

Dated: April 14, 2017.
Samuel Coleman,
Acting Regional Administrator, Region 6.

Authority: 42 U.S.C. 7401 et seq.

Measures in the Texas SIP" is amended by adding an entry at the end for "Vehicle Inspection and Maintenance, Nonattainment New Source Review and Emission Statement Requirements for the 2008 Ozone NAAQS".

40 CFR part 52 is amended as follows:

Subpart SS—Texas

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

- 2. In § 52.2270:
a. In paragraph (c) the table titled "EPA Approved Regulations in the Texas SIP" is amended by revising the entry for Section 114.50.
b. In paragraph (e), the second table titled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory

The amendments reads as follows:

§ 52.2270 Identification of plan.

\* \* \* \* \*
(c) \* \* \*

EPA APPROVED REGULATIONS IN THE TEXAS SIP

Table with 5 columns: State citation, Title/subject, State approval/submittal date, EPA approval date, Explanation. Row 1: Section 114.50, Vehicle Emission Inspection Requirements, 2/12/2014, 10/7/2016, 81 FR 69679, Subsection 114.50(b)(2) is NOT part of the approved SIP.

(e) \* \* \*

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Table with 5 columns: Name of SIP provision, Applicable geographic or nonattainment area, State submittal/effective date, EPA approval date, Comments. Row 1: Vehicle Inspection and Maintenance, Nonattainment New Source Review and Emission Statement Requirements for the 2008 Ozone NAAQS, Houston-Galveston-Brazoria, TX, 12/29/2016, 5/15/2017, [Insert Federal Register citation].

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 171

[EPA-HQ-OPP-2011-0183; FRL-9962-31]

RIN 2070-AK38

Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; request for comments.

SUMMARY: On January 4, 2017, EPA published a final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs). The original effective date of March 6, 2017 was extended to March 21, 2017 by rule issued January

26, 2017, and subsequently extended to May 22, 2017 by rule issued March 20, 2017. In accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," and the principles identified in the April 25, 2017 Executive Order "Promoting Agriculture and Rural Prosperity in America," EPA is proposing to further delay the effective date of the January 4, 2017 revisions to the Certification of Pesticide Applicators rule until May 22, 2018.

DATES: Comments must be received on or before May 19, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2011-0183, by one of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- Mail: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC) (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

- Hand Delivery: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at http://www.epa.gov/dockets/contacts.html.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at http://www.epa.gov/dockets.

**FOR FURTHER INFORMATION CONTACT:**

Kevin Keaney, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 305-5557; email address: [keaney.kevin@epa.gov](mailto:keaney.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information**

On January 26, 2017, EPA published a final rule in the **Federal Register** entitled “Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017” (82 FR 8499). In that rule, EPA delayed the effective dates of the five regulations, including the final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs) issued on January 4, 2017 (82 FR 952) (FR-9956-70), as requested in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review” (January 20 Memorandum). The January 20 Memorandum directed the heads of Executive Departments and Agencies to postpone for 60 days from the date of the January 20 Memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect.

The January 20 Memorandum further directed that where appropriate and as permitted by applicable law, agencies should consider a rule to delay the effective date for regulations beyond that 60-day period. Accordingly, on March 20, 2017, EPA published the final rule “Further Delay of Effective Dates for Five Final Regulations Published by the Environmental Protection Agency Between December 12, 2016 and January 17, 2017” (82 FR 14324), which applied to the revised Certification of Pesticide Applicators rule and four other rules. Pursuant to that March 20, 2017 rule, the effective date of the revised Certification of Pesticide Applicators rule was extended to May 22, 2017.

Upon further review, EPA has determined that the effective date of the revised Certification of Pesticide Applicators rule should be extended until May 22, 2018. EPA is taking this action to give recently arrived Agency officials the opportunity to conduct a substantive review of the revised Certification of Pesticide Applicators rule.

In view of the imminence of the revised Certification of Pesticide Applicators rule’s May 22, 2017 effective date, EPA is reducing the

duration of the comment period specified in 5 U.S.C. 553(d) to five days. EPA believes that five days is adequate time for interested parties to express their views on the whether the effective date of the revised Certification of Pesticide Applicators rule should be extended to allow substantive review. During this one-year extension, state certifying authorities and certified commercial and private applicators would be relieved of restrictions and burdens that would otherwise be imposed by the January 4, 2017 revisions to the Certification of Pesticide Applicators rule. Because this request for comments relieves a restriction, it is eligible for the exemption in 5 U.S.C. 553(d)(1) allowing a reduced comment period.

EPA’s decision to shorten the comment period is also based on the good cause exception in 5 U.S.C. 553(d)(3). The Agency has determined that a full 30-day comment period is impracticable, unnecessary and contrary to the public interest. EPA has determined a substantive review of the revised Certification of Pesticide Applicators rule is appropriate and consistent with the principles identified in the April 25, 2017 Executive Order “Promoting Agriculture and Rural Prosperity in America”. Given that a 30-day comment period would extend beyond the Certification of Pesticide Applicators rule’s May 22, 2017 effective date, such a 30-day comment would be impractical and contrary to the public interest in that it would require states, tribes, and the regulated community to adopt new measures to comply with a regulation that the Agency intends to substantively review, and possibly revise.

For the foregoing reasons, the EPA relies on the exceptions in 5 U.S.C. 553(d)(1) and (3) to issue this document with a five-day comment period.

**II. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review; and, Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action as that term is defined in Executive Order 12866 (58 FR 51735, October 4, 1993). Accordingly, this request for comments is not subject to requirements of E.O. 12866 that apply to significant regulatory actions.

*B. Paperwork Reduction Act*

This request for comments does not involve any information collection

activities subject to the PRA, 44 U.S.C. 3501 *et seq.*

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under RFA, 5 U.S.C. 601 *et seq.*

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This request for comments is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined by Executive Order 12866.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes that this action would not have disproportionately high and

adverse human health or environmental effects on minority, low-income, or indigenous populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

Dated: May 4, 2017.

**E. Scott Pruitt,**  
Administrator.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[DA 17-417]

#### Spectrum Manager Leasing Arrangements; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The Wireless Telecommunications Bureau (Bureau) of the Federal Communications Commission (FCC) adopted and released an *Order* on May 3, 2017, correcting certain rules in part 1 of the FCC's rules. In particular, the FCC replaced certain inadvertently deleted paragraphs from a section of the Commission's rules.

**DATES:** Effective May 15, 2017.

**FOR FURTHER INFORMATION CONTACT:** Melissa Conway, [Melissa.Conway@fcc.gov](mailto:Melissa.Conway@fcc.gov), of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-2887.

**SUPPLEMENTARY INFORMATION:** This document makes the following corrections to section 1.9020 of the Commission's rules.

1. By this *Order*, the Bureau corrects and republishes section 1.9020(e)<sup>1</sup> of the Commission's rules in its entirety, in order to remedy an error in an earlier publication of the rule in the Code of Federal Regulations (CFR).

2. Section 1.9020 of the Commission's rules addresses spectrum manager leasing arrangements.<sup>2</sup> In revising the rule in the 2015 *Competitive Bidding Rules R&O*,<sup>3</sup> the Commission used amending language that resulted in the inadvertent deletion of paragraphs (e)(1) and (2) when the revised rule was published in the CFR. As there was no

discussion in the *Competitive Bidding Rules R&O* of eliminating those paragraphs, it is apparent that the deletion was not intentional. Rather, the Commission's clear intent was only to revise the introductory text of paragraph (e).<sup>4</sup>

3. On March 24, 2017, unaware of the earlier inadvertent deletion, the Commission released the *Contraband Wireless Devices Report and Order*,<sup>5</sup> in which it adopted revisions to certain of the deleted paragraphs of section 1.9020(e).<sup>6</sup> In order for the Commission to publish those rule changes in the **Federal Register** and make the necessary amendments to the CFR, we must first correct the earlier error and replace the inadvertently deleted paragraphs.

4. Accordingly, by this *Order*, the Bureau restores the inadvertently deleted portions of section 1.9020(e) of the Commission's rules. This rule correction, which serves to effectuate the Commission's intent, reinstates the inadvertently deleted paragraphs of section 1.9020(e) and republishes section 1.9020(e) in its entirety for clarity. The corrected version of section 1.9020(e) is attached as Appendix A to the *Order* released by the Commission on May 3, 2017.<sup>7</sup>

5. The Bureau finds it appropriate to forego a notice-and-comment period prior to this *Order* taking effect, given the nature of this rule correction and the impact of the current error within the Commission's rules. The Administrative Procedure Act (APA) provides that notice procedures are not required where "the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."<sup>8</sup> We find that using the procedures of a notice-and-comment rulemaking to reinstate the inadvertently deleted paragraphs of section 1.9020(e) would be contrary to

the public interest because it would delay the implementation of certain significant public safety initiatives adopted by the Commission and would be unlikely to effectuate the public interest benefits usually associated with the conduct of a notice-and-comment proceeding.

6. Requiring notice and comment prior to the rule correction becoming effective would delay the implementation of certain rule amendments adopted in the *Contraband Wireless Devices Report and Order*, which are intended to expedite processing of spectrum lease applications or notifications for certain systems used to combat the use of contraband wireless devices in correctional facilities. We find that it would be contrary to the public interest to delay the significant public safety impact of these systems in order to provide notice and comment for this rule correction. We reach this conclusion specifically in light of the fact that the usual benefits of notice and comment appear to be absent here, given the Commission demonstrably did not intend to delete the longstanding paragraphs of section 1.9020(e)<sup>9</sup> and, in the intervening period following the inadvertent deletion, the public appears to have been operating under the assumption that the process contained in the deleted paragraphs remained intact. Indeed, since the *Competitive Bidding Rules R&O*, which resulted in the deletion, the Bureau has continued to receive the notifications filed by licensees pursuant to the procedures and standards set forth in section 1.9020(e), including its inadvertently deleted paragraphs. Because a notice-and-comment procedure would be contrary to the public interest, the Bureau finds good cause to forego a notice-and-comment rulemaking for the purposes of this correction to section 1.9020(e).

7. The APA requires publication of a substantive rule at least 30 days before its effective date "except as otherwise provided by the agency for good cause found and published with the rule."<sup>10</sup>

For the same reasons that we forego notice-and-comment procedures, we find good cause to make this correction to section 1.9020(e) effective immediately to remedy the error in the rule in the CFR.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedures.

<sup>9</sup> Nothing in the *Competitive Bidding Rules R&O* mentions deleting the relevant paragraphs.

<sup>10</sup> 5 U.S.C. 553(d)(3).

<sup>4</sup> The introductory text was revised again in *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Order on Reconsideration and Second Report and Order, 31 FCC Rcd 5011 (2016).

<sup>5</sup> *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Report and Order and Further Notice of Proposed Rulemaking, FCC 17-25, 2017 WL 1135543 (2017) (*Contraband Wireless Devices Report and Order*).

<sup>6</sup> See *Contraband Wireless Devices Report and Order*, Appx. A (revising the introductory language of paragraph (e)(2), redesignating paragraphs (e)(2)(ii) and (iii) as (e)(2)(iii) and (iv), respectively, and adding new paragraph (e)(2)(ii)).

<sup>7</sup> *Commission Rule; Spectrum Manager Leasing Arrangements*, Order, DA 17-471 (WTB 2017).

<sup>8</sup> 5 U.S.C. 553(b)(B).

<sup>1</sup> 47 CFR 1.9020(e).

<sup>2</sup> *Id.*

<sup>3</sup> *Updating Part 1 Competitive Bidding Rules et al.*, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, Third Report and Order, 30 FCC Rcd 7493 (2015) (*Competitive Bidding Rules R&O*).