

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Rulemaking Adoption

AGENDA REQUESTED: 3/30/2022

DATE OF REQUEST: 3/11/2022

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Cecilia Mena, Rule/Agenda Coordinator, (512) 239-6098

CAPTION: Docket No. 2021-1008-RUL. Consideration of the adoption of amendments to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A, Definitions, Section 114.1, and Subchapter C, Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties, Section 114.50 and Section 114.82.

The adopted rulemaking will implement applicable sections of Senate Bill 604, 86th Legislature, 2019, relating to the display of a vehicle's registration insignia on a digital license plate in lieu of attaching the registration insignia to the inside of the vehicle's windshield. The proposed rules were published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8204). (Nicholas Landuyt, Sierra Redding; Rule Project No. 2021-029-114-AI)

Tonya Baer

Director

Donna F. Huff

Division Deputy Director

Cecilia Mena

Agenda Coordinator

Copy to CCC Secretary? NO YES

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** 3/11/2022

Thru: Laurie Gharis, Chief Clerk
Toby Baker, Executive Director

From: Tonya Baer, Director
Office of Air

Docket No.: 2021-1008-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 114, Control of Air Pollution from Motor Vehicles
Rule Project No. 2021-029-114-AI

Background and reason(s) for the rulemaking:

This adopted rulemaking will ensure that the Inspection and Maintenance (I/M) program rules are consistent with the different forms of proof of compliance allowed by the Texas Department of Public Safety (DPS) and the Texas Department of Motor Vehicles (DMV). This rulemaking is necessary to implement applicable sections of Senate Bill (SB) 604, 86th Texas Legislature, 2019. SB 604 amended the Texas Transportation Code (TTC), Chapter 504, License Plates, allowing the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

This adopted rulemaking will amend Chapter 114 to remove language requiring that the vehicle registration insignia sticker be affixed to the vehicle windshield, and to add language to allow for different forms of compliance.

B.) Scope required by federal regulations or state statutes:

This adopted rulemaking is necessary to incorporate changes to TTC, Chapter 504, License Plates, as amended by SB 604, and to ensure that program requirements are consistent between the Texas Commission on Environmental Quality, DMV, and DPS. Corresponding revisions to the State Implementation Plan (SIP) will be completed in a future SIP revision.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

This rule revision is adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent

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with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties. The rule revisions implement amendments to TTC, §§504.151 - 504.157, which were amended by SB 604, 86th Legislature, 2019.

Effect on the:

A.) Regulated community:

None.

B.) Public:

None.

C.) Agency programs:

None.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, a virtual rule public hearing was offered during the public comment period.

Public comment:

The comment period opened on December 3, 2021, and the commission offered a public hearing on January 4, 2022. The comment period closed on January 5, 2022. No public comments were received.

Significant changes from proposal:

None.

Commissioners

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Potential controversial concerns and legislative interest:

No controversial concerns or legislative interest is anticipated.

Will this rulemaking affect any current policies or require development of new policies?

None.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, the language in Chapter 114 would not align with the language in TTC, Chapter 504.

Key points in the rulemaking adoption schedule:

Texas Register proposal publication date: 12/03/2021

Anticipated *Texas Register* adoption publication date: 4/15/2022

Anticipated effective date: 4/21/2022

Six-month *Texas Register* filing deadline: 06/03/2022

Agency contacts:

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Sierra Redding, Staff Attorney, (512) 239-2496

Cecilia Mena, Texas Register Rule/Agenda Coordinator, (512) 239-6098

Attachments:

SB 604

cc: Chief Clerk, 2 copies
Executive Director's Office
Jim Rizk
Morgan Johnson
Brody Burks
Office of General Counsel
Nicholas Landuyt
Sierra Redding
Cecilia Mena

AN ACT

relating to the continuation and functions of the Texas Department of Motor Vehicles and to the operations of certain other entities performing functions associated with the department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. Section 1001.005, Transportation Code, is amended to read as follows:

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2031 [~~2019~~].

SECTION 1.02. Section 1001.030, Transportation Code, is amended to read as follows:

Sec. 1001.030. BOARD MEMBER TRAINING [~~ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT~~]. (a) A [~~To be eligible to take office as a member of the board, a~~] person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes [~~must complete at least one course of~~] a training program that complies with this section.

(b) The training program must provide the person with information [~~to the person~~] regarding:

- 1 (1) the law governing department operations [~~this~~
2 ~~subchapter~~];
- 3 (2) the board's programs, functions, and rules and the
4 budget of [~~operated by~~] the department;
- 5 (3) the scope of and limitations on the rulemaking
6 authority [~~role and functions~~] of the board [~~department~~];
- 7 (4) the types of board rules, interpretations, and
8 enforcement actions that may implicate federal antitrust law by
9 limiting competition or impacting prices charged by persons engaged
10 in a profession or business the board regulates, including any
11 rule, interpretation, or enforcement action that:
- 12 (A) regulates the scope of practice of persons in
13 a profession or business the board regulates;
- 14 (B) restricts advertising by persons in a
15 profession or business the board regulates;
- 16 (C) affects the price of goods or services
17 provided by persons in a profession or business the board
18 regulates; or
- 19 (D) restricts participation in a profession or
20 business the board regulates [~~rules of the department with an~~
21 ~~emphasis on the rules that relate to disciplinary and investigatory~~
22 ~~authority~~];
- 23 (5) [~~the current budget for the department,~~
24 [~~6~~] the results of the most recent formal audit of
25 the department;
- 26 (6) [~~7~~] the requirements of [~~the~~]:
- 27 (A) laws relating to open meetings, public

1 information, [~~law, Chapter 551, Government Code,~~
2 ~~[(B) open records law, Chapter 552, Government~~
3 ~~Code; and~~
4 ~~[(C)] administrative procedure [~~law~~], and~~
5 ~~disclosure of conflicts of interest; and~~
6 ~~(B) other laws applicable to members of the board~~
7 ~~in performing their duties [~~Chapter 2001, Government Code,~~~~
8 ~~[(8) the requirements of the conflict of interest laws~~
9 ~~and other laws relating to public officials]; and~~
10 ~~(7) [(9)] any applicable ethics policies adopted by~~
11 ~~the department [~~board~~] or the Texas Ethics Commission.~~

12 (c) A person appointed to the board is entitled to
13 reimbursement, as provided by the General Appropriations Act, for
14 the travel expenses incurred in attending the training program,
15 regardless of whether the attendance at the program occurs before
16 or after [~~as provided by the General Appropriations Act and as if]~~
17 the person qualifies for office [~~were a member of the board~~].

18 (d) The executive director shall create a training manual
19 that includes the information required by Subsection (b). The
20 executive director shall distribute a copy of the training manual
21 annually to each member of the board. Each member of the board
22 shall sign and submit to the executive director a statement
23 acknowledging that the member received and has reviewed the
24 training manual.

25 SECTION 1.03. Section 1001.041(a), Transportation Code, is
26 amended to read as follows:

27 (a) Subject to the General Appropriations Act or other law,

1 the executive director shall appoint deputies, assistants, and
2 other personnel, including a general counsel, as necessary to carry
3 out the powers and duties of the department under this code, other
4 applicable vehicle laws of this state, and other laws granting
5 jurisdiction or applicable to the department.

6 SECTION 1.04. Section 1001.0411, Transportation Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) In accordance with Section 1001.041(a), the executive
9 director shall hire and oversee a general counsel to advise the
10 department.

11 SECTION 1.05. Section 1001.042, Transportation Code, is
12 amended to read as follows:

13 Sec. 1001.042. DIVISION OF RESPONSIBILITIES. The board
14 shall develop and implement policies that clearly separate [~~define~~]
15 the policy-making responsibilities of the board and the management
16 [~~respective~~] responsibilities of the executive director, including
17 the appointment of department staff, and the staff of the
18 department.

19 SECTION 1.06. Chapter 1003, Transportation Code, is amended
20 by adding Sections 1003.0055 and 1003.008 to read as follows:

21 Sec. 1003.0055. COMPLAINTS. (a) The department shall
22 maintain a system to promptly and efficiently act on complaints
23 filed with the department. The department shall maintain
24 information about parties to and the subject matter of the
25 complaint and a summary of the results of the review or
26 investigation of the complaint and the disposition of the
27 complaint.

1 (b) The department shall make information available
2 describing its procedures for complaint investigation and
3 resolution.

4 (c) The department shall periodically notify the parties to
5 the complaint of the status of the complaint until final
6 disposition.

7 Sec. 1003.008. NEGOTIATED RULEMAKING AND ALTERNATIVE
8 DISPUTE RESOLUTION POLICY. (a) The board shall develop and
9 implement a policy to encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter
11 2008, Government Code, for the adoption of department rules; and

12 (2) appropriate alternative dispute resolution
13 procedures under Chapter 2009, Government Code, to assist in the
14 resolution of internal and external disputes under the department's
15 jurisdiction.

16 (b) The department's procedures relating to alternative
17 dispute resolution must conform, to the extent possible, to any
18 model guidelines issued by the State Office of Administrative
19 Hearings for the use of alternative dispute resolution by state
20 agencies.

21 (c) The department shall:

22 (1) coordinate the implementation of the policy
23 developed under Subsection (a);

24 (2) provide training as needed to implement the
25 procedures for negotiated rulemaking or alternative dispute
26 resolution; and

27 (3) collect data concerning the effectiveness of those

1 procedures.

2 SECTION 1.07. Chapter 1004, Transportation Code, is amended
3 by adding Section 1004.003 to read as follows:

4 Sec. 1004.003. CONFIDENTIALITY OF INFORMATION RELATED TO
5 INVESTIGATIONS. Information obtained during an investigation of a
6 person regulated under Chapter 2301 or 2302, Occupations Code, or
7 Chapter 503 or 643 of this code is confidential and not subject to
8 disclosure under Chapter 552, Government Code, until the
9 investigation is dismissed or finally resolved only if the
10 disclosure of that information would interfere with or jeopardize
11 the investigation.

12 SECTION 1.08. The following provisions are repealed:

- 13 (1) Section 2110.002(c), Government Code;
14 (2) Section 2301.612, Occupations Code; and
15 (3) Section 1001.031(a-1), Transportation Code.

16 SECTION 1.09. (a) Except as provided by Subsection (b) of
17 this section, Section 1001.030, Transportation Code, as amended by
18 this Act, applies to a member of the board of the Texas Department
19 of Motor Vehicles who is appointed before, on, or after the
20 effective date of this Act.

21 (b) A member of the board of the Texas Department of Motor
22 Vehicles who, before the effective date of this Act, completed the
23 training program required by Section 1001.030, Transportation
24 Code, as that law existed before the effective date of this Act, is
25 required to complete additional training only on subjects added by
26 this Act to the training program as required by Section 1001.030,
27 Transportation Code, as amended by this Act. A board member

1 described by this subsection may not vote, deliberate, or be
2 counted as a member in attendance at a meeting of the board held on
3 or after December 1, 2019, until the member completes the
4 additional training.

5 ARTICLE 2. LICENSING

6 SECTION 2.01. Section 2301.251(a), Occupations Code, is
7 amended to read as follows:

8 (a) Unless a person holds a license issued under this
9 chapter authorizing the activity, the person may not:

10 (1) engage in business as, serve in the capacity of, or
11 act as a dealer, manufacturer, distributor, converter,
12 ~~representative,~~ vehicle lessor, or vehicle lease facilitator in
13 this state; or

14 (2) perform or offer to perform repair services on a
15 motor vehicle under a franchise and a motor vehicle manufacturer's
16 warranty, regardless of whether the person sells or offers to sell
17 motor vehicles at the same location.

18 SECTION 2.02. Section 2301.258, Occupations Code, is
19 amended to read as follows:

20 Sec. 2301.258. GENERAL REQUIREMENTS FOR APPLICATION FOR
21 MANUFACTURER'S, DISTRIBUTOR'S, OR CONVERTER'S [~~OR~~
22 ~~REPRESENTATIVE'S~~] LICENSE. An application for a manufacturer's,
23 distributor's, or converter's [~~or representative's~~] license must
24 be on a form prescribed by the department. The application must
25 include information the department determines necessary to fully
26 determine the qualifications of an applicant, including financial
27 resources, business integrity and experience, facilities and

1 personnel for serving franchised dealers, and other information the
2 department determines pertinent to safeguard the public interest
3 and welfare.

4 SECTION 2.03. Section 2301.264(a), Occupations Code, is
5 amended to read as follows:

6 (a) The annual fees for a license issued under this chapter
7 are:

8 (1) \$900 for a manufacturer or distributor, plus \$20
9 for each dealer franchised by the manufacturer or distributor;

10 (2) for a franchised dealer:

11 (A) \$175, if the dealer sold fewer than 201 new
12 motor vehicles during the preceding calendar year;

13 (B) \$275, if the dealer sold more than 200 but
14 fewer than 401 new motor vehicles during the preceding calendar
15 year;

16 (C) \$400, if the dealer sold more than 400 but
17 fewer than 801 new motor vehicles during the preceding calendar
18 year;

19 (D) \$500, if the dealer sold more than 800 but
20 fewer than 1,201 new motor vehicles during the preceding calendar
21 year;

22 (E) \$625, if the dealer sold more than 1,200 but
23 fewer than 1,601 new motor vehicles during the preceding calendar
24 year;

25 (F) \$750, if the dealer sold more than 1,600 new
26 motor vehicles during the preceding calendar year; and

27 (G) \$100 for each location separate from the

1 dealership at which the dealer does not offer motor vehicles for
2 sale but performs warranty service work on vehicles the dealer is
3 franchised and licensed to sell;

4 (3) [~~\$100 for a representative,~~

5 [~~4~~] \$375 for a converter;

6 (4) [~~5~~] for a vehicle lessor:

7 (A) \$175, if the lessor leased 200 or fewer motor
8 vehicles during the preceding calendar year;

9 (B) \$275, if the lessor leased more than 200 but
10 fewer than 401 motor vehicles during the preceding calendar year;

11 (C) \$400, if the lessor leased more than 400 but
12 fewer than 801 motor vehicles during the preceding calendar year;

13 (D) \$500, if the lessor leased more than 800 but
14 fewer than 1,201 motor vehicles during the preceding calendar year;

15 (E) \$625, if the lessor leased more than 1,200
16 but fewer than 1,601 motor vehicles during the preceding calendar
17 year; and

18 (F) \$750, if the lessor leased more than 1,600
19 motor vehicles during the preceding calendar year; and

20 (5) [~~6~~] \$375 for a vehicle lease facilitator.

21 SECTION 2.04. Section 2301.304, Occupations Code, is
22 amended to read as follows:

23 Sec. 2301.304. PROCEDURE FOR RENEWAL OF CERTAIN LICENSES.
24 The holder of a manufacturer's, distributor's, or converter's [~~or~~
25 ~~representative's~~] license may apply for a renewal of the license by
26 complying with the application process specified by this chapter
27 and board rule.

1 SECTION 2.05. Sections 2301.358(a) and (c), Occupations
2 Code, are amended to read as follows:

3 (a) A person who holds a license issued under this chapter
4 may not participate in a new motor vehicle show or exhibition
5 unless[+]

6 [~~(1)~~] the person provides the department with written
7 notice before the date the show or exhibition opens[+and
8 [~~(2)~~ the department grants written approval].

9 (c) This section does not prohibit the sale of a towable
10 recreational vehicle, motor home, ambulance, fire-fighting
11 vehicle, or tow truck at a show or exhibition if:

12 (1) the [~~show or exhibition is approved by the~~
13 department receives written notice of the show or exhibition before
14 the date the show or exhibition opens; and

15 (2) the sale is not otherwise prohibited by law.

16 SECTION 2.06. Section 2301.709, Occupations Code, is
17 amended by adding Subsection (d) to read as follows:

18 (d) The board shall adopt rules and policies that establish
19 standards for reviewing a case under this subchapter. The rules and
20 policies must:

21 (1) specify the role of division personnel in managing
22 contested cases before the board or a person delegated power from
23 the board under Section 2301.154, including advising on procedural
24 matters;

25 (2) specify appropriate conduct and discussion by the
26 board or a person delegated power from the board under Section
27 2301.154 regarding proposals for decision issued by administrative

1 law judges;

2 (3) specify clear expectations limiting arguments and
3 discussion under Subsection (b) to evidence in the record of the
4 contested case hearing held by the administrative law judge;

5 (4) address ex parte communications; and

6 (5) distinguish between using industry expertise and
7 representing or advocating for an industry when reviewing a case
8 under this subchapter.

9 SECTION 2.07. Subchapter Q, Chapter 2301, Occupations Code,
10 is amended by adding Section 2301.807 to read as follows:

11 Sec. 2301.807. REFUND. If, after a proceeding under this
12 chapter and board rules, the board determines that a person is
13 violating or has violated this chapter or a rule adopted or order
14 issued under this chapter, the board may order the person to pay a
15 refund to the buyer or lessee of the motor vehicle that is the
16 subject of the proceeding.

17 SECTION 2.08. Section 2302.101, Occupations Code, is
18 amended to read as follows:

19 Sec. 2302.101. [~~LICENSE REQUIRED FOR~~] SALVAGE VEHICLE
20 DEALER LICENSE. (a) Unless a person holds a salvage vehicle
21 dealer license issued under this chapter, the person may not:

22 (1) act as a salvage vehicle dealer or rebuilder; or

23 (2) store or display a motor vehicle as an agent or
24 escrow agent of an insurance company.

25 (b) A person who holds a salvage vehicle dealer license
26 issued under this chapter may perform any of the activities of a
27 salvage vehicle dealer, including:

1 (1) buying salvage motor vehicles and nonrepairable
2 motor vehicles or selling salvage motor vehicles and nonrepairable
3 motor vehicles that have been issued a salvage vehicle title or
4 nonrepairable vehicle title, as appropriate;

5 (2) engaging in the business of selling nonrepairable
6 motor vehicles or salvage motor vehicles at auction, including
7 wholesale auction;

8 (3) offering or negotiating to sell or buy salvage
9 motor vehicles or nonrepairable motor vehicles owned by a license
10 holder and to be purchased or sold by another license holder;

11 (4) acting as the agent or representative of a license
12 holder in performing an act described by Subdivision (3); and

13 (5) acquiring and repairing, rebuilding, or
14 reconstructing for operation on a public highway more than five
15 salvage motor vehicles in a calendar year.

16 SECTION 2.09. Section 2302.103, Occupations Code, is
17 amended to read as follows:

18 Sec. 2302.103. APPLICATION FOR SALVAGE VEHICLE DEALER
19 LICENSE. [~~a~~] To apply for a salvage vehicle dealer license, a
20 person must submit to the department an application on a form
21 prescribed by the department and the application fee.

22 ~~[(b) An applicant may apply for a salvage vehicle dealer~~
23 ~~license with an endorsement in one or more of the following~~
24 ~~classifications:~~

25 ~~[(1) new automobile dealer,~~

26 ~~[(2) used automobile dealer,~~

27 ~~[(3) salvage pool operator,~~

1 ~~[(4) salvage vehicle broker, or~~

2 ~~[(5) salvage vehicle rebuilder.]~~

3 SECTION 2.10. Section [2302.151](#), Occupations Code, is
4 amended by amending Subsection (a) and adding Subsection (c) to
5 read as follows:

6 (a) A license issued under this chapter is valid for the
7 period prescribed by the board ~~[expires on the first anniversary of~~
8 ~~the date of issuance]~~.

9 (c) If the board prescribes the term of a license under this
10 chapter for a period other than one year, the board shall prorate
11 the applicable fee required under this chapter as necessary to
12 reflect the term of the license.

13 SECTION 2.11. Section [2302.351\(b\)](#), Occupations Code, is
14 amended to read as follows:

15 (b) If a salvage vehicle dealer or~~[r]~~ an employee of the
16 dealer acting in the course of employment~~[, or a salvage vehicle~~
17 ~~agent operating under the dealer's license]~~ is convicted of more
18 than one offense under Section [2302.353\(a\)](#), the district attorney
19 for a county in which the dealer's salvage business is located may
20 bring an action in that county to enjoin the dealer's business
21 operations for a period of at least one year.

22 SECTION 2.12. Subchapter H, Chapter [2302](#), Occupations Code,
23 is amended by adding Section 2302.355 to read as follows:

24 Sec. 2302.355. CEASE AND DESIST ORDER. If it appears to the
25 board that a person who is not licensed under this chapter is
26 violating this chapter or a rule or order adopted under this
27 chapter, the board, after notice and opportunity for a hearing, may

1 issue a cease and desist order prohibiting the person from engaging
2 in the activity.

3 SECTION 2.13. Subchapter B, Chapter 503, Transportation
4 Code, is amended by adding Section 503.0296 to read as follows:

5 Sec. 503.0296. INDEPENDENT MOTOR VEHICLE DEALER EDUCATION
6 AND TRAINING REQUIREMENT. (a) The department by rule shall
7 require that an applicant for an original or renewal general
8 distinguishing number who proposes to be an independent motor
9 vehicle dealer complete web-based education and training developed
10 or approved by the department. The education and training must
11 include information on the laws and board rules applicable to an
12 independent motor vehicle dealer, including the consequences of
13 violating those laws and rules.

14 (b) An applicant described by Subsection (a) who satisfies
15 the education and training required under this section is not
16 required to complete additional education and training under this
17 section for the subsequent renewal of the applicant's general
18 distinguishing number.

19 SECTION 2.14. Subchapter F, Chapter 643, Transportation
20 Code, is amended by adding Section 643.257 to read as follows:

21 Sec. 643.257. REFUND BY MOTOR CARRIERS TRANSPORTING
22 HOUSEHOLD GOODS. The department may order a motor carrier that
23 violates this chapter or a rule or order adopted under this chapter
24 to pay a refund to a consumer who paid the motor carrier to
25 transport household goods.

26 SECTION 2.15. Sections 2301.264(c), 2302.001(6), 2302.102,
27 and 2302.107, Occupations Code, are repealed.

1 SECTION 2.16. (a) The changes in law made by this Act to
2 Chapters 2301 and 2302, Occupations Code, do not affect the
3 validity of a proceeding pending before a court or other
4 governmental entity on the effective date of this Act.

5 (b) An offense or other violation of law committed before
6 the effective date of this Act is governed by the law in effect when
7 the offense or violation was committed, and the former law is
8 continued in effect for that purpose. For purposes of this
9 subsection, an offense or violation was committed before the
10 effective date of this Act if any element of the offense or
11 violation occurred before that date.

12 (c) On the effective date of this Act, a representative's
13 license issued under Chapter 2301, Occupations Code, as that law
14 existed immediately before the effective date of this Act, expires.

15 (d) On the effective date of this Act, a salvage vehicle
16 agent license issued under former Section 2302.107, Occupations
17 Code, expires.

18 (e) Section 2302.151(a), Occupations Code, as amended by
19 this Act, applies only to a license issued or renewed on or after
20 September 1, 2019. A license issued or renewed before that date is
21 governed by the law in effect immediately before the effective date
22 of this Act, and the former law is continued in effect for that
23 purpose.

24 SECTION 2.17. As soon as practicable after the effective
25 date of this Act, the Texas Department of Motor Vehicles shall adopt
26 rules as required by Section 503.0296, Transportation Code, as
27 added by this Act. A rule adopted by the department as required by

1 that section may not require a person to complete the education and
2 training developed or approved under that section if the person, on
3 the effective date of this Act, has held an independent motor
4 vehicle dealer's general distinguishing number issued under
5 Chapter 503, Transportation Code, for at least 10 years.

6 ARTICLE 3. DIGITAL LICENSE PLATES

7 SECTION 3.01. Chapter 504, Transportation Code, is amended
8 by adding Subchapter B-1 to read as follows:

9 SUBCHAPTER B-1. DIGITAL LICENSE PLATES

10 Sec. 504.151. DEFINITIONS. In this subchapter:

11 (1) "Digital license plate" means an electronic
12 display that is designed to:

13 (A) display the information required to be
14 included on a physical license plate; and

15 (B) be placed on the rear of a vehicle in lieu of
16 a physical license plate issued under this chapter.

17 (2) "Digital license plate provider" means a person
18 engaged in the business of providing digital license plate hardware
19 and services to vehicle owners, including the sale or lease of and
20 issuance of digital license plates.

21 Sec. 504.152. APPLICABILITY OF OTHER LAW. Except as
22 otherwise provided by this subchapter or a rule adopted under this
23 subchapter, a digital license plate issued under this subchapter is
24 subject to the laws of this state applicable to a physical license
25 plate.

26 Sec. 504.153. RULES. The board shall adopt rules as
27 necessary to implement and administer this subchapter.

1 Sec. 504.154. DIGITAL LICENSE PLATES AUTHORIZED. (a) The
2 board by rule shall allow a vehicle described by Subsection (b) to
3 be equipped with a digital license plate that is placed on the rear
4 of the vehicle in lieu of a physical license plate issued under this
5 chapter. The rule must require the owner of a vehicle issued a
6 digital license plate to obtain a physical license plate to be
7 placed on the front of the vehicle unless the vehicle is of a class
8 of vehicles that is not required to display two license plates, as
9 provided by other law.

10 (b) A vehicle registered under Chapter 502 may be equipped
11 with a digital license plate only if the vehicle:

12 (1) is part of a commercial fleet, as defined by
13 Section 502.001;

14 (2) is owned or operated by a governmental entity; or

15 (3) is not a passenger vehicle.

16 (c) The department may contract with digital license plate
17 providers for the issuance of digital license plates, including any
18 services related to the issuance of digital license plates.

19 (d) Notwithstanding any other law, a rule adopted under this
20 subchapter may:

21 (1) authorize the display of the vehicle's
22 registration insignia on a digital license plate issued for the
23 vehicle in lieu of attaching the registration insignia to the
24 inside of the vehicle's windshield as required by Section 502.059;

25 (2) establish a fee in an amount necessary to cover any
26 administrative costs incurred that relate to the issuance of a
27 digital license plate and exceed the administrative costs incurred

1 for the issuance of a physical license plate; or

2 (3) prohibit a digital license plate provider from
3 contracting with the department under Subchapter J.

4 Sec. 504.155. DIGITAL LICENSE PLATES REQUIREMENTS AND
5 PERMISSIVE FUNCTIONALITY. (a) The board by rule shall set the
6 specifications and requirements for digital license plates,
7 including requirements for the placement of digital license plates.
8 The design of and information displayed on a digital license plate
9 must be approved by the department.

10 (b) A digital license plate issued under this subchapter
11 must:

12 (1) meet the specifications and requirements adopted
13 under Subsection (a);

14 (2) include the information required to be included on
15 a physical license plate and legibly display that information at
16 all times and in all light conditions, provided that the license
17 plate may display the information in a smaller typeface when the
18 vehicle is parked;

19 (3) have wireless connectivity capability; and

20 (4) provide benefits to law enforcement that meet or
21 exceed the benefits provided by physical license plates as of the
22 time of enactment of this subchapter and as determined by the
23 Department of Public Safety.

24 (c) In adopting rules under Subsection (a), the board shall
25 consult with the Department of Public Safety. Except as otherwise
26 provided by this subsection and Section 2001.036, Government Code,
27 a rule adopted under Subsection (a) takes effect on the 31st day

1 after the date on which the rule is filed in the office of the
2 secretary of state. A rule adopted under Subsection (a) does not
3 take effect if, not later than the 30th day after the date on which
4 the rule is filed in the office of the secretary of state, the
5 public safety director of the Department of Public Safety submits
6 to the office of the secretary of state written notification
7 invalidating the rule.

8 (d) A rule adopted under this subchapter may:

9 (1) authorize the use of a digital license plate for
10 electronic toll collection or to display a parking permit; or

11 (2) establish procedures for displaying on a digital
12 license plate:

13 (A) an emergency alert or other public safety
14 alert issued by a governmental entity, including an alert
15 authorized under Subchapter L, M, or P, Chapter 411, Government
16 Code;

17 (B) vehicle manufacturer safety recall notices;

18 (C) static logo displays, including unique
19 displays for fleet vehicles; or

20 (D) advertising approved by the department.

21 Sec. 504.156. DIGITAL LICENSE PLATE PROVIDER POWERS AND
22 DUTIES. A digital license plate provider with whom the department
23 contracts under Section 504.154:

24 (1) shall maintain an inventory of the digital license
25 plates issued by the provider in this state;

26 (2) shall make available a digital version of each
27 specialty license plate authorized by this chapter, other than

1 personalized license plates authorized for marketing and sale under
2 Subchapter J, provided that:

3 (A) each issuance of a specialty license plate
4 with restricted distribution, including a license plate authorized
5 under Subchapter C, D, E, or F, must be approved by the department;
6 and

7 (B) the provider shall remit to the department in
8 the manner prescribed by the department all money:

9 (i) payable to the department; or

10 (ii) required to be used or deposited in the
11 manner prescribed by the law establishing the license plate;

12 (3) may contract with the private vendor under
13 Subchapter J to make available a digital version of a personalized
14 license plate authorized for marketing and sale under that
15 subchapter, provided that the contract shall conform with any
16 applicable requirements of Subchapter J and the terms of the
17 private vendor's contract with the department;

18 (4) shall, if a digital license plate displays a
19 registration insignia as authorized by a rule adopted under Section
20 504.154(d)(1), promptly update the display of the registration
21 insignia to reflect the current registration period for the vehicle
22 and, on request of the department, suspend the display of the
23 registration insignia or indicate on the license plate that the
24 registration insignia for the vehicle is expired;

25 (5) may provide any service related to the issuance of
26 a digital license plate that is authorized by board rule, including
27 the sale, lease, and installation of and customer service for a

1 digital license plate; and

2 (6) may charge a fee, payable in installments, for the
3 issuance of a digital license plate or any additional services
4 provided by the provider for that license plate.

5 Sec. 504.157. DEFENSE TO PROSECUTION OF CERTAIN OFFENSES.

6 It is a defense to prosecution of an offense involving the operation
7 of a motor vehicle and relating to the placement of a license plate
8 or the display of a registration insignia that the vehicle was
9 operated in compliance with rules issued under this subchapter
10 governing the placement of a digital license plate or the display of
11 a registration insignia on a digital license plate, as applicable.

12 SECTION 3.02. Not later than December 31, 2020, the board of
13 the Texas Department of Motor Vehicles shall adopt the rules
14 required by Subchapter B-1, Chapter 504, Transportation Code, as
15 added by this Act, and any other rules necessary to implement and
16 administer that subchapter.

17 ARTICLE 4. REGISTRATION AND TITLING

18 SECTION 4.01. Section 520.004, Transportation Code, is
19 amended to read as follows:

20 Sec. 520.004. DEPARTMENT RESPONSIBILITIES. The department
21 has jurisdiction over the registration and titling of, and the
22 issuance of license plates to, motor vehicles in compliance with
23 the applicable statutes. The department by rule:

24 (1) shall provide services that are reasonable,
25 adequate, and efficient;

26 (2) shall establish standards for uniformity and
27 service quality for counties and dealers licensed under Section

1 520.005; [~~and~~]

2 (3) may conduct public service education campaigns
3 related to the department's functions; and

4 (4) shall establish a risk-based system of monitoring
5 and preventing fraudulent activity related to vehicle registration
6 and titling in order to efficiently allocate resources and
7 personnel.

8 SECTION 4.02. Section 520.005, Transportation Code, is
9 amended by adding Subsection (e) to read as follows:

10 (e) Each county assessor-collector shall make available to
11 motor vehicle dealers the electronic system designed by the
12 department that allows a motor vehicle dealer to submit a title and
13 registration application online in the name of the purchaser of a
14 motor vehicle.

15 SECTION 4.03. Subchapter A, Chapter 520, Transportation
16 Code, is amended by adding Sections 520.0075, 520.010, and 520.011
17 to read as follows:

18 Sec. 520.0075. CONTRACTING STANDARDS FOR TAX
19 ASSESSOR-COLLECTOR. (a) In this section, "deputy" means a deputy
20 classified as a full service deputy by a board rule adopted under
21 Section 520.0071.

22 (b) Notwithstanding Section 262.023, Local Government Code,
23 a county tax assessor-collector who awards a contract to a deputy
24 for the performance of registration and titling services must
25 comply with standard state contracting practices as if the county
26 tax assessor-collector were a state agency, including requirements
27 related to:

1 (1) purchase methods and competitive bidding under
2 Sections 2155.062 and 2155.063, Government Code;

3 (2) determining the best value for the county under
4 Sections 2155.074, 2155.075, and 2155.0755, Government Code;

5 (3) contracting standards and oversight under Chapter
6 2261, Government Code; and

7 (4) contract management under Chapter 2262,
8 Government Code.

9 (c) A contract described by Subsection (b) must:

10 (1) specify an expiration date and renewal or
11 extension terms for the contract; and

12 (2) include performance criteria and measures
13 necessary to evaluate the performance of the deputy under the
14 contract.

15 (d) A county tax assessor-collector shall monitor and
16 evaluate the performance of a deputy awarded a contract described
17 by this section and use that information in determining whether to
18 renew or extend the contract or award a new contract.

19 Sec. 520.010. AUDIT AND INVESTIGATION RELATED TO
20 REGISTRATION AND TITLING SERVICES. (a) The department may:

21 (1) audit or perform a compliance review of a person
22 performing registration or titling services;

23 (2) investigate any provision of state functions
24 related to registration or titling; and

25 (3) access any records needed to conduct the audit,
26 compliance review, or investigation.

27 (b) A county tax assessor-collector may:

1 (1) audit, perform a compliance review of, or
2 investigate a person providing registration or titling services in
3 the county in which the assessor-collector is located; and

4 (2) access any records needed to conduct the audit,
5 compliance review, or investigation.

6 (c) The department's authority under Subsection (a) is not
7 limited by a similar audit, compliance review, or investigation
8 conducted by a county tax assessor-collector under Subsection (b).

9 Sec. 520.011. AUDIT OF COUNTY TAX ASSESSOR-COLLECTOR. The
10 comptroller, in coordination with the department, may include, as
11 part of the comptroller's regular audits of state revenue
12 collection by county tax assessor-collector offices, the review of
13 processes relating to a county's collection and remittance of
14 revenue included in an audit.

15 SECTION 4.04. Chapter 520, Transportation Code, is amended
16 by adding Subchapter C to read as follows:

17 SUBCHAPTER C. AUTOMATED REGISTRATION AND TITLING SYSTEM

18 Sec. 520.021. RULES AND POLICIES. The department may adopt
19 rules and policies for the maintenance and use of the department's
20 automated registration and titling system.

21 Sec. 520.022. ACCESS TO SYSTEM. The department has the sole
22 authority to determine access to the department's automated
23 registration and titling system.

24 Sec. 520.023. TRAINING. (a) The department shall
25 implement a training program providing information on the:

26 (1) department's automated registration and titling
27 system; and

1 (2) identification of fraudulent activity related to
2 vehicle registration and titling.

3 (b) The department shall require a person performing
4 registration or titling services to complete the training under
5 Subsection (a).

6 SECTION 4.05. (a) Each county tax assessor-collector who
7 has, before the effective date of this Act, entered into a contract
8 described by Section 520.0075, Transportation Code, as added by
9 this Act, shall rebid the contract using the contracting standards
10 provided under that section not later than March 31, 2020.

11 (b) In order to assist a county tax assessor-collector in
12 the rebidding of contracts under Subsection (a) of this section,
13 the Texas Department of Motor Vehicles shall provide guidance and
14 recommendations on contracting practices to the county tax
15 assessor-collector.

16 SECTION 4.06. Not later than December 1, 2019, the Texas
17 Department of Motor Vehicles shall adopt rules to implement the
18 training program required by Section 520.023, Transportation Code,
19 as added by this Act.

20 SECTION 4.07. Not later than March 1, 2020, the Texas
21 Department of Motor Vehicles shall, in coordination with county tax
22 assessors-collectors and in accordance with Subchapter C, Chapter
23 520, Transportation Code, as added by this Act, develop, adopt, and
24 implement rules that create clear criteria for the suspension or
25 denial of access to the department's automated registration and
26 titling system if a county tax assessor-collector suspects abuse,
27 fraud, or waste relating to the system by an employee of the

1 assessor-collector's or a person deputized under Section 520.0071,
2 Transportation Code.

3 SECTION 4.08. Not later than September 1, 2020, each county
4 tax assessor-collector shall make available the electronic system
5 to motor vehicle dealers as required by Section 520.005(e),
6 Transportation Code, as added by this Act.

7 ARTICLE 5. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

8 SECTION 5.01. Subtitle M, Title 7, Transportation Code, is
9 amended by adding Chapter 1006, and a heading is added to that
10 chapter to read as follows:

11 CHAPTER 1006. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

12 SECTION 5.02. Chapter 1006, Transportation Code, as added
13 by this Act, is amended by adding Subchapter A, and a heading is
14 added to that subchapter to read as follows:

15 SUBCHAPTER A. GENERAL PROVISIONS

16 SECTION 5.03. Section 1, Article 4413(37), Revised
17 Statutes, as amended by Chapters 308 (H.B. 1887) and 927 (H.B.
18 3225), Acts of the 80th Legislature, Regular Session, 2007, is
19 transferred to Subchapter A, Chapter 1006, Transportation Code, as
20 added by this Act, redesignated as Section 1006.001, Transportation
21 Code, reenacted, and amended to read as follows:

22 Sec. 1006.001 [~~1~~]. DEFINITIONS. In this chapter [~~article~~]:

23 (1) "Authority" means the Motor Vehicle Crime
24 [~~Automobile Burglary and Theft~~] Prevention Authority.

25 (2) "Economic motor vehicle theft" means motor vehicle
26 burglary or theft committed for financial gain.

27 (3) "Insurer" means any insurance company writing any

1 form of motor vehicle insurance in this state, including an
2 interinsurance or reciprocal exchange, mutual company, mutual
3 association, or Lloyd's plan [~~"Department" means the Texas~~
4 ~~Department of Motor Vehicles~~].

5 (4) [~~"Director" means the executive director of the~~
6 ~~Texas Department of Transportation~~].

7 [~~(5)~~] "Motor vehicle" means a self-propelled vehicle
8 or a vehicle, trailer, or semitrailer designed for use with a
9 self-propelled vehicle. The term does not include a vehicle that
10 runs exclusively on fixed rails or tracks or a piece of equipment
11 operated solely on private property.

12 (5) "Motor vehicle burglary or theft" includes
13 economic motor vehicle theft.

14 SECTION 5.04. Section 2, Article 4413(37), Revised
15 Statutes, is transferred to Subchapter A, Chapter 1006,
16 Transportation Code, as added by this Act, redesignated as Section
17 1006.002, Transportation Code, and amended to read as follows:

18 Sec. 1006.002 [~~2~~]. ESTABLISHMENT. The Motor Vehicle Crime
19 [~~Automobile Burglary and Theft~~] Prevention Authority is
20 established in the department [~~Texas Department of Motor Vehicles~~].
21 The authority is not an advisory body to the department [~~Texas~~
22 ~~Department of Motor Vehicles~~].

23 SECTION 5.05. Chapter 1006, Transportation Code, as added
24 by this Act, is amended by adding Subchapter B, and a heading is
25 added to that subchapter to read as follows:

26 SUBCHAPTER B. COMPOSITION AND ADMINISTRATION

27 SECTION 5.06. Sections 3(a), (b), (c), (d), (i), (j), and

1 (k), Article 4413(37), Revised Statutes, are transferred to
2 Subchapter B, Chapter 1006, Transportation Code, as added by this
3 Act, redesignated as Sections 1006.051 and 1006.052,
4 Transportation Code, and amended to read as follows:

5 Sec. 1006.051. AUTHORITY MEMBERSHIP. (a) The authority is
6 composed of seven members.

7 (b) The governor, with the advice and consent of the senate,
8 shall appoint the following six members:

9 (1) two representatives of motor vehicle insurance
10 consumers;

11 (2) two representatives of insurance companies
12 writing motor vehicle insurance in this state; and

13 (3) two representatives of law enforcement.

14 (c) The public safety director of the Department of Public
15 Safety or the director's designee serves ex officio as the seventh
16 member of the authority.

17 (d) Appointments to the authority shall be made without
18 regard to race, color, disability, sex, religion, age, or national
19 origin of the appointees.

20 Sec. 1006.052. ELIGIBILITY RESTRICTIONS. (a) [~~(i)~~] A
21 person is not eligible for appointment as a representative of motor
22 vehicle insurance consumers under Section 1006.051(b)(1)
23 [~~Subsection (b)(1) of this section~~] if the person or the person's
24 spouse:

25 (1) is registered, certified, or licensed by an
26 occupational regulatory agency in the field of motor vehicle
27 insurance or law enforcement;

1 (2) is an officer, employee, or paid consultant of a
2 Texas trade association in the field of motor vehicle insurance or
3 law enforcement;

4 (3) is employed by or participates in the management
5 of a business entity or other organization receiving funds from the
6 authority;

7 (4) owns or controls, directly or indirectly, more
8 than a 10 percent [~~10-percent~~] interest in a business entity or
9 other organization receiving funds from the authority; or

10 (5) uses or receives a substantial amount of tangible
11 goods, services, or funds from the authority, other than
12 reimbursement authorized by law for service on the board of the
13 authority.

14 **(b)** [~~(j)~~] For purposes of Subsection (a)(2) [~~(i)(2) of this~~
15 ~~section~~], "[a] Texas trade association" means [~~is~~] a nonprofit,
16 cooperative, and voluntarily joined association of business or
17 professional competitors in this state designed to assist the
18 association's [~~its~~] members and the members' [~~its~~] industry or
19 profession in dealing with mutual business or professional problems
20 and in promoting the members' [~~their~~] common interest.

21 **(c)** [~~(k)~~] A person may not serve as a member of the
22 authority [~~or act as the general counsel to the authority~~] if the
23 person is required to register as a lobbyist under Chapter 305,
24 Government Code, because of the person's activities for
25 compensation on behalf of a profession related to [~~law enforcement~~
26 ~~or~~] motor vehicle insurance or law enforcement.

27 SECTION 5.07. Section 3(e), Article 4413(37), Revised

1 Statutes, is transferred to Subchapter B, Chapter 1006,
2 Transportation Code, as added by this Act, redesignated as Section
3 1006.053, Transportation Code, and amended to read as follows:

4 Sec. 1006.053. TERM OF OFFICE; VACANCY. (a) [~~(e)~~] The six
5 members of the authority appointed by the governor serve staggered
6 six-year terms, with the terms of two members expiring February 1 of
7 each odd-numbered year.

8 (b) If there is a vacancy during a term, the governor shall
9 appoint a replacement who meets the requirements of the vacant
10 office to fill the unexpired term.

11 SECTION 5.08. Section 5(a), Article 4413(37), Revised
12 Statutes, is transferred to Subchapter B, Chapter 1006,
13 Transportation Code, as added by this Act, redesignated as Section
14 1006.054, Transportation Code, and amended to read as follows:

15 Sec. 1006.054. PRESIDING OFFICER. [~~(a)~~] The governor
16 shall designate a member of the authority as the presiding officer
17 of the authority to serve in that capacity at the pleasure of the
18 governor.

19 SECTION 5.09. Sections 3(f), (g), (h), and (l), Article
20 4413(37), Revised Statutes, are transferred to Subchapter B,
21 Chapter 1006, Transportation Code, as added by this Act,
22 redesignated as Sections 1006.055 and 1006.056, Transportation
23 Code, and amended to read as follows:

24 Sec. 1006.055. GROUNDS FOR REMOVAL. (a) [~~(f)~~] It is a
25 ground for removal from the authority if a member:

26 (1) does not have at the time of appointment the
27 qualifications required by Section 1006.051(b) [~~Subsection (b)~~] or

1 is disqualified under Section 1006.052 [~~Subsection (i) or (k) of~~
2 ~~this section~~];

3 (2) does not maintain during service on the authority
4 the qualifications required by Section 1006.051(b) [~~Subsection~~
5 ~~(b)~~] or becomes disqualified under Section 1006.052 [~~Subsection (i)~~
6 ~~or (k) of this section~~];

7 (3) cannot, because of illness or disability,
8 discharge the member's duties for a substantial part of the member's
9 term [~~for which the member is appointed~~]; or

10 (4) is absent from more than half of the regularly
11 scheduled authority meetings that the member is eligible to attend
12 during a calendar year.

13 (b) [~~(g)~~] The validity of an action of the authority is not
14 affected by the fact that it is taken when a ground for removal of a
15 member of the authority exists.

16 (c) [~~(h)~~] If the executive director has knowledge that a
17 potential ground for removal exists, the executive director shall
18 notify the presiding officer of the authority of the potential
19 ground. The presiding officer shall then notify the governor and
20 the attorney general that a potential ground for removal exists. If
21 the potential ground for removal involves the presiding officer,
22 the executive director shall notify the next highest officer of the
23 authority, who shall notify the governor and the attorney general
24 that a potential ground for removal exists.

25 Sec. 1006.056. INFORMATION ON QUALIFICATIONS AND CONDUCT.

26 [~~(1)~~] The executive director or the executive director's designee
27 shall provide to members of the authority, as often as necessary,

1 information regarding the members' [~~their~~] qualifications for
2 office under this chapter [~~article~~] and their responsibilities
3 under applicable laws relating to standards of conduct for state
4 officers.

5 SECTION 5.10. Sections 5(c), (d), and (e), Article
6 4413(37), Revised Statutes, are transferred to Subchapter B,
7 Chapter 1006, Transportation Code, as added by this Act,
8 redesignated as Section 1006.057, Transportation Code, and amended
9 to read as follows:

10 Sec. 1006.057. MEMBER TRAINING. (a) A [~~(c) To be~~
11 ~~eligible to take office as a member of the authority, a~~] person who
12 is appointed to and qualifies for office as a member of the
13 authority may not vote, deliberate, or be counted as a member in
14 attendance at a meeting of the authority until the person completes
15 [~~must complete at least one course of~~] a training program that
16 complies with this section [~~Subsection (d)~~].

17 (b) [~~(d)~~] The training program [~~required by Subsection (c)~~]
18 must provide the person with information [~~to the person~~] regarding:

19 (1) the law governing authority operations [~~enabling~~
20 ~~legislation that created the authority and its policymaking body to~~
21 ~~which the member is appointed to serve~~];

22 (2) the programs, functions, rules, and budget of
23 [~~operated by~~] the authority;

24 (3) the scope of and limitations on the rulemaking
25 authority [~~role and functions~~] of the authority;

26 (4) [~~the rules of the authority and the department,~~

27 [~~(5) the current budget for the authority,~~

1 ~~[(6)]~~ the results of the most recent formal audit of
2 the authority;

3 (5) ~~[(7)]~~ the requirements of ~~[the]~~:

4 (A) laws relating to open meetings, public
5 information, ~~[law, Chapter 551, Government Code,~~

6 ~~[(B) open records law, Chapter 552, Government~~
7 ~~Code; and~~

8 ~~[(C)]~~ administrative procedure ~~[law],~~ and
9 disclosure of conflicts of interest; and

10 (B) other laws applicable to members of the
11 authority in performing their duties ~~[Chapter 2001, Government~~
12 ~~Code;~~

13 ~~[(8) the requirements of the conflict-of-interest~~
14 ~~laws and other laws relating to public officials]; and~~

15 (6) ~~[(9)]~~ any applicable ethics policies adopted by
16 the department or the Texas Ethics Commission.

17 (c) ~~[(e)]~~ A person appointed to the authority is entitled to
18 reimbursement, as provided by the General Appropriations Act, for
19 the travel expenses incurred in attending the training program,
20 regardless of whether the attendance at the program occurs before
21 or after ~~[required by Subsection (c) as provided by the General~~
22 ~~Appropriations Act and as if]~~ the person qualifies for office ~~[were~~
23 ~~a member of the authority].~~

24 (d) The executive director shall create a training manual
25 that includes the information required by Subsection (b). The
26 executive director shall distribute a copy of the training manual
27 annually to each member of the authority. Each member of the

1 authority shall sign and submit to the executive director a
2 statement acknowledging that the member received and has reviewed
3 the training manual.

4 SECTION 5.11. Section 4, Article 4413(37), Revised
5 Statutes, is transferred to Subchapter B, Chapter 1006,
6 Transportation Code, as added by this Act, redesignated as Section
7 1006.058, Transportation Code, and amended to read as follows:

8 Sec. 1006.058 [4]. REIMBURSEMENT FOR EXPENSES. A member of
9 the authority is not entitled to compensation for service on the
10 authority but is entitled to reimbursement for expenses incurred in
11 performing the member's duties at the rate provided by [~~in~~] the
12 General Appropriations Act.

13 SECTION 5.12. Sections 6(e), (f), and (g), Article
14 4413(37), Revised Statutes, are transferred to Subchapter B,
15 Chapter 1006, Transportation Code, as added by this Act,
16 redesignated as Sections 1006.059 and 1006.060, Transportation
17 Code, and amended to read as follows:

18 Sec. 1006.059. PERSONNEL AND SERVICES. (a) [~~(e)~~] The
19 authority may be provided various services only by or through the
20 department as needed to carry out the authority's [~~its~~] purposes,
21 powers, and duties. These services may include [~~, but are not~~
22 ~~limited to,~~] legal services not provided by the attorney general,
23 fiscal services, administrative services, and personnel services.
24 [~~Except as provided by this section, the authority may enter into~~
25 ~~contracts in its own name and on its own behalf with recipients of~~
26 ~~grants for purposes of this article.~~]

27 (b) [~~(f)~~] The department shall provide personnel and

1 services to the authority as agreed by the authority and the
2 department.

3 Sec. 1006.060. DIVISION OF RESPONSIBILITIES. [~~(g)~~] The
4 authority shall, in coordination with the department, develop and
5 implement policies that clearly separate the policymaking
6 responsibilities of the authority and the management
7 responsibilities of the department.

8 SECTION 5.13. Section 5(b), Article 4413(37), Revised
9 Statutes, is transferred to Subchapter B, Chapter 1006,
10 Transportation Code, as added by this Act, redesignated as Section
11 1006.061, Transportation Code, and amended to read as follows:

12 Sec. 1006.061. MEETINGS. [~~(b)~~] The authority shall meet
13 at the call of the presiding officer [~~chairman~~] or at the call of
14 four members.

15 SECTION 5.14. Section 6(h), Article 4413(37), Revised
16 Statutes, is transferred to Subchapter B, Chapter 1006,
17 Transportation Code, as added by this Act, redesignated as Section
18 1006.062, Transportation Code, and amended to read as follows:

19 Sec. 1006.062. PUBLIC TESTIMONY. [~~(h)~~] The authority
20 shall develop and implement policies that provide the public with a
21 reasonable opportunity to appear before the authority and to speak
22 on any issue under the [~~its~~] jurisdiction of the authority.

23 SECTION 5.15. Subchapter B, Chapter 1006, Transportation
24 Code, as added by this Act, is amended by adding Section 1006.063 to
25 read as follows:

26 Sec. 1006.063. LOBBYIST PROHIBITION: GENERAL COUNSEL. A
27 person may not act as the general counsel to the authority if the

1 person is required to register as a lobbyist under Chapter 305,
2 Government Code, because of the person's activities for
3 compensation on behalf of a profession related to motor vehicle
4 insurance or law enforcement.

5 SECTION 5.16. Chapter 1006, Transportation Code, as added
6 by this Act, is amended by adding Subchapter C, and a heading is
7 added to that subchapter to read as follows:

8 SUBCHAPTER C. POWERS AND DUTIES

9 SECTION 5.17. Sections 6(a), (b), (c), and (d), Article
10 4413(37), Revised Statutes, are transferred to Subchapter C,
11 Chapter 1006, Transportation Code, as added by this Act,
12 redesignated as Section 1006.101, Transportation Code, and amended
13 to read as follows:

14 Sec. 1006.101. GENERAL POWERS AND DUTIES. (a) The
15 authority shall adopt rules to implement the authority's [~~its~~]
16 powers and duties.

17 (b) The authority may solicit and accept gifts and grants.

18 (c) The authority may only use [~~only~~] staff of the
19 department and may delegate authority to the staff as needed.

20 (d) Not later than April 1 of each year, the authority shall
21 report on the authority's [~~its~~] activities to the lieutenant
22 governor and the speaker of the house of representatives.

23 SECTION 5.18. Section 7, Article 4413(37), Revised
24 Statutes, as amended by Chapters 308 (H.B. 1887) and 927 (H.B.
25 3225), Acts of the 80th Legislature, Regular Session, 2007, is
26 transferred to Subchapter C, Chapter 1006, Transportation Code, as
27 added by this Act, redesignated as Section 1006.102, Transportation

1 Code, reenacted, and amended to read as follows:

2 Sec. 1006.102 [7]. PLAN OF OPERATION. (a) The authority
3 shall develop and implement a plan of operation. The plan of
4 operation must be updated biennially and filed with the legislature
5 not later than [~~on or before~~] December 1 of each even-numbered year.

6 (b) The plan of operation must include:

7 (1) an assessment of the scope of the problems of motor
8 vehicle burglary or theft and fraud-related motor vehicle crime
9 [~~economic motor vehicle theft~~], including particular areas of the
10 state where the problems are greatest;

11 (2) an analysis of various methods of combating the
12 problems of motor vehicle burglary or theft and fraud-related motor
13 vehicle crime [~~economic motor vehicle theft~~];

14 (3) a plan for providing financial support to combat
15 motor vehicle burglary or theft and fraud-related motor vehicle
16 crime [~~economic motor vehicle theft~~]; and

17 (4) an estimate of the funds required to implement the
18 plan of operation.

19 SECTION 5.19. Section 12, Article 4413(37), Revised
20 Statutes, is transferred to Subchapter C, Chapter 1006,
21 Transportation Code, as added by this Act, redesignated as Section
22 1006.103, Transportation Code, and amended to read as follows:

23 Sec. 1006.103 [~~12~~]. ADVISORY COMMITTEES. (a) The
24 authority may establish advisory committees to advise the authority
25 [~~it~~] on any matter under the jurisdiction of the authority.

26 (b) Section 2110.008, Government Code, does not apply to an
27 advisory committee established under this section if the advisory

1 committee is:

- 2 (1) established for a specific and immediate need; and
- 3 (2) dissolved before the first anniversary of the date
- 4 the committee is created.

5 (c) A member of an advisory committee may not be compensated
6 by the authority for committee service but is entitled to
7 reimbursement for actual and necessary expenses incurred in the
8 performance of committee service.

9 SECTION 5.20. Chapter 1006, Transportation Code, as added
10 by this Act, is amended by adding Subchapter D, and a heading is
11 added to that subchapter to read as follows:

12 SUBCHAPTER D. FINANCIAL PROVISIONS

13 SECTION 5.21. Sections 6(j) and (k), Article 4413(37),
14 Revised Statutes, are transferred to Subchapter D, Chapter 1006,
15 Transportation Code, as added by this Act, redesignated as Section
16 1006.151, Transportation Code, and amended to read as follows:

17 Sec. 1006.151. GRANTS. (a) Subject to the requirements of
18 this section, the authority may enter into contracts in the
19 authority's own name and on the authority's own behalf with
20 recipients of grants for purposes of this chapter.

21 (b) [~~(j)~~] The authority shall:

22 (1) develop and periodically update [~~use~~] standard
23 performance measures for each category of grants provided by the
24 authority for use in assessing [~~order to assess~~] grantee success in
25 achieving the purposes of this chapter [~~article~~]; and

26 (2) ensure that grants are used to help increase:

27 (A) the recovery rate of stolen motor vehicles;

1 (B) the clearance rate of:

2 (i) motor vehicle burglaries and thefts;

3 and

4 (ii) fraud-related motor vehicle crimes;

5 and

6 (C) the number of persons arrested for motor
7 vehicle burglary and theft and fraud-related motor vehicle crime.

8 (c) [~~k~~] The authority shall allocate grant funds
9 primarily based on the number of motor vehicles stolen in, or the
10 motor vehicle burglary or theft rate across, and the number of
11 fraud-related motor vehicle crimes committed in the state rather
12 than based on geographic distribution.

13 (d) The authority shall, in consultation with the
14 department, annually update the performance measures developed
15 under Subsection (b).

16 SECTION 5.22. Sections 6A and 10, Article 4413(37), Revised
17 Statutes, are transferred to Subchapter D, Chapter 1006,
18 Transportation Code, as added by this Act, redesignated as Sections
19 1006.152 and 1006.153, Transportation Code, and amended to read as
20 follows:

21 Sec. 1006.152 [~~6A~~]. REFUNDS [~~POWER TO REFUND~~]. (a) The
22 authority may make determinations regarding the sufficiency of
23 payments made by an ["insurer" ~~(as defined under Section 10 of~~
24 ~~this article)~~] of fees collected under [~~pursuant to~~] Section
25 1006.153 [~~10 of this article~~].

26 (b) Pursuant to a [~~such~~] determination made under
27 Subsection (a), the authority may:

1 (1) notify the comptroller that payments made by an
2 insurer are sufficient; and

3 (2) request the comptroller to draw warrants on the
4 funds available to the authority for the purpose of refunding money
5 ~~[monies]~~ to an insurer.

6 (c) The authority shall make the determination under
7 ~~[Subsection (b) of]~~ this section as follows:

8 (1) the two members of the authority who are
9 representatives of insurance companies writing motor vehicle
10 insurance in this state shall recuse themselves; and

11 (2) the remaining five members of the authority shall
12 make the determination by a simple majority vote.

13 (d) Determinations made under this section shall be
14 performed in accordance with procedures set forth in rules adopted
15 by the authority. The question of eligibility for a refund is not a
16 contested case under ~~[within the meaning of the Administrative~~
17 ~~Procedure Act () Chapter 2001, Government Code()].~~

18 (e) A ~~[Except as provided by Subsection (f), a]~~ request for
19 a refund made under this section must be made not later than four
20 years after the date the payment was made to the authority under
21 Section 1006.153 ~~[10 of this article]~~.

22 Sec. 1006.153 ~~[10]~~. FEE IMPOSED ON INSURER. (a) In this
23 section, [+

24 ~~[(1) "Insurer" means any insurance company writing any~~
25 ~~form of motor vehicle insurance in this state, including an~~
26 ~~interinsurance or reciprocal exchange, mutual company, mutual~~
27 ~~association, or Lloyd's plan.~~

1 ~~[(2)]~~ "motor [~~Motor~~] vehicle years of insurance" means
2 the total number of years or portions of years during which a motor
3 vehicle is covered by insurance.

4 (b) An insurer shall pay to the authority a fee equal to \$2
5 multiplied by the total number of motor vehicle years of insurance
6 for insurance policies delivered, issued for delivery, or renewed
7 by the insurer. The fee shall be paid not later than:

8 (1) March 1 of each year for a policy delivered,
9 issued, [~~delivered~~], or renewed from July 1 through December 31 of
10 the previous calendar year; and

11 (2) August 1 of each year for a policy delivered,
12 issued, [~~delivered~~], or renewed from January 1 through June 30 of
13 that year.

14 (c) The fee imposed by this section is in addition to any
15 other fee or tax imposed by law on an insurer.

16 (d) The authority shall notify the Texas Department [~~State~~
17 ~~Board~~] of Insurance of any insurer that fails to pay the fee
18 required by this section, and the Texas Department of Insurance
19 [~~board~~] may for that reason revoke the insurer's certificate of
20 authority.

21 (e) Fifty percent of each fee collected under Subsection (b)
22 may be appropriated only to the authority for the purposes of this
23 chapter [~~article~~].

24 SECTION 5.23. Section 8, Article 4413(37), Revised
25 Statutes, as amended by Chapters 308 (H.B. 1887) and 927 (H.B.
26 3225), Acts of the 80th Legislature, Regular Session, 2007, is
27 transferred to Subchapter D, Chapter 1006, Transportation Code, as

1 added by this Act, redesignated as Section 1006.154, Transportation
2 Code, reenacted, and amended to read as follows:

3 Sec. 1006.154 [~~8~~]. USE OF APPROPRIATED FUNDS. (a) Money
4 appropriated to the department for authority purposes shall be used
5 by the authority to pay the department for administrative costs and
6 to achieve the purposes of this chapter [~~article~~], including:

7 (1) [~~establishing and funding the motor vehicle~~
8 ~~registration program required by Section 9 of this article,~~

9 [~~(2)~~] providing financial support to law enforcement
10 agencies for economic motor vehicle theft and fraud-related motor
11 vehicle crime enforcement teams;

12 (2) [~~(3)~~] providing financial support to law
13 enforcement agencies, local prosecutors, judicial agencies, and
14 neighborhood, community, business, and nonprofit organizations for
15 programs designed to reduce the incidence of economic motor vehicle
16 theft and fraud-related motor vehicle crime;

17 (3) [~~(4)~~] conducting educational programs designed to
18 inform motor vehicle owners of methods of preventing motor vehicle
19 burglary or theft and fraud-related motor vehicle crime;

20 (4) [~~(5)~~] providing equipment, for experimental
21 purposes, to assist motor vehicle owners in preventing motor
22 vehicle burglary or theft; and

23 (5) [~~(6)~~] establishing a uniform program to prevent
24 stolen motor vehicles from entering Mexico.

25 (b) In any fiscal year, the amount of the administrative
26 expenses of the authority, including salaries, travel and marketing
27 expenses, and other overhead expenses may not exceed eight percent

1 of the total expenditures of the authority.

2 (c) The cost of personnel and services provided to the
3 authority by the department and by the attorney general may be paid
4 only from appropriations made for authority purposes.
5 Appropriations made for authority purposes may not be used for any
6 other purpose.

7 SECTION 5.24. Section 6(i), Article 4413(37), Revised
8 Statutes, is transferred to Subchapter D, Chapter 1006,
9 Transportation Code, as added by this Act, redesignated as Section
10 1006.155, Transportation Code, and amended to read as follows:

11 Sec. 1006.155. ANNUAL FINANCIAL REPORT. [~~(i)~~] The
12 authority shall prepare annually a complete and detailed written
13 report accounting for all funds received and disbursed by the
14 authority during the preceding fiscal year. The annual report must
15 meet the reporting requirements applicable to financial reporting
16 provided by [~~in~~] the General Appropriations Act.

17 SECTION 5.25. Section 981.073(b), Insurance Code, is
18 amended to read as follows:

19 (b) A domestic surplus lines insurer is not subject to:

- 20 (1) Section 38.003;
- 21 (2) Chapter 462;
- 22 (3) Chapter 463;
- 23 (4) Chapter 501;
- 24 (5) Section 981.051;
- 25 (6) Section 981.101(b);
- 26 (7) Chapter 2007;
- 27 (8) Chapter 2301;

1 (9) Chapter 2251; and

2 (10) Chapter 1006, Transportation Code [~~Article~~
3 ~~4413(37), Revised Statutes~~].

4 SECTION 5.26. Section 201.805(a), Transportation Code, is
5 amended to read as follows:

6 (a) The department shall annually publish in appropriate
7 media and on the department's Internet website in a format that
8 allows the information to be read into a commercially available
9 electronic database a statistical comparison of department
10 districts and the following information, calculated on a per capita
11 basis considering the most recent census data and listed for each
12 county and for the state for each fiscal year:

13 (1) the number of square miles;

14 (2) the number of vehicles registered;

15 (3) the population;

16 (4) daily vehicle miles;

17 (5) the number of centerline miles and lane miles;

18 (6) construction, maintenance, and contracted routine
19 and preventive maintenance expenditures;

20 (7) combined construction, maintenance, and
21 contracted routine and preventive maintenance expenditures;

22 (8) the number of district and division office
23 construction and maintenance employees;

24 (9) information regarding grant programs, including:

25 (A) Motor Vehicle Crime [~~Automobile Theft~~]
26 Prevention Authority grants;

27 (B) Routine Airport Maintenance Program grants;

- 1 (C) Public Transportation Grant Program grants;
2 (D) Medical Transportation Program grants; and
3 (E) aviation grants or aviation capital
4 improvement grants;
5 (10) approved State Infrastructure Bank loans;
6 (11) Texas Traffic Safety Program grants and
7 expenditures;
8 (12) the dollar amount of any pass-through toll
9 agreements;
10 (13) the percentage of highway construction projects
11 completed on time;
12 (14) the percentage of highway construction projects
13 that cost:
14 (A) more than the contract amount; and
15 (B) less than the contract amount; and
16 (15) a description of real property acquired by the
17 department through the exercise of eminent domain, including the
18 acreage of the property and the location of the property.

19 SECTION 5.27. Section 1001.151(c), Transportation Code, is
20 amended to read as follows:

21 (c) Money appropriated to the department for Motor Vehicle
22 Crime [~~Automobile Burglary and Theft~~] Prevention Authority
23 purposes and other revenue collected or received by the Motor
24 Vehicle Crime [~~Automobile Burglary and Theft~~] Prevention Authority
25 may not be deposited into the fund.

26 SECTION 5.28. The following provisions are repealed:

- 27 (1) Sections 9 and 11, Article 4413(37), Revised

1 Statutes;

2 (2) the headings to Sections 3, 5, and 6, Article
3 4413(37), Revised Statutes; and

4 (3) the heading to Article 4413(37), Revised Statutes.

5 SECTION 5.29. (a) Except as provided by Subsection (b) of
6 this section, Section 1006.057, Transportation Code, as
7 transferred, redesignated, and amended by this Act, applies to a
8 person who is appointed before, on, or after the effective date of
9 this Act to the Automobile Burglary and Theft Prevention Authority
10 or Motor Vehicle Crime Prevention Authority, as applicable.

11 (b) A member of the Motor Vehicle Crime Prevention Authority
12 who, before the effective date of this Act, completed the training
13 program required by Sections 5(c), (d), and (e), Article 4413(37),
14 Revised Statutes, as that law existed before the effective date of
15 this Act, is required to complete additional training only on
16 subjects added by this Act to the training program as required by
17 Section 1006.057, Transportation Code, as transferred,
18 redesignated, and amended by this Act. A member described by this
19 subsection may not vote, deliberate, or be counted as a member in
20 attendance at a meeting of the authority held on or after December
21 1, 2019, until the member completes the additional training.

22 SECTION 5.30. (a) On the effective date of this Act:

23 (1) the name of the Automobile Burglary and Theft
24 Prevention Authority is changed to the Motor Vehicle Crime
25 Prevention Authority, and all powers, duties, rights, and
26 obligations of the Automobile Burglary and Theft Prevention
27 Authority are the powers, duties, rights, and obligations of the

1 Motor Vehicle Crime Prevention Authority;

2 (2) a member of the Automobile Burglary and Theft
3 Prevention Authority is a member of the Motor Vehicle Crime
4 Prevention Authority; and

5 (3) any appropriation for the Automobile Burglary and
6 Theft Prevention Authority is an appropriation for the Motor
7 Vehicle Crime Prevention Authority.

8 (b) On and after the effective date of this Act, a reference
9 in law to the Automobile Burglary and Theft Prevention Authority is
10 a reference to the Motor Vehicle Crime Prevention Authority.

11 (c) The Motor Vehicle Crime Prevention Authority is the
12 authority formerly known as the Automobile Burglary and Theft
13 Prevention Authority in all respects. All personnel, equipment,
14 data, documents, facilities, contracts, items, other property,
15 rules, decisions, and proceedings of or involving the Automobile
16 Burglary and Theft Prevention Authority are unaffected by the
17 change in the name of the authority.

18 ARTICLE 6. STUDY ON IMPOSING FEES ON ALTERNATIVELY FUELED VEHICLES

19 SECTION 6.01. DEFINITIONS. In this article:

20 (1) "Alternatively fueled vehicle" has the meaning
21 assigned by Section 502.004, Transportation Code.

22 (2) "Conventional vehicle" means a vehicle, as defined
23 by Section 502.001, Transportation Code, that is exclusively
24 powered by gasoline or diesel fuel.

25 (3) "Motor fuel taxes" means the motor fuel taxes
26 imposed under Chapter 162, Tax Code.

27 SECTION 6.02. STUDY AND REPORT. (a) Using existing funds,

1 the Texas Department of Motor Vehicles shall organize a study on:

2 (1) the impact of the alternatively fueled vehicles
3 industry on the state;

4 (2) the options available to the state for collecting
5 fees from owners of alternatively fueled vehicles to replace the
6 loss of revenue from motor fuel taxes; and

7 (3) the feasibility and desirability of establishing a
8 fee for alternatively fueled vehicles.

9 (b) The study organized under Subsection (a) of this section
10 shall be conducted by:

11 (1) the Texas Department of Motor Vehicles;

12 (2) the Public Utility Commission of Texas;

13 (3) the Texas Department of Transportation;

14 (4) the Department of Public Safety of the State of
15 Texas; and

16 (5) the Texas Commission on Environmental Quality.

17 (c) The study must examine:

18 (1) the current revenue generated from motor fuel
19 taxes imposed on a conventional vehicle and each type of
20 alternatively fueled vehicle for each mile the vehicle is operated;

21 (2) the net revenue generated by fees and taxes paid by
22 owners of alternatively fueled vehicles and conventional vehicles
23 for the use of the vehicle, including motor vehicle registration
24 fees under Chapter 502, Transportation Code, motor fuel taxes, and
25 taxes, fees, and surcharges on the retail sale of electricity
26 consumed by alternatively fueled vehicles;

27 (3) the methods to determine the average number of

1 miles traveled in this state by alternatively fueled vehicles and
2 conventional vehicles each year;

3 (4) the type and amount of fees by which other states
4 generate revenue from alternatively fueled vehicles and
5 conventional vehicles;

6 (5) alternative methods for determining and
7 collecting road use fees from owners of alternatively fueled
8 vehicles, including methods that consider the weight of and the
9 number of miles traveled by an alternatively fueled vehicle;

10 (6) the projected revenue to the state for each method
11 examined under Subdivision (5) of this subsection;

12 (7) the projected impact of alternatively fueled
13 vehicles on the state highway system, including the maintenance
14 required because of the impact;

15 (8) the projected direct environmental benefit of
16 alternatively fueled vehicles on vehicle emissions in this state;
17 and

18 (9) the projected impact of alternatively fueled
19 vehicles to the state's power grids and electricity markets.

20 (d) Not later than December 1, 2020, the Texas Department of
21 Motor Vehicles shall prepare and submit to the governor, lieutenant
22 governor, speaker of the house of representatives, and members of
23 the legislature a written report that includes a summary of the
24 results of the study conducted under this section and any
25 legislative recommendations based on the study.

26 SECTION 6.03. EXPIRATION DATE. This article expires
27 September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 604 passed the Senate on April 11, 2019, by the following vote: Yeas 31, Nays 0; May 20, 2019, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2019, House granted request of the Senate; May 26, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 604 passed the House, with amendments, on May 17, 2019, by the following vote: Yeas 146, Nays 0, one present not voting; May 22, 2019, House granted request of the Senate for appointment of Conference Committee; May 26, 2019, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§114.1, 114.50, and 114.82.

Amendments to §§114.1, 114.50, and 114.82 are adopted without changes to the proposed text as published in the December 3, 2021, issue of the *Texas Register* (46 TexReg 8204) and, therefore, will not be republished.

Amended §§114.1, 114.50, and 114.82 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) in a future SIP revision.

Background and Summary of the Factual Basis for the Adopted Rules

Senate Bill (SB) 604, 86th Texas Legislature, 2019, added digital license plates to Chapter 504 of the Texas Transportation Code (TTC). This adopted rulemaking will update TCEQ rules to be consistent with the TTC, relating to the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

The inspection and maintenance (I/M) rules require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). Currently, motorists are required to demonstrate compliance with the I/M program by displaying

a current valid vehicle registration insignia sticker affixed to the vehicle's windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS. The I/M rules also require denying renewal of registration until a vehicle complies with I/M program requirements.

Demonstrating Noninterference under Federal Clean Air Act, §110(l)

The adopted amendments to Chapter 114 will allow a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Because the emissions inspection is still required within 90 days of the registration expiration, these amendments are not intended or expected to impact the compliance rate and the effectiveness of the I/M program. The adopted rulemaking will not negatively impact the state's progress towards attainment of the 2008 and 2015 eight-hour ozone National Ambient Air Quality Standards.

Section by Section Discussion

The following adopted amendments will ensure compliance with Chapter 504 of the TTC and that proof of compliance with I/M requirements are consistent between the TCEQ, the Texas Department of Motor Vehicles (DMV), and the DPS.

The commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas

Legislative Council Drafting Manual, September 2020. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble.

§114.1, Definitions

The definition for vehicle registration insignia sticker included language that it be affixed on the windshield of a vehicle. The adopted revisions removed the restrictive language and added language to allow for alternative forms of proof of compliance with I/M requirements provided for by the DPS or the DMV.

§114.50, Vehicle Emissions Inspection Requirements

The adopted revisions to §114.50(b)(1)(B) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

§114.82, Control Requirements

The adopted revisions to §114.82(a)(2) removed language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the adopted revisions added language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

Final Regulatory Impact Determination

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the adopted rules do not meet the definition of a "Major environmental rule." TGC, §2001.0225(g)(3), states that a "Major environmental rule" is "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 adopted rulemaking does not constitute a major environmental rule under TGC, §2001.0225(g)(3), because: (1) the specific intent of the adopted rulemaking is not to protect the environment or reduce risks to human health from environmental exposure, but rather to modify administrative aspects of an existing program by implementing SB 604, which allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield; and (2) as discussed in the Fiscal Note, Public Benefits and Costs, Small Business Regulatory Flexibility Analysis, and the Local Employment Impact Statement sections of this preamble, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs, nor will the adopted rules adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state because the amendments are merely administrative changes to the existing

program.

Additionally, the adopted rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule. TGC, §2001.0225, applies only to a major environmental rule which: (1) exceeds a standard set by federal law, unless the rule is specifically required by state law; (2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; (3) exceeds 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) adopts a rule solely under the general powers of the agency instead of under a specific state law.

The specific intent of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. The adopted rulemaking: (1) does not exceed a standard set by federal law; (2) does not exceed an express requirement of state law; (3) is not adopted solely under the general powers of the agency; and (4) does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. Because the adopted rulemaking is not a major environmental rule, it is not subject to a regulatory impact analysis under TGC, §2001.0225.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated the adopted rulemaking and performed an analysis of whether the adopted rules constitute a taking under TGC, Chapter 2007. The commission's preliminary assessment indicates TGC, Chapter 2007, does not apply.

Under TGC, §2007.002(5), taking means: (A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the

market value of the property determined as if the governmental action is in effect.

The specific purpose of the adopted rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia sticker. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Therefore, the adopted rulemaking does not have any impact on private real property.

Promulgation and enforcement of the adopted rulemaking will be neither a statutory nor a constitutional taking of private real property. These rules will not be burdensome, restrictive, or limiting of rights to private real property because the adopted rules do not affect a landowner's rights in private real property. This rulemaking does not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these rules will not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act

implementation rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the CMP.

Public Comment

The comment period opened on December 3, 2021, and the commission offered a public hearing on January 4, 2022. The comment period closed on January 5, 2022. The commission received no comments.

SUBCHAPTER A: DEFINITIONS

§114.1

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter

G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to adopt an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.1. Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (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 chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Dual-fuel vehicle--Any motor vehicle or motor vehicle engine engineered and designed to be operated on two different fuels, but not a mixture of the two.

(2) Emergency vehicle--A vehicle defined as an authorized emergency vehicle according to Texas Transportation Code, §541.201(1).

(3) Emissions--The emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, particulate, or any combination of these substances.

(4) First safety inspection certificate--Initial Texas Department of Public Safety (DPS) certificates issued through DPS-certified inspection stations for every new vehicle found to be in compliance with the rules and regulations governing safety inspections. Beginning on the single sticker transition date as defined in this section, the safety inspection certificates will no longer be used.

(5) First vehicle registration--Initial vehicle registration insignia sticker issued through the Texas Department of Motor Vehicles for every new vehicle found to be in compliance with the rules and regulations governing vehicle registration prior to the single sticker transition date as defined in this section and vehicle registration and safety inspections beginning on the single sticker transition date.

(6) Gross vehicle weight rating--The value specified by the manufacturer as the maximum design loaded weight of a vehicle. This is the weight as expressed on the vehicle's registration, and includes the weight the vehicle can carry or draw.

(7) Heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and is required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the heavy-duty class is divided into the following subclasses:

(A) Light heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 8,500 pounds, but less than or equal to 10,000 pounds.

(B) Medium heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 10,000 pounds, but less than or equal to 19,500 pounds.

(C) Heavy heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 19,500 pounds.

(8) Inherently low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(9) Law enforcement vehicle--Any vehicle controlled by a local government and primarily operated by a civilian or military police officer or sheriff, or by state highway patrols, or other similar law enforcement agencies, and used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

(10) Light-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a gross vehicle weight rating (GVWR) less than or equal to 8,500 pounds and registered or required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the light-duty class is divided into the following subclasses:

(A) Light-duty vehicle--Any passenger vehicle capable of seating 12 or fewer passengers that has a GVWR less than or equal to 6,000 pounds.

(B) Light-duty truck 1--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR less than or equal to 6,000 pounds.

(C) Light-duty truck 2--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR greater than 6,000 pounds but less than or equal to 8,500 pounds.

(11) Loaded mode inspection and maintenance 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 must meet United States Environmental Protection Agency requirements for acceleration simulation mode equipment.

(12) Low emission vehicle (LEV)--A vehicle in a class or category of vehicles that has been certified by the United States Environmental Protection Agency for any model year to meet:

(A) the LEV standards applicable under 42 United States Code, Part C, Subchapter II, §§7581 et seq.; [*et seq.*] or

(B) emission limits at least as stringent as the applicable LEV standards for the Federal Clean Fuel Fleet program under 40 Code of Federal Regulations §§88.104-94, 88.105-94, and 88.311-93, as published in the *Federal Register* on September 30, 1994 (59 FR 50042).

(13) Mass transit authority--A transportation or transit authority or department established under Chapter 141, 63rd Legislature (1973), as defined in Texas Transportation Code, Chapters 451 - 453 (relating to Metropolitan Rapid Transit Authorities, Regional Transportation Authorities, and Municipal Transit Departments) that operates a mass transit system under any of those laws.

(14) Reformulated gasoline--Gasoline that has been certified as a reformulated gasoline under the federal certification regulations adopted in accordance with 42 United States Code, §7545(k).

(15) Single sticker transition date--The transition date of the single sticker system is the later of March 1, 2015, or the date that the Texas Department of Motor Vehicles and the Texas Department of Public Safety concurrently implement the single sticker system required by Texas Transportation Code, §502.047.

(16) Texas Inspection and Maintenance State Implementation Plan--The portion of the Texas state implementation plan that includes the procedures and

requirements of the vehicle emissions inspection and maintenance program as adopted by the commission May 29, 1996, in accordance with 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992; the United States Environmental Protection Agency flexibility amendments dated September 18, 1995; and the National Highway Systems Designation Act of 1995. A copy of the Texas Inspection and Maintenance State Implementation Plan is available at the Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, Texas, 78753; mailing address: P.O. Box 13087, MC 166, Austin, Texas 78711-3087.

(17) Tier I federal emission standards--The standards are defined in 42 United States Code, §7521, and in 40 Code of Federal Regulations Part 86. The phase-in of these standards began in model year 1994.

(18) Ultra low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(19) Vehicle registration--Vehicle characteristics, corresponding owner information, and registration expiration date contained in the Texas Department of Motor Vehicles registration system.

(20) Vehicle registration insignia sticker--The sticker issued through the Texas Department of Motor Vehicles (DMV) or county tax assessor-collector for [to be

affixed on the windshield of] a vehicle compliant with the DMV regulations. Beginning on the single sticker transition date as defined in this section, the vehicle registration insignia sticker, a current valid VIR, or other form of proof authorized by the DPS or the DMV will be used as proof of compliance with inspection and maintenance program requirements, the DMV's rules and regulations governing vehicle registration, and the Texas Department of Public Safety's rules and regulations governing safety inspections.

(21) Zero emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

**SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE
REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT
PROGRAM; AND EARLY ACTION COMPACT COUNTIES
DIVISION 1: VEHICLE INSPECTION AND MAINTENANCE**

§114.50

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to adopt rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC,

§382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.50. Vehicle Emissions Inspection Requirements.

(a) Applicability. The requirements of this section and those contained in the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) must be applied to all gasoline-powered motor vehicles 2 - 24 years old and subject to an annual emissions inspection beginning with the first safety inspection. Military tactical vehicles, motorcycles, diesel-powered vehicles, dual-fueled vehicles that cannot operate using gasoline, and antique vehicles registered with the Texas Department of Motor

Vehicles are excluded from the program. Safety inspection facilities and inspectors certified by the Texas Department of Public Safety (DPS) must inspect all subject vehicles in the following program areas as defined in §114.2 of this title (relating to Inspection and Maintenance Definitions), in accordance with the following schedule.

(1) This paragraph applies to all vehicles registered and primarily operated in the Dallas-Fort Worth (DFW) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties equipped with on-board diagnostic (OBD) systems must be tested using United States Environmental Protection Agency (EPA)-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties must be tested using an acceleration simulation mode (ASM-2) test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified

as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(2) This paragraph applies to all vehicles registered and primarily operated in the extended DFW (EDFW) program area.

(A) Beginning May 1, 2003, all 1996 and newer model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(3) This paragraph applies to all vehicles registered and primarily operated in the Houston-Galveston-Brazoria (HGB) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Harris County equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Harris County must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(D) Beginning May 1, 2003, all 1996 and newer model year vehicles equipped with OBD systems and registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using EPA-approved OBD test procedures.

(E) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using the ASM-2 test procedures or a vehicle emissions test approved by the EPA.

(4) This paragraph applies to all vehicles registered and primarily operated in the El Paso program area.

(A) All vehicles must be tested using a two-speed idle (TSI) test through December 31, 2006.

(B) Beginning January 1, 2007, all 1996 and newer model year vehicles equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(C) Beginning January 1, 2007, all pre-1996 model year vehicles must be tested using a TSI test.

(D) Beginning January 1, 2007, all vehicle emissions inspection stations in the El Paso program area must offer both the TSI test and OBD test.

(b) Control requirements.

(1) No person or entity may operate, or allow the operation of, a motor vehicle registered in the DFW, EDFW, HGB, and El Paso program areas that does not comply with:

(A) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(B) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS, as evidenced by a current valid vehicle registration insignia sticker [affixed to the vehicle windshield], a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(C) the vehicle emissions I/M requirements contained in this subchapter.

(2) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the federal government agency and located in a program area to comply with all vehicle emissions I/M requirements specified in Texas Health and Safety Code, Subchapter G, §§382.201 - 382.216 (concerning Vehicle Emissions), and this chapter. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq.) [*et seq.*]. This requirement will not apply to visiting federal government agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(3) Any motorist in the DFW, EDFW, HGB, or El Paso program areas who has received a notice from an emissions inspection station that there are recall items unresolved on his or her motor vehicle should furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(4) A motorist whose vehicle has failed an emissions test may request a challenge retest through the DPS. If the retest is conducted within 15 days of the initial inspection, the retest is free.

(5) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or whose vehicle has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form (VRF) in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a VRF or applicable documentation as deemed necessary by the DPS.

(6) A motorist whose vehicle is registered in the DFW, EDFW, HGB, or El Paso program areas or in any county adjacent to a program area and whose vehicle has failed an on-road test administered by the DPS shall:

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

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program specified in 37 TAC Chapter 23, Subchapter E (relating to Vehicle Emissions Inspection and [And] Maintenance Program).

(7) A subject vehicle registered in a county without an I/M program that meets the applicability criteria of subsection (a) of this section and the ownership of which has changed through a retail sale as defined by Texas Occupations Code,

§2301.002, is not eligible for title receipt or registration in a county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report (VIR) or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this paragraph.

(8) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements for vehicles primarily operated in I/M program areas.

(c) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in 37 TAC Chapter 23, Subchapter E, which defers the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(d) Prohibitions.

(1) No person may issue or allow the issuance of a VIR, as authorized by the DPS unless all applicable air pollution emissions control-related requirements of the annual vehicle safety inspection and the vehicle emissions I/M requirements are

completely and properly performed in accordance with the rules and regulations adopted by the DPS and the commission. Prior to taking any enforcement action regarding this provision, the commission must consult with the DPS.

(2) Before the single sticker transition date as defined in §114.1 of this title, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection certificates, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603 (concerning Fictitious or Counterfeit Inspection Certificate or Insurance Document). Beginning on the single sticker transition date, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen vehicle registration insignia stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603.

(3) No organization, business, person, or other entity may represent itself as an emissions inspector certified by the DPS unless such certification has been issued under the certification requirements and procedures contained in Texas Transportation Code, §§548.401 - 548.404.

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

**SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE
REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT
PROGRAM; AND EARLY ACTION COMPACT COUNTIES
DIVISION 3: EARLY ACTION COMPACT COUNTIES**

§114.82

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also adopted under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also adopted under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC,

§382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.82. Control Requirements.

(a) No person or entity may operate, or allow the operation of, a motor vehicle registered in the affected early action compact (EAC) counties that does not comply with:

(1) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the

Texas Department of Public Safety (DPS) as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(2) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced by a current valid vehicle registration insignia sticker [affixed to the vehicle windshield] or a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(3) the vehicle emissions inspection and maintenance (I/M) requirements contained in this subchapter.

(b) All federal government agencies must 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 an affected EAC county to comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq.). This requirement does not apply to

visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(c) A motorist in an affected EAC county who has received a notice from an emissions inspection station that there are unresolved recall items on the motor vehicle shall furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(d) 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 cost of the retest is free.

(e) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a vehicle repair form or applicable documentation as considered necessary by the DPS.

(f) A motorist whose vehicle is registered in an affected EAC county, or in any county adjacent to an affected EAC county, and has failed an on-road test administered by the DPS shall:

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

(2) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision.

(g) A vehicle registered in a county without an I/M program that meets the applicability criteria of §114.80(c) of this title (relating to Applicability), and the ownership of which has changed through a retail sale as defined by Texas Motor Vehicle Commission Code, Article 4413(36), §1.03 (moved to Texas Occupations Code, §2301.002, effective June 1, 2003), is not eligible for title receipt or registration in an affected EAC program county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this subsection.

(h) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M

requirements contained in the Austin Area Early Action Compact Ozone State
Implementation Plan Revision for vehicles primarily operated in I/M program areas.

(6) The TCEQ and TPWD will continue to develop and provide to applicants, permit conditions and, as appropriate, guidance related to disease, quarantine conditions, and emergency plans.

~~[(e) Application Review Committee.]~~

~~[(1) Purpose.]~~

~~[(A) The application review committee (ARC) will review wastewater discharge authorization applications to ensure that the proposed discharges will not adversely affect a bay, an estuary, or other water in the state.]~~

~~[(B) The commission, TPWD, and TDA recognize the importance of integrating and coordinating among themselves to ensure that this ultimate goal, stated in subparagraph (A) of this paragraph, is achieved.]~~

~~[(C) In order to accomplish this, the ARC will function as a forum for discussion, answering questions and resolving differences; in an attempt to come to consensus regarding the controls needed to meet the ultimate goal.]~~

~~[(D) The ARC shall primarily be used as a means for settling unresolved disputes concerning aquaculture between the agencies.]~~

~~[(2) Membership.]~~

~~[(A) Each agency, the commission, TPWD, and TDA, will appoint one member to the ARC.]~~

~~[(B) Each agency shall appoint an alternate member of the committee.]~~

~~[(C) If a member or alternate is unable to attend a meeting, then that member or alternate will temporarily delegate his or her decision-making authority to other staff of that agency for that meeting only.]~~

~~[(D) At meetings of the ARC, technical specialists representing the agencies may participate in or contribute to the committee's discussions and other activities.]~~

~~[(E) Within two weeks of the adoption of this MOU, each agency will inform the other two agencies of the member and alternates.]~~

~~[(F) An agency may change its member or alternate by providing notice to each of the other members and alternates.]~~

~~[(3) Applicability. The ARC may consider any wastewater discharge application when disputes can not be resolved at the staff level.]~~

~~[(4) Functioning of the ARC.]~~

~~[(A) Meetings.]~~

~~[(i) Meetings will be on an as needed basis.]~~

~~[(ii) Any member of the ARC may request a meeting of the committee to consider one or more discharge applications.]~~

~~[(iii) Any meeting of the ARC to consider a specific discharge permit application should, whenever possible, be requested prior to the public notice of the application and preliminary decision.]~~

~~[(iv) It is the responsibility of the member requesting the meeting to notify all the members and alternates, and to establish a mutually agreeable meeting time and location.]~~

~~[(v) The meeting shall take place within seven calendar days of the request.]~~

~~[(vi) It is the responsibility of the agency requesting the meeting to take minutes of the meeting, to provide the minutes for review and comment by the other parties, and to provide a final version of the minutes which reflects any comments received.]~~

~~[(B) Decision making. The ARC will strive for unanimous consent on all decisions. In the event that unanimous agreement cannot be reached among members of the committee, the matter under consideration may be referred to officials of the agencies for resolution in an expeditious manner. The agencies agree that, while recognizing the areas of expertise and authority of the members, decision-making deliberations will focus on the agencies' mutual purpose of ensuring that the proposed discharge will not adversely affect a bay, an estuary, or other water in the state.]~~

~~[(C) Confidentiality. The ARC supports an open government policy and it is understood and agreed that information subject to public disclosure under the Texas Public Information Act shall be released upon written request.]~~

~~(f) General conditions.~~

~~(1) The term of this MOU shall be from the effective date until amendment or termination of this agreement. Any amendment to the MOU shall be made by mutual agreement of the parties [and shall be adopted by rule by all parties].~~

~~(2) Each party shall adopt the MOU by rule, including subsequent amendments. [All amendments shall also be adopted by rule.] This MOU, and any subsequent amendment, shall become effective on the effective date of the rule [20 days after the date on which the rule is filed in the Office of the Secretary of State].~~

~~[(3) By signing this MOU, the signatories acknowledge that they are acting upon proper authority from their governing bodies.]~~

~~(3) [(4)] Reservation of rights. Each agency has and reserves the right to take whatever actions necessary to pursue or preserve any legal remedies available to that agency, and nothing in this MOU is intended to waive or foreclose any such right.~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

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Guy Henry
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
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For further information, please call: (512) 239-2809



CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§114.1, 114.50, and 114.82.

If adopted, amended §§114.1, 114.50, and 114.82 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) in a future SIP revision.

Background and Summary of the Factual Basis for the Proposed Rules

Senate Bill (SB) 604, 86th Texas Legislature, 2019, added digital license plates to Chapter 504 of the Texas Transportation Code (TTC). This proposed rulemaking would update TCEQ rules to be consistent with the TTC, relating to the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield.

The inspection and maintenance (I/M) rules require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). Currently, motorists are required to demonstrate compliance with the I/M program by displaying a current valid vehicle registration insignia sticker affixed to the vehicle's windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS. The I/M rules also require denying renewal of registration until a vehicle complies with I/M program requirements.

Demonstrating Noninterference under Federal Clean Air Act, §110(l)

The proposed amendments to Chapter 114 would allow a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Because the emissions inspection is still required within 90 days of the registration expiration, these amendments are not intended or expected to impact the compliance rate and the effectiveness of the I/M program. The proposed rulemaking would not negatively impact the state's progress towards attainment of the 2008 and 2015 eight-hour ozone National Ambient Air Quality Standards.

Section by Section Discussion

The following proposed amendments would ensure compliance with Chapter 504 of the TTC and that proof of compliance with I/M requirements are consistent between the TCEQ, the Texas Department of Motor Vehicles (DMV), and the DPS.

The commission proposes non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble.

§114.1, Definitions

The current definition for vehicle registration insignia sticker includes language that it be affixed on the windshield of a vehicle. The proposed revisions remove the restrictive language and add language to allow for alternative forms of proof of compliance with I/M requirements provided for by the DPS or the DMV.

§114.50, Vehicle Emissions Inspection Requirements

The proposed revisions to §114.50(b)(1)(B) remove language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the proposed revisions add language to allow for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

§114.82, Control Requirements

The proposed revisions to §114.82(a)(2) remove language for affixing the vehicle registration insignia sticker to the vehicle windshield. In addition, the proposed revisions add language to allow

for different forms of proof of compliance with I/M requirements provided by the DPS and the DMV.

Fiscal Note: Costs to State and Local Government

Jené Bearsse, Acting Deputy Director of the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

Public Benefits and Costs

Ms. Bearsse determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated would be continued compliance with the Texas Transportation Code. The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create, expand, repeal, or limit an existing regulation, nor does the proposed rulemaking increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules would not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the proposed rules do

not meet the definition of a "Major environmental rule." TGC, §2001.0225(g)(3), states that a "Major environmental rule" is "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 rulemaking does not constitute a major environmental rule under TGC, §2001.0225(g)(3), because: (1) the specific intent of the proposed rulemaking is not to protect the environment or reduce risks to human health from environmental exposure, but rather to modify administrative aspects of an existing program by implementing SB 604, which allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield; and (2) as discussed in the Fiscal Note, Public Benefits And Costs, Small Business Regulatory Flexibility Analysis, and the Local Employment Impact Statement sections of this preamble, the proposed rulemaking would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs, nor would the proposed rules adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state because the amendments are merely administrative changes to the existing program.

Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule.

TGC, §2001.0225, applies only to a major environmental rule which: (1) exceeds a standard set by federal law, unless the rule is specifically required by state law; (2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; (3) exceeds 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) adopts a rule solely under the general powers of the agency instead of under a specific state law.

The specific intent of the proposed rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. The proposed rulemaking: (1) does not exceed a standard set by federal law; (2) does not exceed an express requirement of state law; (3) is not proposed solely under the general powers of the agency; and (4) does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. Because the proposed rulemaking is not a major environmental rule, it is not subject to a regulatory impact analysis under TGC, §2001.0225.

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rules and performed an analysis of whether the proposed rules constitute a taking under TGC, Chapter 2007. The commission's preliminary assessment indicates TGC, Chapter 2007, does not apply.

Under TGC, §2007.002(5), taking means: (A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the proposed rulemaking is to implement applicable sections of SB 604, relating to the display of a vehicle's registration insignia sticker. SB 604 allows the display of a vehicle's registration insignia for certain commercial fleet or governmental entity vehicles on a digital license plate in lieu of attaching the registration insignia to the vehicle's windshield. Therefore, the proposed rulemaking does not have any impact on private real property.

Promulgation and enforcement of the proposed rules would be neither a statutory nor a constitutional taking of private real property. These rules would not be burdensome, restrictive, or limiting of rights to private real property because the proposed rules do not affect a landowner's rights in private real property. This rulemaking does not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these rules would not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor would they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Virtual Hearing

The commission will hold a virtual public hearing on this proposal on *January 4, 2022, at 10:00 a.m.* The virtual 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 be permitted during the hearing; however, staff will be available to discuss the proposal 30 minutes prior to the hearing and after the virtual hearing via the Teams Live Event Question & Answer chat function.

Registration

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments and/or want their attendance on record must register by Monday, *January 3, 2022.* To register for the

hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on *January 3, 2022*, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_Mm-M0MTczNDAfY2MyNS00NDM2LWJiMjMtNGJlZWJfMTI0MDc0%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%2230ec010b-ff0b-4618-bbc4-622a14f9cb18%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a

Persons who have special communication or other accommodation needs who are planning to register to provide formal oral comments and/or attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/> File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2021-029-114-AI. The comment period closes on January 5, 2022. Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Nicholas Landuyt, Air Quality Planning Section, (512) 239-4905.

SUBCHAPTER A. DEFINITIONS

30 TAC §114.1

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions

From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.1. Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (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 chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Dual-fuel vehicle--Any motor vehicle or motor vehicle engine engineered and designed to be operated on two different fuels, but not a mixture of the two.

(2) Emergency vehicle--A vehicle defined as an authorized emergency vehicle according to Texas Transportation Code, §541.201(1).

(3) Emissions--The emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, particulate, or any combination of these substances.

(4) First safety inspection certificate--Initial Texas Department of Public Safety (DPS) certificates issued through DPS-certified inspection stations for every new vehicle found to be in compliance with the rules and regulations governing safety inspections. Beginning on the single sticker transition date as defined in this section, the safety inspection certificates will no longer be used.

(5) First vehicle registration--Initial vehicle registration insignia sticker issued through the Texas Department of Motor Vehicles for every new vehicle found to be in compliance with the rules and regulations governing vehicle registration prior to the single sticker transition date as defined in this section and vehicle registration and safety inspections beginning on the single sticker transition date.

(6) Gross vehicle weight rating--The value specified by the manufacturer as the maximum design loaded weight of a vehicle. This is the weight as expressed on the vehicle's registration, and includes the weight the vehicle can carry or draw.

(7) Heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and is required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the heavy-duty class is divided into the following subclasses:

(A) Light heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 8,500 pounds, but less than or equal to 10,000 pounds.

(B) Medium heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 10,000 pounds, but less than or equal to 19,500 pounds.

(C) Heavy heavy-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 19,500 pounds.

(8) Inherently low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(9) Law enforcement vehicle--Any vehicle controlled by a local government and primarily operated by a civilian or military police officer or sheriff, or by state highway patrols, or other similar law enforcement agencies, and used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

(10) Light-duty vehicle--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a gross vehicle weight rating (GVWR) less than or equal to 8,500 pounds and registered or required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the light-duty class is divided into the following subclasses:

(A) Light-duty vehicle--Any passenger vehicle capable of seating 12 or fewer passengers that has a GVWR less than or equal to 6,000 pounds.

(B) Light-duty truck 1--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR less than or equal to 6,000 pounds.

(C) Light-duty truck 2--Any passenger truck capable of transporting people, equipment, or cargo that has a GVWR greater than 6,000 pounds but less than or equal to 8,500 pounds.

(11) Loaded mode inspection and maintenance 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 must meet United States Environmental Protection Agency requirements for acceleration simulation mode equipment.

(12) Low emission vehicle (LEV)--A vehicle in a class or category of vehicles that has been certified by the United States Environmental Protection Agency for any model year to meet:

(A) the LEV standards applicable under 42 United States Code, Part C, Subchapter II, §§7581 *et seq.*; [*et seq.*] or

(B) emission limits at least as stringent as the applicable LEV standards for the Federal Clean Fuel Fleet program under 40 Code of Federal Regulations §§88.104-94, 88.105-94, and 88.311-93, as published in the *Federal Register* on September 30, 1994 (59 FR 50042).

(13) Mass transit authority--A transportation or transit authority or department established under Chapter 141, 63rd Legislature (1973), as defined in Texas Transportation Code, Chapters 451 - 453 (relating to Metropolitan Rapid Transit Authorities, Regional Transportation Authorities, and Municipal Transit Departments) that operates a mass transit system under any of those laws.

(14) Reformulated gasoline--Gasoline that has been certified as a reformulated gasoline under the federal certification regulations adopted in accordance with 42 United States Code, §7545(k).

(15) Single sticker transition date--The transition date of the single sticker system is the later of March 1, 2015, or the date that the Texas Department of Motor Vehicles and the Texas Department of Public Safety concurrently implement the single sticker system required by Texas Transportation Code, §502.047.

(16) Texas Inspection and Maintenance State Implementation Plan--The portion of the Texas state implementation plan that includes the procedures and requirements of the vehicle emissions inspection and maintenance program as adopted by the commission May 29, 1996, in accordance with 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992; the United States Environmental Protection Agency flexibility amendments dated September 18, 1995; and the National Highway Systems Designation Act of 1995. A copy of the Texas Inspection and Maintenance State Implementation Plan is available at the Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, Texas, 78753; mailing address: P.O. Box 13087, MC 166, Austin, Texas 78711-3087.

(17) Tier I federal emission standards--The standards are defined in 42 United States Code, §7521, and in 40 Code of Federal Regulations Part 86. The phase-in of these standards began in model year 1994.

(18) Ultra low emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

(19) Vehicle registration--Vehicle characteristics, corresponding owner information, and registration expiration date contained in the Texas Department of Motor Vehicles registration system.

(20) Vehicle registration insignia sticker--The sticker issued through the Texas Department of Motor Vehicles (DMV) or county tax assessor-collector for [to be affixed on the windshield of] a vehicle compliant with the DMV regulations. Beginning on the single sticker transition date as defined in this section, the vehicle registration insignia sticker, a current valid VIR, or other form of proof authorized by the DPS or the DMV will be used as proof of compliance with inspection and maintenance program requirements, the DMV's rules and regulations governing vehicle registration, and the Texas Department of Public Safety's rules and regulations governing safety inspections.

(21) Zero emission vehicle--A vehicle as defined by 40 Code of Federal Regulations Part 88.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

TRD-202104666

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: January 2, 2022

For further information, please call: (512) 239-2809



SUBCHAPTER C. VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT

PROGRAM; AND EARLY ACTION COMPACT COUNTIES

DIVISION 1. VEHICLE INSPECTION AND MAINTENANCE

30 TAC §114.50

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.50. Vehicle Emissions Inspection Requirements.

(a) *Applicability.* The requirements of this section and those contained in the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) must be applied to all gasoline-powered motor vehicles 2 - 24 years old and subject to an annual emissions inspection beginning with the first safety inspection. Military tactical vehicles, motorcycles, diesel-powered vehicles, dual-fueled vehicles that cannot operate using gasoline, and antique vehicles registered with the Texas Department of Motor Vehicles are excluded from the program. Safety inspection facilities and inspectors certified by the Texas Department of Public Safety (DPS) must inspect all subject vehicles in the following program areas as defined in §114.2 of this title (relating to Inspection and Maintenance Definitions), in accordance with the following schedule.

(1) This paragraph applies to all vehicles registered and primarily operated in the Dallas-Fort Worth (DFW) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties equipped with on-board diagnostic (OBD) systems must be tested using United States Environmental Protection Agency (EPA)-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Collin, Dallas, Denton, and Tarrant Counties must be tested using an acceleration simulation mode (ASM-2) test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(2) This paragraph applies to all vehicles registered and primarily operated in the extended DFW (EDFW) program area.

(A) Beginning May 1, 2003, all 1996 and newer model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(3) This paragraph applies to all vehicles registered and primarily operated in the Houston-Galveston-Brazoria (HGB) program area.

(A) Beginning May 1, 2002, all 1996 and newer model year vehicles registered and primarily operated in Harris County equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(B) Beginning May 1, 2002, all pre-1996 model year vehicles registered and primarily operated in Harris County must be tested using an ASM-2 test or a vehicle emissions test approved by the EPA.

(C) All vehicle emissions inspection stations in affected program areas must offer both the ASM-2 test and the OBD test except low volume emissions inspection stations. If an owner or operator wishes to have his or her station classified as a low volume emissions inspection station, the station owner or operator shall petition the DPS in accordance with the rules and procedures established by the DPS.

(D) Beginning May 1, 2003, all 1996 and newer model year vehicles equipped with OBD systems and registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using EPA-approved OBD test procedures.

(E) Beginning May 1, 2003, all pre-1996 model year vehicles registered and primarily operated in Brazoria, Fort Bend, Galveston, and Montgomery Counties must be tested using the ASM-2 test procedures or a vehicle emissions test approved by the EPA.

(4) This paragraph applies to all vehicles registered and primarily operated in the El Paso program area.

(A) All vehicles must be tested using a two-speed idle (TSI) test through December 31, 2006.

(B) Beginning January 1, 2007, all 1996 and newer model year vehicles equipped with OBD systems must be tested using EPA-approved OBD test procedures.

(C) Beginning January 1, 2007, all pre-1996 model year vehicles must be tested using a TSI test.

(D) Beginning January 1, 2007, all vehicle emissions inspection stations in the El Paso program area must offer both the TSI test and OBD test.

(b) Control requirements.

(1) No person or entity may operate, or allow the operation of, a motor vehicle registered in the DFW, EDFW, HGB, and El Paso program areas that does not comply with:

(A) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(B) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS, as evidenced by a current valid vehicle registration insignia sticker [~~affixed to the vehicle windshield~~], a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(C) the vehicle emissions I/M requirements contained in this subchapter.

(2) All federal government agencies must require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the federal government agency and located in a program area to comply with all vehicle emissions I/M requirements specified in Texas Health and Safety Code, Subchapter G, §§382.201 - 382.216 (concerning Vehicle Emissions), and this chapter. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 *et seq.*) [*et seq.*]. This requirement will not apply to visiting federal government agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(3) Any motorist in the DFW, EDFW, HGB, or El Paso program areas who has received a notice from an emissions inspection station that there are recall items unresolved on his or her motor vehicle should furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(4) A motorist whose vehicle has failed an emissions test may request a challenge retest through the DPS. If the retest is conducted within 15 days of the initial inspection, the retest is free.

(5) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or whose vehicle has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form (VRF) in order to receive a retest. In order to receive a waiver or time extension, the mo-

torist shall submit a VRF or applicable documentation as deemed necessary by the DPS.

(6) A motorist whose vehicle is registered in the DFW, EDFW, HGB, or El Paso program areas or in any county adjacent to a program area and whose vehicle has failed an on-road test administered by the DPS shall:

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

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program specified in 37 TAC Chapter 23, Subchapter E (relating to Vehicle Emissions Inspection and [And] Maintenance Program).

(7) A subject vehicle registered in a county without an I/M program that meets the applicability criteria of subsection (a) of this section and the ownership of which has changed through a retail sale as defined by Texas Occupations Code, §2301.002, is not eligible for title receipt or registration in a county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report (VIR) or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this paragraph.

(8) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements for vehicles primarily operated in I/M program areas.

(c) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in 37 TAC Chapter 23, Subchapter E, which defers the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(d) Prohibitions.

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

(2) Before the single sticker transition date as defined in §114.1 of this title, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection certificates, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603 (concerning Fictitious or Counterfeit Inspection Certificate or Insurance Document). Beginning on the single sticker transition date, no person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen vehicle registration insignia stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603.

(3) No organization, business, person, or other entity may represent itself as an emissions inspector certified by the DPS unless such certification has been issued under the certification requirements

and procedures contained in Texas Transportation Code, §§548.401 - 548.404.

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2809



DIVISION 3. EARLY ACTION COMPACT COUNTIES

30 TAC §114.82

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, General Powers; TWC, §5.103, Rules; and TWC, §5.105, General Policy, which provide the commission with the general powers to carry out its duties and authorize the commission to propose rules necessary to carry out its powers and duties under the TWC; and TWC, §5.013, General Jurisdiction of Commission, which states the commission's authority over various statutory programs. The revisions are also proposed under Texas Health and Safety Code (THSC), §382.017, Rules, which authorizes the commission to propose rules consistent with the policy and purposes of THSC, Chapter 382 (Texas Clean Air Act), and to propose rules that differentiate among particular conditions, particular sources, and particular areas of the state. The revisions are also proposed under THSC, §382.002, Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.019, Methods Used to Control and Reduce Emissions From Land Vehicles, which provides the commission the authority to propose rules to control and reduce emissions from engines used to propel land vehicles; THSC, Chapter 382, Subchapter G, Vehicle Emissions, which provides the commission the authority by rule to establish, implement, and administer a program requiring emissions-related inspections of motor vehicles to be performed at inspection facilities consistent with the requirements of Federal Clean Air Act, 42 United States Code, §§7401 et seq.; and THSC, Chapter 382, Subchapter H, Vehicle Emissions Programs in Certain Counties, which authorizes the commission to propose an inspection and maintenance program for participating early action compact counties.

The rule revisions implement amendments to Texas Transportation Code, §§504.151 - 504.157, which were amended by Senate Bill 604, 86th Texas Legislature, 2019.

§114.82. Control Requirements.

(a) No person or entity may operate, or allow the operation of, a motor vehicle registered in the affected early action compact (EAC) counties that does not comply with:

(1) all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the Texas Department of Public Safety (DPS) as evidenced prior to the single sticker transition date as defined in §114.1 of this title (relating to Definitions) by a current valid inspection certificate affixed to the vehicle windshield, a current valid vehicle inspection report (VIR), or other form of proof authorized by the DPS;

(2) beginning on the single sticker transition date, all applicable air pollution emissions control-related requirements included in the annual vehicle safety inspection requirements administered by the DPS as evidenced by a current valid vehicle registration insignia sticker [affixed to the vehicle windshield] or a current valid VIR, or other form of proof authorized by the DPS or the DMV; and

(3) the vehicle emissions inspection and maintenance (I/M) requirements contained in this subchapter.

(b) All federal government agencies must 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 an affected EAC county to comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision. Commanding officers or directors of federal facilities shall certify annually to the executive director, or appointed designee, that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (42 United States Code, §§7401 et seq.). This requirement does not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(c) A motorist in an affected EAC county who has received a notice from an emissions inspection station that there are unresolved recall items on the motor vehicle shall furnish proof of compliance with the recall notice prior to the next vehicle emissions inspection, such as a written statement from the dealership or leasing agency indicating that emissions repairs have been completed.

(d) 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 cost of the retest is free.

(e) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest shall have emissions-related repairs performed and submit a properly completed vehicle repair form in order to receive a retest. In order to receive a waiver or time extension, the motorist shall submit a vehicle repair form or applicable documentation as considered necessary by the DPS.

(f) A motorist whose vehicle is registered in an affected EAC county, or in any county adjacent to an affected EAC county, and has failed an on-road test administered by the DPS shall:

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

(2) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision.

(g) A vehicle registered in a county without an I/M program that meets the applicability criteria of §114.80(c) of this title (relating to Applicability), and the ownership of which has changed through a retail sale as defined by Texas Motor Vehicle Commission Code, Article 4413(36), §1.03 (moved to Texas Occupations Code, §2301.002, effective June 1, 2003), is not eligible for title receipt or registration in an affected EAC program county with an I/M program unless proof is presented that the vehicle has passed an approved vehicle emissions inspection within 90 days before the title transfer. The evidence of proof required may be in the form of the vehicle inspection report or another proof of the program compliance as authorized by the DPS. All 1996 and newer model year vehicles with less than 50,000 miles are exempt from the test-on-resale requirements of this subsection.

(h) State, governmental, and quasi-governmental agencies that fall outside the normal registration or inspection process must comply with all vehicle emissions I/M requirements contained in the Austin Area Early Action Compact Ozone State Implementation Plan Revision for vehicles primarily operated in I/M program areas.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 19, 2021.

TRD-202104691

Guy Henry

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: January 2, 2022

For further information, please call: (512) 239-2809

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CHAPTER 336. RADIOACTIVE SUBSTANCE
RULES
SUBCHAPTER D. STANDARDS FOR
PROTECTION AGAINST RADIATION

30 TAC §336.357

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to §336.357.

Background and Summary of the Factual Basis for the Proposed Rule

The commission proposes changes to Chapter 336, Subchapter D, that would revise the commission's rules concerning physical protection of category 1 and category 2 quantities of radioactive materials to ensure compatibility with federal regulations promulgated by the Nuclear Regulatory Commission (NRC), which is necessary to preserve the status of Texas as an Agreement State under Title 10 Code of Federal Regulations (CFR) Part 150 and under the "Articles of Agreement between the United States Atomic Energy Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended." Rules which are designated by NRC as compatibility items must be adopted by an Agreement State within three years of the effective date of the NRC rules, in most cases.

Section Discussion

The commission proposes administrative changes throughout this rulemaking to be consistent with *Texas Register* requirements and agency rules and guidelines.

§336.357, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

The commission proposes to amend the requirements regarding physical protection of category 1 and category 2 quantities of radioactive materials in §336.357(j).

The commission proposes to amend §336.357(e)(3)(A) and §336.357(e)(3)(B) to update the contact information for the NRC to ensure compatibility with federal regulations promulgated by the NRC.

The commission proposes to amend §336.357(j)(4)(B), §336.357(j)(4)(C), §336.357(j)(4)(C)(i), §336.357(j)(4)(E), §336.357(j)(4)(F), §336.357(j)(4)(G), and §336.357(j)(4)(H)(ii) to add "list of individuals that have been approved for unescorted access" to the list of information for which access must be controlled. These rule amendments are proposed to ensure compatibility with federal regulations promulgated by the NRC.

The commission proposes to amend §336.357(u)(1)(A) to update the name for a specific NRC division to ensure compatibility with federal regulations promulgated by the NRC.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Ms. Bearse determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated would be compliance with federal regulations promulgated by the Nuclear Regulatory Commission. The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rule is in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rule is in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is

Texas Commission on Environmental Quality



ORDER ADOPTING AMENDED RULES

Docket No. 2021-1008-RUL

Rule Project No. 2021-029-114-AI

On March 30, 2022, the Texas Commission on Environmental Quality (Commission) adopted amended rules in 30 Texas Administrative Code Chapter 114, concerning Control of Air Pollution from Motor Vehicles. The proposed rules were published for comment in the December 3, 2021 issue of the *Texas Register* (46 TexReg 8204).

IT IS THEREFORE ORDERED BY THE COMMISSION that the amended rules are hereby adopted. The Commission further authorizes staff to make any non-substantive revisions to the rules necessary to comply with *Texas Register* requirements. The adopted rules and the preamble to the adopted rules are incorporated by reference in this Order as if set forth at length verbatim in this Order.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Tex. Gov't Code Ann., Chapter 2001 (West 2016).

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Jon Niermann, Chairman

Date Signed