512) 239-2583.

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.

#### STATUTORY AUTHORITY

The repeal is proposed under the agency's general authority, Texas Health and Safety Code §382.017.

The repeal authority may be adopted under Texas Water Code §5.103, and Texas Health and Safety Code, §382.017. Section 5.103 requires the commission to adopt rules any time it is repealing any agency statement of general applicability that describes its procedure or practice requirements. Section 382.017 provides the commission with the authority to adopt rules.

The proposed repeal implements Health and Safety Code, §382.017.

**SUBCHAPTER F : VEHICLE RETIREMENT AND  
MOBILE EMISSION REDUCTION CREDITS**

**§114.200**

**114.200. Accelerated Vehicle Retirement Program. Repealed**