

may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 29, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97-24241 Filed 9-11-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX35-1-6168; FRL-5891-8]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas; Propose Disapproval of Revisions to the State Implementation Plan; Chapter IV, Sections 114.1 and 114.5

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing disapproval of SIP revisions Texas submitted for Regulation IV, 30 TAC Chapter 114, sections 114.1 "Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles" and 114.5 "Exclusions and Exceptions" on February 24, 1989, September 6, 1990, and July 13, 1993.

The EPA is acting on these three previously submitted revisions that relate to State wide antitampering provisions and exemptions to antitampering provisions for motor vehicles or motor vehicle engine emission control systems. The EPA is proposing disapproval because the States antitampering rules are not consistent with the Clean Air Act (the Act), section 203(a)(3) and EPA tampering prohibition as outlined in

EPA's antitampering Enforcement Policy, Mobile Source Enforcement Memorandum No. 1A.

DATES: Comments must be received on or before October 14, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents about this action are available for public inspection during normal business hours at the above and following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7354 or via e-mail at scoggins.paul@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region 6 address.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On February 24, 1989, September 6, 1990, and July 13, 1993, EPA received revisions to the Texas SIP for changes to Regulation IV, 30 TAC Chapter 114, sections 114.1 and 114.5, 114.5, and 114.1 and 114.5 respectively. In their regulations, Texas adopted specific measures restricting emission control equipment removal/modifications (antitampering) and exempting or providing exclusions for vehicles from antitampering requirements.

The Federal tampering prohibition for emission control equipment for motor vehicles and motor vehicle engines is contained in section 203(a)(3) of the Act, 42 U.S.C. 7522(a)(3). Section 203(a)(3)(A) of the Act prohibits "any person from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser" and prohibits "any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery to the ultimate purchaser." Mobile Source Enforcement Memorandum No. 1A provides

guidance on what is a violation of section 203(a)(3).

The State revision, received February 24, 1989, made the following changes. Section 114.1 prohibits: (1) The removal of or render inoperative any system or device used to control emissions from a motor vehicle or motor vehicle engine or any part thereof; (2) specifies the conditions for the acceptable removal and/or installation of vehicle engines, catalytic converters, or other emission control components; (3) prohibits leasing, sale, or offer to sale motor vehicles that have tampered emission control equipment; (4) and finally, establishes sign posting requirements for prohibitions.

Section 114.5 exempts from the provisions of 114.1: (1) Dual-fuel conversions specified by the Department of Public Safety (DPS); (2) vehicles belonging to persons being transferred to a foreign country and specifies associated documentation requirements; (3) sales or offers for sale motor vehicles for wholesale transaction and for sales or trade-ins from an individual to a vehicle dealer; (4) Federal, State and local agencies that sell abandoned, confiscated, or seized vehicles and vehicle auction facilities if specific conditions are satisfied.

The State revision, received September 9, 1990, to section 114.5 exempts all dealer transactions that do not result in the sale of a tampered vehicle to an individual for operation on a public highway.

The State revision, received on July 13, 1993, made the following changes. Section 114.1 addresses the replacement or installation of aftermarket alternative fuel conversions equipment and any other system or device relating to emissions, safety concerns and antitampering. Section 114.5 specifies conditions for granting motor vehicle and motor vehicle engine exclusions from the provisions of section 114.1, deletes original text in 114.5(c) to improve consistency with section 114.1, and redesignates original paragraphs.

II. Analysis of State Submittal

The EPA is proposing disapproval of the revisions to Texas SIP for Texas Regulation IV, 30 TAC Chapter 114, sections 114.1 and 114.5 based on the following inconsistencies. Section 114.1 (b)(4) allows replacement or installation of any system or device (other than catalytic converters, engines and the conversion of the vehicle to alternative fuels, which are handled under separate subsections) if: The system or device can be demonstrated to be at least as effective in reducing emissions as the original equipment. This rule does not

provide how the above demonstration will be made nor the criteria for the demonstration. Section 114.5(a)(1) allows registered farm vehicles used primarily on a farm or ranch to remove or make inoperable the farm vehicles air pollution control system or device used to control emissions from the farm vehicle. This exemption is contrary to section 203(a)(3)(A) of the Act and EPA tampering prohibition as outlined in Memorandum No. 1A. Section 114.5(c) allows exclusion from tampering laws by petition to state for danger to person or property. The EPA has never recognized any circumstances that merit removal of a catalytic converter or other emissions controls because of a fire hazard or other problem. Again, this is contrary to the Act and EPA tampering prohibition. In addition, section 114.1(b)(3) references a deleted section and section 114.1(e) allows dispensing of leaded gasoline if properly labeled. The Act banned the dispensing of leaded gasoline on January 1, 1996.

III. Proposed Action

The EPA is proposing disapproval of the State submitted revisions received on February 21, 1989, September 20, 1990, and July 13, 1993, for Regulation IV, 30 TAC Chapter 114, sections 114.1 and 114.5. The EPA has evaluated the submitted rules and has determined that they are not consistent with the Clean Air Act, and EPA tampering prohibition.

The Regional office, with EPA's Office of Mobile Sources has initiated efforts to help ensure that this action is consistent with the Act and Memo 1A, and will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the Act. These revisions are not required by the Act. Therefore, this proposed disapproval action does not impose sanctions for failure to meet Act requirements.

The EPA is soliciting public comments on the proposed action discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rule making procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The EPA's disapproval of the State request under section 110 and subchapter I, part D of the Act does not affect any existing requirements applicable to small entities. Any preexisting Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the disapproval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the

private sector. This Federal disapproval action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 11, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-24242 Filed 9-11-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 97-192; FCC 97-303]

Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This *Notice of Proposed Rulemaking (NPRM)* in WT Docket No. 97-192, opens a new proceeding to establish procedures for filing and reviewing requests for relief from state or local regulations based directly or indirectly on the environmental effects of RF emissions.

DATES: Comments are due October 9, 1997. Reply comments are due October 24, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Shaun A. Maher, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, (202) 418-7240.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM*, WT Docket 97-192, FCC 97-303, adopted August 25, 1997, and released August 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be