

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** 10/29/2021

**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 Proposed Rulemaking  
Chapter 114, Control of Air Pollution from Motor Vehicles  
Rule Project No. 2021-029-114-AI

### **Background and reason(s) for the rulemaking:**

This proposed rulemaking would 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 proposed 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 would do:**

This proposed rulemaking would 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 proposed 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 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

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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 will be held during the public comment period.

**Potential controversial concerns and legislative interest:**

No controversial concerns or legislative interest is anticipated.

**Would 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.

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**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** 11/17/2021

**Anticipated *Texas Register* publication date:** 12/03/2021

**Anticipated public hearing date:** 01/04/2022

**Anticipated public comment period:** 12/03/2021 - 01/05/2022

**Anticipated adoption date:** 03/30/2022

**Agency contacts:**

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**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