TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for State Implementation Plan Revision Adoption

AGENDA REQUESTED: February 12, 2014

DATE OF REQUEST: January 24, 2014

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Joyce Nelson, (512) 239-5017

CAPTION: Docket No. 2013-1108-SIP. Consideration for the adoption of a revision to the Texas Inspection and Maintenance (I/M) State Implementation Plan (SIP) and corresponding rule revisions.

The adoption will implement House Bill 2305 from the 83rd Texas Legislature, 2013, Regular Session, replacing the dual windshield sticker system for vehicle inspection and registration with a single windshield sticker system and modifying the method used to collect the state portion of the vehicle safety and emissions inspection fee. The adoption includes minor non-programmatic updates to rule language to correct outdated references and for general clarity. (Mary Ann P. Cook, Terry Salem) (Project No. 2013-041-SIP-NR)

Steve Hagle, P.E.
Deputy Director

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Division Director

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Copy to CCC Secretary? NO X YES

Texas Commission on Environmental Quality
Interoffice Memorandum

To: Commissioners **Date:** January 24, 2014

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2013-1108-SIP

Subject: Commission Approval for Adoption of an Inspection and Maintenance (I/M) State Implementation Plan (SIP) Revision
Non-Rule Project No. 2013-041-SIP-NR

Background and reason(s) for the SIP revision:
On May 29, 1996, the Texas Commission on Environmental Quality (commission or TCEQ) adopted an I/M SIP revision that implemented a vehicle emissions I/M program in the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and El Paso one-hour ozone nonattainment areas. The I/M program is a mandatory Federal Clean Air Act air pollution control strategy to reduce nitrogen oxides and volatile organic compounds. Vehicle emissions inspections required by the I/M program assist nonattainment and near nonattainment areas to attain and maintain the ozone National Ambient Air Quality Standard (NAAQS). The Federal Clean Air Act and 40 Code of Federal Regulations Parts 51 and 85, require an I/M program in areas classified as marginal or higher nonattainment for the ozone NAAQS. The I/M program currently applies to all nine counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties) in the DFW 1997 eight-hour ozone nonattainment area, selected counties (Brazoria, Fort Bend, Galveston, Harris, and Montgomery Counties) in the HGB 1997 eight-hour ozone nonattainment area, and El Paso County. The I/M program remains in place in El Paso County under the area's maintenance plan for the 1997 eight-hour ozone standard. On November 17, 2004, the I/M program was adopted for Travis and Williamson Counties in the Austin Area Early Action Compact (EAC) SIP.

The I/M rules in 30 Texas Administrative Code (TAC) Chapter 114 require the TCEQ to implement the I/M program in conjunction with the Texas Department of Public Safety (DPS). The rules require vehicles registered in the identified areas to pass an emissions inspection at the time of their annual safety inspection. Vehicle owners are currently required to demonstrate compliance with the I/M program by displaying on the vehicle's windshield:

- a current valid safety and emissions inspection certificate (sticker); and
- a current valid registration insignia sticker.

The I/M rules require a vehicle's compliance with I/M program requirements in order for the owner to renew the vehicles registration. The TCEQ is currently responsible for:

- identifying non-compliant vehicles;
- notifying vehicle owners of the non-compliance;
- providing information on non-compliant vehicles to the Texas Department of Motor Vehicles (DMV), previously a part of the Texas Department of Transportation; and
- assisting motorists to resolve non-compliance.

House Bill (HB) 2305, 83rd Texas Legislature, 2013, Regular Session, replaces the current Texas dual inspection and registration sticker system with a single vehicle registration insignia sticker and modifies the method used to collect the state's portion of the vehicle safety and emissions inspection fee. HB 2305 requires:

- eliminating the use of the safety and emissions inspection sticker;
- verifying compliance with I/M program requirements using the vehicle inspection report or vehicle registration insignia sticker instead of the current safety and emissions inspection sticker;
- passing of the vehicle safety and emissions inspection no more than 90 days prior to the expiration of the vehicle's registration instead of on the expiration of the vehicle's safety and emissions inspection sticker;
- replacing the TCEQ with the DPS as the entity providing information on compliant vehicles to the DMV; and
- collecting the state's portion of the safety and emissions inspection fee at the time of registration or registration renewal by the DMV or county tax assessor-collector.

HB 2305 became effective on September 1, 2013. It requires the TCEQ, the DMV, and the DPS to adopt rules necessary to implement these changes prior to March 1, 2014 and to implement the rule changes by March 1, 2015. The adopted SIP revision and associated revisions to Chapter 114, Subchapter A, §114.1 and §114.2, Subchapter B, §114.21, and Subchapter C, §§114.50, 114.53, 114.82, 114.84, and 114.87 are needed to comply with requirements of HB 2305. Additionally, revisions to 30 TAC Chapter 114, Subchapter C, §§114.50, 114.83, and 114.84 are necessary to correct references to 37 TAC §23.93, which was repealed by the DPS on March 13, 2013.

Scope of the SIP revision:

The adopted SIP revision will incorporate the associated rulemaking required by HB 2305 into the I/M SIP and correct outdated references to 37 TAC §23.93. The associated rulemaking will revise applicable sections of Chapter 114 relating to the I/M program as needed to comply with the requirements of HB 2305.

This SIP revision does not include updates to the Austin Area EAC SIP in response to HB 2305. The EAC program concluded in 2008; however, the I/M program commitments remain in effect. The associated revisions to §§114.82, 114.84, and 114.87 (Rule Project No. 2013-035-114-AI), will ensure that I/M program requirements implemented in Travis and

Williamson Counties comply with the requirements of HB 2305, and revisions to §114.83 and §114.84 will correct outdated references to 37 TAC §23.93.

A.) Summary of what the SIP revision will do:
The adopted SIP revision will modify sections of the I/M SIP, including:

- replacing applicable previous references to safety and emissions inspection certificate or sticker with "vehicle registration insignia sticker";
- replacing applicable previous references to "certificate" with "registration";
- modifying previous I/M registration denial compliance procedures;
- establishing a new procedure for the collection of the state portion of the safety and emissions inspection fee; and
- correcting outdated previous references to 37 TAC §23.93, which was repealed by the DPS on March 13, 2013.

The adopted SIP revision will replace the previous requirement for vehicles to display a safety and emissions inspection sticker with new requirements for vehicles receiving an inspection report. The requirement regarding the fee that a vehicle owner pays for an inspection is revised, and the amount a station owner pays to the DPS is repealed. The amount of the vehicle emissions inspection fee paid to the state, which will be collected by the DMV, is established in a new subsection. The amount of the vehicle emissions inspection fee for each inspection paid to the state and collected by the DMV from registered vehicle owners will be the same amount previously collected by the DPS from the vehicle emissions inspection stations. The *Effect on the Regulated Community* and *Effect on the Public* section includes a breakdown of the fee in each of the I/M program areas.

B.) Scope required by federal regulations or state statutes:
This SIP revision is needed to ensure that the I/M SIP provisions are consistent with the requirements of HB 2305.

C.) Additional staff recommendations that are not required by federal rule or state statute:
This SIP revision does not include any additional substantive changes beyond the revisions needed to comply with the requirements of HB 2305. The SIP revision will include changes to correct outdated references to 37 TAC §23.93, which was repealed by DPS on March 13, 2013.

Statutory authority:
This SIP revision and the associated rulemaking 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 adopt 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 (the 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 adopt rules to control and reduce emissions from engines used to propel land vehicles; and 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 I/M program for participating EAC counties. The rule revisions are proposed pursuant to Texas Transportation Code, §548.104 and §548.302, which was amended by HB 2305 and THSC, §382.0622(a), which was also amended by HB 2305.

Effect on the:
A.) Regulated community:
Beginning on the single sticker transition date, when the new requirements of HB 2305 are concurrently implemented by the DPS and the DMV, on a date that is no sooner than March 1, 2015, the vehicle emissions inspection station owners will experience a reduction in the maximum vehicle emissions inspection fee that they collect at the time of inspection. The fee will be reduced by an amount equal to the state's portion of the inspection fee collected by the DMV or county tax assessor-collector at the time of registration. This fee reduction is due to the station owner no longer having to purchase safety and emissions inspection stickers from the DPS. The maximum vehicle emissions inspection fee will be lowered from:

- $27 to $24.50 for vehicles subject to an acceleration simulation mode emissions inspection and from $27 to $18.50 for vehicles subject to an on-board diagnostics inspection in the DFW and HGB areas;
- $16 to $11.50 for vehicles subject to an emissions inspection in Travis and Williamson Counties; and
- either $14 to $11.50 for vehicles subject to an emissions inspection in El Paso County, or $16 to $11.50 if El Paso County participates in the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program.

The regulated community will need to adjust to the revised timing for passing the vehicle emissions inspection. Vehicles will be required to pass emissions inspection within the 90-day period preceding the vehicle's registration expiration date. Motorists whose vehicle safety and emissions inspection sticker expiration date is more than 90 days prior to the

corresponding vehicle registration expiration date may experience paying the inspection fees, including the state portion, for two inspections in less than 12 months during the transition period covering the year before and the year after the single sticker transition date (e.g., March 1, 2014 to March 1, 2016 is the transition period if the single sticker transition date is March 1, 2015).

B.) Public:
On the single sticker transition date, the maximum vehicle emissions inspection fee will be lowered by:

- $2.50 for vehicles subject to an acceleration simulation mode emissions inspection and $8.50 for vehicles subject to an on-board diagnostics inspection in the DFW and HGB I/M program areas;
- $4.50 for vehicles subject to an emissions inspection in Travis and Williamson Counties; and
- either $2.50 for vehicles subject to an emissions inspection in the El Paso I/M program area or $4.50 if the El Paso I/M program area chooses to participate in the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program.

On the single sticker transition date, registered vehicle owners subject to I/M program requirements will experience a reduction in the fee charged by the inspection station and an increase in the fee charged to renew the vehicle's registration. The total amount collected from registered vehicle owners for the vehicle emissions inspection and vehicle registration together will not change. The revisions change only the collection entity and when the various fees are collected. The public will need to adjust to the revised timing requirements for passing the vehicle emissions inspection.

C.) Agency programs:
The associated rule revisions will require operational changes to the vehicle emissions inspection analyzer software and to the TCEQ's Air Quality Division work procedures as the TCEQ will no longer be responsible for registration denial activities. TCEQ staff will coordinate with the DPS and the DMV throughout the transition of this component of the I/M program.

TCEQ staff will implement operational changes to end registration denial activities including providing information to the DMV regarding non-compliant vehicles and mailing notices to registered vehicle owners regarding the non-compliant status of their vehicles prior to registration renewal. Currently, the TCEQ spends approximately $22,750 annually to mail registration denial notices to registered vehicle owners. After the single sticker transition date, the TCEQ will cease mailing these notices, which will result in a cost savings to the agency. TCEQ staff will continue to provide information regarding compliant vehicles to the DPS; however, a new or revised method for transmitting this information may be developed.

HB 2305 requires the DPS to report the compliance status of vehicles receiving emissions inspections to the DMV. The TCEQ will provide vehicle inspection data received from the

vehicle emissions inspection stations to the DPS to help fulfill this requirement. TCEQ staff will facilitate modifications to the software that operates the vehicle emissions inspection analyzers to allow proper implementation of the requirements in HB 2305. The 83rd Texas Legislature, 2013, Regular Session, provided $800,000 in funding through a contingency rider in Article IX of the General Appropriations Act for the purpose of updating the vehicle emissions inspection analyzers to comply with HB 2305.

Stakeholder meetings:
No stakeholder meetings were held because of the limited time to implement HB 2305. Program staff will coordinate with the agency's media communications, as well as the DPS and DMV, in an effort to coordinate the programmatic changes and to inform stakeholders and the public of these changes.

Public comment:
Public hearings were offered in Houston on October 29, 2013; in Austin on October 30, 2013; in Fort Worth on October 31, 2013, and in El Paso on November 1, 2013. No member of the public indicated on the meeting sign-in sheets a desire to present comments, so staff did not open the public hearings. The comment period opened September 27, 2013 and closed November 4, 2013. The commission received written comments from the City of Houston's Department of Health and Human Services, the Envirotest Systems Holdings Corporation, the United States Environmental Protection Agency (EPA), and the North Central Texas Council of Governments (NCTCOG).

The City of Houston offered its assistance with the public hearings. The EPA and the NCTCOG expressed support for the proposed revisions to the associated rules and this SIP revision. The NCTCOG and Envirotest suggested changes to the SIP revision and the associated rule revisions. The comments made included concerns about how vehicle owners will be informed of the transition from the separate inspection and registration sticker system now used in Texas to a single sticker system. Comments pointed out how some of the changes might affect vehicle owners. Some commenters expressed support for continued use of remote sensing and suggested increasing the use of remote sensing technology to enforce I/M program compliance and to validate the beneficial effects of the program. Additional details regarding the comments received on this SIP revision and the associated rulemaking are contained in the Response to Comments Document for this SIP revision as well as the executive summary and preamble to the associated rulemaking.

Significant changes from proposal:
No significant changes were made. However, minor non-programmatic changes to language in this SIP revision and the associated rulemaking were made to increase clarity and to update references.

Potential controversial concerns and legislative interest:
At this time, the TCEQ cannot provide the information requested by the EPA regarding the process to be used in transitioning to a single vehicle registration insignia sticker system. The TCEQ is working with the DPS and DMV on the details for transitioning these

requirements and what, if any, special provisions or exemptions might be provided for people that would have to pay for more than one inspection in the transition year.

The EPA could elect to disapprove or delay action on this SIP revision or the associated rulemaking until the information it has requested is provided.

Does this SIP revision affect any current policies or require development of new policies?
The adopted SIP revision and associated rule revisions will modify criteria within the I/M program but will not affect the current agency policies regarding implementation, enforcement, and oversight of the I/M program as required by the current I/M SIP and rules.

What are the consequences if this SIP revision does not go forward? Are there alternatives to this SIP revision?
If this SIP revision does not go forward, Texas' existing I/M SIP will conflict with the requirements of HB 2305. There are no viable alternatives to an I/M SIP revision since HB 2305 directs the DMV or county tax assessor-collector to collect the state's portion of the vehicle emissions inspection fee at the time of registration and requires the current two sticker systems to be replaced with a single vehicle registration insignia sticker.

Key points in the SIP revision adoption schedule:
Proposal date: September 24, 2013
***Texas Register* proposal publication date:** October 11, 2013
Anticipated *Texas Register* adoption publication date: February 28, 2014
Anticipated effective date: March 16, 2014

Agency contacts:
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Terry Salem, Staff Attorney, 239-6257, Environmental Law Division

Attachments
HB 2305

cc: Chief Clerk, 2 copies
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REVISION TO THE STATE IMPLEMENTATION PLAN
MOBILE SOURCE STRATEGIES

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
AUSTIN, TEXAS 78711-3087

INSPECTION AND MAINTENANCE STATE IMPLEMENTATION PLAN REVISION

Project Number 2013-041-SIP-NR

Adoption
February 12, 2014

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EXECUTIVE SUMMARY

House Bill (HB) 2305, 83rd Texas Legislature, 2013, Regular Session, replaces the current Texas dual inspection and registration sticker system with a single vehicle registration insignia sticker system (single sticker system), and modifies the method used to collect the state portion of the vehicle safety and emissions inspection fee. HB 2305 requires:

- eliminating the use of the safety and emissions inspection windshield certificate, also known as the safety and emissions inspection windshield sticker;
- verifying compliance with inspection requirements using the vehicle inspection report or vehicle registration sticker instead of the current safety and emissions inspection windshield sticker;
- passing of the vehicle safety and emissions inspection no more than 90 days prior to the expiration of the vehicle's registration instead of on the expiration of the vehicle's safety and emissions inspection windshield sticker;
- replacing the Texas Commission on Environmental Quality (TCEQ) as the entity providing information on compliant vehicles to the Texas Department of Motor Vehicles (DMV) and requiring the Texas Department of Public Safety (DPS) to fill this role; and
- collecting the state portion of the safety and emissions inspection fee at the time of registration or registration renewal by the DMV or county tax assessor-collector.

The date of transition to the single sticker system, or single sticker transition date, is the later of March 1, 2015 or the date that the DMV and the DPS concurrently implement the single sticker system required by Texas Transportation Code §502.047.

The inspection and maintenance (I/M) program currently requires vehicles subject to emissions inspections to demonstrate compliance by displaying a valid, current safety and emissions inspection sticker and a valid, current registration sticker on the vehicle's windshield. Prior to the single sticker transition date, the TCEQ is responsible for implementing the registration denial component of the I/M program and providing information to the DMV regarding non-compliant vehicles.

HB 2305, which became effective on September 1, 2013, requires the TCEQ to adopt rules necessary to implement these changes prior to March 1, 2014, and implement the changes by March 1, 2015. The state implementation plan (SIP) revision and associated rulemaking to 30 Texas Administrative Code (TAC) Chapter 114, Subchapter A, §114.1 and §114.2, Subchapter B, §114.21, and Subchapter C, §§114.50, 114.53, 114.82, 114.84, and 114.87 are needed to comply with the requirements of HB 2305. Additionally, revisions to 30 TAC Chapter 114, Subchapter C, §§114.50, 114.83, and 114.84 are necessary to correct references to 37 TAC §23.93, which was repealed by the DPS on March 13, 2013. This SIP revision incorporates rulemaking required by HB 2305 for applicable sections of 30 TAC Chapter 114 relating to the I/M program into the I/M SIP and correct outdated references to 37 TAC §23.93, which was repealed by the DPS on March 13, 2013.

SECTION V-A: LEGAL AUTHORITY

General

The Texas Commission on Environmental Quality (TCEQ) has the legal authority to implement, maintain, and enforce the National Ambient Air Quality Standards (NAAQS) and to control the quality of the state's air, including maintaining adequate visibility.

The first air pollution control act, known as the Clean Air Act of Texas, was passed by the Texas Legislature in 1965. In 1967, the Clean Air Act of Texas was superseded by a more comprehensive statute, the Texas Clean Air Act (TCAA), found in Article 4477-5, Vernon's Texas Civil Statutes. The legislature amended the TCAA in 1969, 1971, 1973, 1979, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, 2009, 2011, and 2013. In 1989, the TCAA was codified as Chapter 382 of the Texas Health and Safety Code.

Originally, the TCAA stated that the Texas Air Control Board (TACB) is the state air pollution control agency and is the principal authority in the state on matters relating to the quality of air resources. In 1991, the legislature abolished the TACB effective September 1, 1993, and its powers, duties, responsibilities, and functions were transferred to the Texas Natural Resource Conservation Commission (TNRCC). With the creation of the TNRCC, the authority over air quality is found in both the Texas Water Code and the TCAA. Specifically, the authority of the TNRCC is found in Chapters 5 and 7. Chapter 5, Subchapters A - F, H - J, and L, include the general provisions, organization, and general powers and duties of the TNRCC, and the responsibilities and authority of the executive director. Chapter 5 also authorizes the TNRCC to implement action when emergency conditions arise and to conduct hearings. Chapter 7 gives the TNRCC enforcement authority. In 2001, the 77th Texas Legislature continued the existence of the TNRCC until September 1, 2013, and changed the name of the TNRCC to the TCEQ. In 2009, the 81st Texas Legislature, during a special session, amended section 5.014 of the Texas Water Code, changing the expiration date of the TCEQ to September 1, 2011, unless continued in existence by the Texas Sunset Act. In 2011, the 82nd Texas Legislature continued the existence of the TCEQ until 2023.

The TCAA specifically authorizes the TCEQ to establish the level of quality to be maintained in the state's air and to control the quality of the state's air by preparing and developing a general, comprehensive plan. The TCAA, Subchapters A - D, also authorize the TCEQ to collect information to enable the commission to develop an inventory of emissions; to conduct research and investigations; to enter property and examine records; to prescribe monitoring requirements; to institute enforcement proceedings; to enter into contracts and execute instruments; to formulate rules; to issue orders taking into consideration factors bearing upon health, welfare, social and economic factors, and practicability and reasonableness; to conduct hearings; to establish air quality control regions; to encourage cooperation with citizens' groups and other agencies and political subdivisions of the state as well as with industries and the federal government; and to establish and operate a system of permits for construction or modification of facilities.

Local government authority is found in Subchapter E of the TCAA. Local governments have the same power as the TCEQ to enter property and make inspections. They also may make recommendations to the commission concerning any action of the TCEQ that affects their territorial jurisdiction, may bring enforcement actions, and may execute cooperative agreements with the TCEQ or other local governments. In addition, a city or town may enact and enforce ordinances for the control and abatement of air pollution not inconsistent with the provisions of the TCAA and the rules or orders of the commission.

Subchapters G and H of the TCAA authorize the TCEQ to establish vehicle inspection and maintenance programs in certain areas of the state, consistent with the requirements of the Federal Clean Air Act; coordinate with federal, state, and local transportation planning agencies to develop and implement transportation programs and measures necessary to attain and maintain the NAAQS; establish gasoline volatility and low emission diesel standards; and fund and authorize participating counties to implement vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.

Applicable Law

The following statutes and rules provide necessary authority to adopt and implement the state implementation plan (SIP). The rules listed below have previously been submitted as part of the SIP.

Statutes

All sections of each subchapter are included, unless otherwise noted.

TEXAS HEALTH & SAFETY CODE, Chapter 382	September 1, 2013
TEXAS WATER CODE	September 1, 2013

Chapter 5: Texas Natural Resource Conservation Commission

- Subchapter A: General Provisions
- Subchapter B: Organization of the Texas Natural Resource Conservation Commission
- Subchapter C: Texas Natural Resource Conservation Commission
- Subchapter D: General Powers and Duties of the Commission
- Subchapter E: Administrative Provisions for Commission
- Subchapter F: Executive Director (except §§5.225, 5.226, 5.227, 5.2275,5.231, 5.232, and 5.236)
- Subchapter H: Delegation of Hearings
- Subchapter I: Judicial Review
- Subchapter J: Consolidated Permit Processing
- Subchapter L: Emergency and Temporary Orders (§§5.514, 5.5145, and 5.515 only)
- Subchapter M: Environmental Permitting Procedures (§5.558 only)

Chapter 7: Enforcement

- Subchapter A: General Provisions (§§7.001, 7.002, 7.0025, 7.004, and 7.005 only)
- Subchapter B: Corrective Action and Injunctive Relief (§7.032 only)
- Subchapter C: Administrative Penalties
- Subchapter D: Civil Penalties (except §7.109)
- Subchapter E: Criminal Offenses and Penalties: §§7.177, 7.179-7.183

Rules

All of the following rules are found in 30 Texas Administrative Code, as of the following latest effective dates:

Chapter 7: Memoranda of Understanding, §§7.110 and 7.119	December 13, 1996 and September 26, 2013
Chapter 19: Electronic Reporting	November 11, 2010
Chapter 35: Subchapters A-C, K: Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions	December 10, 1998 and July 20, 2006

Chapter 39: Public Notice, §§39.402(a)(1) - (6), (8), and (10) - (12), 39.405(f)(3) and (g), (h)(1)(A) - (4), (6), (8) - (11), (i) and (j), 39.407, 39.409, 39.411(a), (e)(1) - (4)(A)(i) and (iii), (4)(B), (5)(A) and (B), and (6) - (10), (11)(A)(i) and (iii) and (iv), (11)(B) - (F), (13) and (15), and (f)(1) - (8), (g) and (h), 39.418(a), (b)(2)(A), (b)(3), and (c), 39.419(e), 39.420 (c)(1)(A) - (D)(i)(I) and (II), (D)(ii), (c)(2), (d) - (e), and (h), and 39.601 - 39.605 September 23, 1999 and June 24, 2010

Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, §§55.150, 55.152(a)(1), (2), (5), and (6) and (b), 55.154(a), (b), (c)(1) - (3), and (5), and (d) - (g), and 55.156(a), (b), (c)(1), (e), and (g) July 5, 2006 and June 24, 2010

Chapter 101: General Air Quality Rules May 2, 2013

Chapter 106: Permits by Rule, Subchapter A May 15, 2011

Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter February 16, 2012

Chapter 112: Control of Air Pollution from Sulfur Compounds July 16, 1997

Chapter 113: Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants May 14, 2009

Chapter 114: Control of Air Pollution from Motor Vehicles September 13, 2012

Chapter 115: Control of Air Pollution from Volatile Organic Compounds November 14, 2013

Chapter 116: Permits for New Construction or Modification August 16, 2012

Chapter 117: Control of Air Pollution from Nitrogen Compounds May 2, 2013

Chapter 118: Control of Air Pollution Episodes March 5, 2000

Chapter 122: §122.122: Potential to Emit December 11, 2002

SECTION VI: CONTROL STRATEGY

A. Introduction (No change)
B. Ozone (No change)
C. Particulate Matter (No change)
D. Carbon Monoxide (No change)
E. Lead (No change)
F. Oxides of Nitrogen (No change)
G. Sulfur Dioxide (No change)
H. Conformity with the National Ambient Air Quality Standards (No change)
I. Site Specific (No change)
J. Mobile Sources Strategies (Revised)
    Chapter 1: Inspection/Maintenance (Revised)
    Chapter 2: Transportation Control Measures (No change)
    Chapter 3: Vehicle Miles Traveled (No change)
    Chapter 4: Clean Gasoline (No change)
K. Clean Air Interstate Rule (No change)
L. Transport (No change)
M. Regional Haze (No change)

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LIST OF ACRONYMS

ASM	acceleration simulation mode
BAR	Bureau of Automotive Repair
BPA	Beaumont-Port Arthur
CFR	Code of Federal Regulations
CO	carbon monoxide
DFW	Dallas-Fort Worth
DMV	Texas Department of Motor Vehicles
DPS	Texas Department of Public Safety
EAC	Early Action Compact
EPA	United States Environmental Protection Agency
FCAA	Federal Clean Air Act
FTE	full-time equivalent
GVRW	gross vehicle weight rating
HB	House Bill
HC	hydrocarbon
H-GAC	Houston-Galveston Area Council
HGB	Houston-Galveston-Brazoria
I/M	inspection and maintenance
LIRAP	Low Income Repair and Assistance Program
METT	Mass Emissions Transient Testing
mph	miles per hour
NAAQS	National Ambient Air Quality Standard
NCTCOG	North Central Texas Council of Governments
NO_X	nitrogen oxides
OBD	on-board diagnostics
ppm	parts per million
QC	quality control
RPM	revolutions per minute
SAE	Society of Automotive Engineers
SB	Senate Bill
SIP	state implementation plan
TAC	Texas Administrative Code
TACB	Texas Air Control Board

TAS	Vehicle Emissions Testing Analyzer Specifications
TCAA	Texas Clean Air Act
TCEQ	Texas Commission on Environmental Quality (commission)
THSC	Texas Health and Safety Code
TIMS	Texas Information Management System
TMCP	Texas Motorist's Choice Program
TNRCC	Texas Natural Resource Conservation Commission
TSI	two-speed idle
TTC	Texas Transportation Code
TTI	Texas Transportation Institute
TWC	Texas Water Code
USC	United States Code
VID	Vehicle Identification Database
VIN	Vehicle Identification Number
VIR	Vehicle Inspection Report
VOC	volatile organic compounds
VRF	Vehicle Repair Form

LIST OF COMMONLY USED TERMS

Acceleration Simulation Mode (ASM) Inspection

An emissions inspection using a dynamometer (a set of rollers on which a test vehicle's tires rest) that applies an increasing load or resistance to the drive-train of a vehicle, thereby simulating actual tailpipe emissions of a vehicle as it is moving and accelerating. The ASM vehicle emissions inspection is comprised of two phases: (1) the 50/15 mode, where the vehicle is inspected for 90 seconds upon reaching and maintaining a constant speed of 15 mph on a dynamometer that simulates acceleration at a rate of 3.3 miles per hour (mph) per second by using 50% of the vehicle available horsepower; and (2) the 25/25 mode, where the vehicle is inspected for 90 seconds upon reaching and maintaining a constant speed of 25 mph on a dynamometer that simulates acceleration at a rate of 3.3 miles per hour (mph) per second by using 25% of the vehicle available horsepower.

Austin-Round Rock Program Area

In coordination with the commission, the DPS administers the vehicle inspection and maintenance (I/M) program contained in the Austin Early Action Compact. This program area consists of Travis and Williamson Counties.

Candidate Analyzer

Vehicle inspection equipment submitted by the manufacturer to the Texas Commission on Environmental Quality's executive director for approval to be used in the vehicle emissions I/M program.

Dallas-Fort Worth (DFW) Program Area

In coordination with the commission, the Texas Department of Public Safety (DPS) administers the I/M program contained in the Texas I/M state implementation plan (SIP). This program area consists of the following counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

El Paso Program Area

In coordination with the commission, the DPS administers the vehicle emissions I/M program contained in the Texas I/M SIP. This program area consists of El Paso County.

Emissions Tune-Up

A basic tune-up along with functional checks and any necessary replacement or repair of emissions control components.

Exhaust Gas Analyzer

A device used to measure the amount of emission gases in an exhaust sample.

Fleet Vehicle

Any motor vehicle operated as a member of a group of motor vehicles belonging to a single non-household entity; any state or local government motor vehicle, including a motor

vehicle exempted from payment of a registration fee and issued a specially designated license plate; or any federal government motor vehicle, except for a tactical military vehicle.

Full-Time Equivalent (FTE) Employee

In this SIP revision, an FTE employee is calculated by adding the time each inspector spends on vehicle inspections, and dividing by 50 weeks per year. For example, if a station employed 25 individuals, but each employee only worked on vehicle inspections two weeks' worth of time per year, this station employed one FTE employee.

Gas Cap Integrity Inspection

A fuel cap inspection that determines whether or not the vehicle's gas cap or gas caps are functioning as designed.

High Emitter

A vehicle whose measured tailpipe emissions levels exceed recommended testing standards.

Houston-Galveston-Brazoria (HGB) Program Area

In coordination with the commission, the DPS administers the vehicle emissions I/M program contained in the Texas I/M SIP. This program area consists of the following counties: Brazoria, Fort Bend, Galveston, Harris, and Montgomery.

I/M Program

A vehicle emissions inspection program as defined by the United States Environmental Protection Agency that includes, but is not limited to, the use of computerized emissions analyzers, on-road testing, on-board diagnostic (OBD) inspections, and/or inspection of vehicle emissions devices.

Low-Volume Emissions Inspection Station

A vehicle emissions inspection station that meets all criteria for obtaining a low-volume waiver from the DPS.

Minor Non-Programmatic Modifications

Minor non-programmatic modifications to the analyzer specifications include but are not limited to updates to accommodate new technology vehicles, enhancements to the method of collecting inspection data, and updates to internal reference tables. Modifications resulting in additional costs to vehicle inspection station owners will not be considered minor non-programmatic modifications.

On-Board Diagnostics (OBD)

The computer system installed in a vehicle by the manufacturer, which monitors the performance of the vehicle's emissions control equipment, fuel metering system, and ignition system for the purpose of detecting a malfunction or deterioration in performance that would be expected to cause the vehicle not to meet emissions standards.

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.

Two-Speed Idle (TSI) Inspection

A measurement of the tailpipe exhaust emissions of a vehicle while the vehicle idles, first at a lower speed and then again at a higher speed.

Texas Department of Motor Vehicles (DMV)

A state agency created by the 81st Texas Legislature, 2009, Regular Session from divisions formerly included in the Texas Department of Transportation.

Vehicle Emissions Inspection Station

A facility certified to conduct an emissions inspection for a vehicle and issue a report of emissions inspection.

Vehicle Identification Database (VID)

A database management system that maintains specified vehicle data and emissions inspection information.

Vehicle Inspection Report (VIR)

The printout created after an emissions inspection that displays inspection results, vehicle information, and pass/fail status. Beginning on the single sticker transition date, as defined in this section, the VIR may be presented to the DMV or county tax assessor-collector to verify a passing emissions inspection at the time of vehicle registration.

Vehicle Registration

Vehicles that meet the registration requirements of the Texas Department of Motor Vehicles in 43 TAC §217.22 relating to Motor Vehicle Registration or Texas Transportation Code Chapter 502 relating to Registration of Vehicles.

Vehicle Registration Insignia Sticker

The sticker issued through the DMV to be affixed on the windshield of a vehicle compliant with DMV regulations. Beginning on the single sticker transition date, as defined in this section, the vehicle registration insignia sticker will be used as proof of compliance with I/M program requirements, the DMV's rules and regulations governing vehicle registration, and the DPS's rules and regulations governing safety inspections.

Vehicle Repair Form (VRF)

A printout that includes a description of emissions repairs actually performed and emissions repairs that were recommended, but not performed. The VRF is the primary document used by any motorist seeking a waiver.

IDENTIFICATION OF PREVIOUSLY ADOPTED SIP REVISIONS

This document references state implementation plan (SIP) revisions that were previously adopted by the commission and submitted to the United States Environmental Protection Agency. The following list identifies how these SIP revisions are referenced in this document and contains the project number, adoption date, full title, and a hyperlink for each SIP revision.

2009 I/M SIP Revision (TCEQ Project No. 2009-035-SIP-NR, adopted November 18, 2010)
Inspection and Maintenance (I/M) SIP Revision
(http://www.tceq.texas.gov/assets/public/implementation/air/sip/sipdocs/2009-035-IM/09035SIP-ado-rtc.pdf)

2005 I/M SIP Revision (TCEQ Project No. 2005-026-SIP-NR, adopted October 26, 2005)
Inspection and Maintenance (I/M) SIP Revision
(http://www.tceq.texas.gov/assets/public/implementation/air/sip/sipdocs/2005-026-IM/05026114imsipado.pdf)

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Appendix B	Texas Health and Safety Code, Subtitle C, Air Quality, Revised 78th Texas Legislature, 2003 (No change)
Appendix C	House Bill 2134 by 77th Texas Legislature amendment to the Texas Health and Safety Code. Chapter 382, Health and Safety Code, was amended by adding Subchapter G, and §382.037 to §382.039 Health and Safety Code, were transferred to new Subsection G and renumbered as §§382.202 - 382.208 (No change)
Appendix D	Texas Commission on Environmental Quality (TCEQ) Regulation, 30 Texas Administrative Code, Chapter 114, Control of Air Pollution From Motor Vehicles (No change)
Appendix E	TCEQ Appropriations for Fiscal Years 2004 and 2005. Texas Department of Public Safety, Appropriations for Fiscal Years 2004 and 2005. State of Texas, Text of Conference Committee Report, House Bill 1 (General Appropriations Act), 78th Legislature, Regular Session (No change)
Appendix F	TCEQ, Request for Offer for the Design, Construction, and Operation of the Texas Information Management System (TIMS) for the State of Texas, June 22, 2001 (No change)
Appendix G	Reserved (No change)
Appendix H	Texas Transportation Code, §547.604 and §547.605 and Chapter 548, Compulsory Inspection of Vehicles (No change)
Appendix I	Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors, Texas Department of Public Safety, January 1, 2003 (No change)
Appendix J	Texas Department of Transportation, Vehicle Titles and Registration Division, 2000 Summer Research Project Parking Lot Survey Report, March 2003 (No change)
Appendix K	Reserved (No change)
Appendix L	Texas Natural Resources Conservation Commission and Texas Department of Public Safety Memorandum of Understanding, January 22, 1997 (No change)

CHAPTER 1: GENERAL (UPDATED)

1.1 PURPOSE (NO CHANGE FROM 2009 I/M SIP REVISION)

1.2 BACKGROUND (UPDATED)

Emissions inspections began in Texas on July 1, 1984 with the implementation of an anti-tampering check and parameter program in Harris County. The program involved an enhanced visual inspection of required emissions components and a tailpipe inspection for lead using plumtesmo test strips. On January 1, 1986, the parameter program was expanded to include El Paso County.

Beginning January 1, 1987, based on federal air quality standards, El Paso County became the first county in Texas to use a vehicle exhaust emissions analyzer to inspect vehicle exhaust emissions. A Bureau of Automotive Repair (BAR)-84 low-speed idle four-gas analyzer was used to detect carbon monoxide (CO) and hydrocarbon (HC). At the same time, the parameter program expanded to include Dallas and Tarrant Counties. On April 1, 1990, Dallas and Tarrant Counties began inspecting vehicles for HC and CO using BAR-90 low speed idle four-gas analyzers.

The 73rd Texas Legislature, 1993, passed legislation requiring a loaded-mode IM240 centralized emissions inspection, and as a result, the Texas Department of Public Safety (DPS) ceased emissions inspections on December 31, 1994. The centralized emissions inspection program administered by the Texas Commission on Environmental Quality (commission or TCEQ), formerly known as the Texas Natural Resource Conservation Commission, started on January 1, 1995, but was terminated in early February 1995 by the 74th Texas Legislature, 1995, Regular Session.

Senate Bill (SB) 178, 74th Texas Legislature, 1995, required the TCEQ, in cooperation with the DPS, to establish and implement a decentralized vehicle emissions inspection program. The bill required the DPS to resume the previous emissions inspection program in Dallas, Tarrant, El Paso, Denton, Collin, and Harris Counties until such time that a new decentralized emissions program could be developed. On July 1, 1995, the DPS resumed the previous emissions inspection program in these counties. SB 178 also required the governor to adopt a new vehicle emissions inspection program after negotiating with the United States Environmental Protection Agency (EPA). Based on modeling by the TCEQ and input by the DPS, the governor announced the details of the decentralized Texas Motorist's Choice Program (TMCP) in November 1995.

As the TMCP was being developed, the EPA finalized the Inspection and Maintenance (I/M) Flexibility Amendments on November 28, 1995. States were allowed flexibility in designing an I/M program that would meet one of the three program standards: a basic, low-enhanced, or high-enhanced performance standard. The rule also allowed nonattainment areas with an urbanized area of less than 200,000 people to opt out of the vehicle emissions testing program if the area could meet other Federal Clean Air Act requirements. In addition, the rule allowed states to authorize low-income time extensions more than once in the life of a vehicle and allowed some emissions-related repairs, performed 60 days or fewer prior to an initial emissions inspection failure, to be allowed in calculating costs for minimum expenditure waivers.

On July 1, 1996, the first component of the TMCP began in Dallas and Tarrant Counties. The first component of the program involved software upgrades to accommodate real-time communication with a vehicle inspection database. The full TMCP began in Dallas and Tarrant Counties on October 1, 1996. The program involved a low-speed and high-speed idle inspection

known as two-speed idle (TSI), enhanced hardware and software, gas cap leak check, recognized emissions repair facilities, dial-up database verification of inspection history, and automated recording of safety inspections. On January 1, 1997, the TMCP expanded to include Harris and El Paso Counties.

In order to increase the emissions reductions for the I/M program, effective May 1, 2002, Texas transitioned to a low-enhanced program using on-board diagnostics (OBD) inspections for 1996 and newer model-year vehicles, and acceleration simulation mode inspections for pre-1996 model-year vehicles in Collin, Dallas, Denton, and Tarrant Counties in the Dallas-Fort Worth (DFW) area and Harris County in the Houston-Galveston-Brazoria (HGB) area. On May 1, 2003, the program was expanded to include Ellis, Johnson, Kaufman, Parker, and Rockwall Counties in the DFW area and Brazoria, Fort Bend, Galveston, and Montgomery Counties in the HGB area.

On November 17, 2004, the commission adopted the Austin Early Action Compact (EAC) Ozone SIP revision that implemented an I/M program in Travis and Williamson Counties. On June 18, 2008, the commission adopted the 1997 Eight-Hour Ozone Flex Plan for the Austin-Round Rock area that continued implementation of the I/M program commitment in Travis and Williamson Counties. The EAC program concluded in 2008, but Travis and Williamson Counties continue to implement the I/M program to adhere to the commitments of the 1997 Eight-Hour Ozone Flex Plan. TCEQ staff anticipates that the I/M program in Travis and Williamson Counties will continue.

On January 1, 2007, El Paso County transitioned to a low-enhanced program using OBD inspections for 1996 and newer model-year vehicles and continued TSI inspections on pre-1996 model-year vehicles. Additionally, all vehicle emissions inspection stations in the El Paso area are required to offer both TSI and OBD inspections.

On December 31, 2010, the vehicle emissions inspection limit for low-volume emissions inspection stations changed to comply with the requirements of Section 1 of House Bill (HB) 715, 81st Texas Legislature, 2009, Regular Session. The vehicle emissions inspection limit for stations that only offer emissions inspections on 1996 and newer model-year vehicles has been a component of the I/M program in the DFW and HGB areas since 2002. Section 1 of HB 715 revised Texas Transportation Code, §548.3075 to prevent the DPS from restricting low-volume emissions inspection stations to fewer than 150 OBD inspections per month.

This state implementation plan (SIP) revision incorporates modifications to the I/M program to comply with the requirements of HB 2305, 83rd Texas Legislature, 2013, Regular Session and to correct outdated references to 37 TAC §23.93, which was repealed by DPS on March 13, 2013. Beginning when the new requirements of HB 2305 are concurrently implemented by the DPS and the Texas Department of Motor Vehicles (DMV), on a date that is no sooner than March 1, 2015, the I/M program will:

- transition from a dual inspection and registration sticker system to a single registration sticker by eliminating the use of the safety and emissions inspection windshield certificate or sticker;
- verify compliance with inspection requirements using the vehicle inspection report or vehicle registration sticker instead of the current safety and emissions inspection windshield sticker;

- require vehicles to pass the vehicle safety and emissions inspection no more than 90 days prior to the expiration of the vehicle's registration instead of on the expiration of the vehicle's safety and emissions inspection windshield sticker;
- replace the TCEQ with the DPS as the entity providing information on compliant vehicles to the DMV; and
- collect the state portion of the safety and emissions inspection fee at the time of registration by the DMV or county tax assessor-collector instead of at the time of inspection by the emissions inspection station.

1.3 HEALTH EFFECTS (NO CHANGE FROM 2009 I/M SIP REVISION)

1.4 PUBLIC HEARINGS INFORMATION (UPDATED)

The commission offered public hearings for this SIP revision and the associated rulemaking on October 29, 2013 at 2:00 p.m. in Houston; October 30, 2013 at 10:00 a.m. in Austin; October 31, 2013 at 2:00 p.m. in Fort Worth; and November 1, 2013 at 3:00 p.m. in El Paso. None of the hearings were opened because no party signed in to provide oral comment.

Written comments were accepted via mail, fax, and through the eComments system (http://www5.tceq.texas.gov/rules/ecomments/) from September 27, 2013 through November 4, 2013. Comments were received from the City of Houston's Department of Health and Human Services, Envirotest Systems Holdings Corporation, the United States Environmental Protection Agency, and the North Central Texas Council of Governments. Summaries of those comments along with the commission's responses are provided in the Response to Comments accompanying this SIP revision.

An electronic version of this SIP revision and associated rulemaking can be found on the TCEQ's Vehicle Inspection and Maintenance (I/M) Program Web page (http://www.tceq.texas.gov/airquality/mobilesource/im.html).

1.5 SOCIAL AND ECONOMIC CONSIDERATIONS (NO CHANGE FROM 2009 I/M SIP REVISION)

1.6 FISCAL AND MANPOWER RESOURCES (NO CHANGE FROM 2009 I/M SIP REVISION)

CHAPTER 2: APPLICABILITY (NO CHANGE FROM 2009 I/M SIP REVISION)

CHAPTER 3: INSPECTION AND MAINTENANCE PERFORMANCE STANDARDS (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 4: NETWORK TYPE AND PROGRAM EVALUATION (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 5: ADEQUATE TOOLS AND RESOURCES (UPDATED)

5.1 GENERAL (NO CHANGE FROM 2005 I/M SIP REVISION)

5.2 ADMINISTRATIVE RESOURCES (UPDATED)

Vehicle emissions inspection fees, which are set by the commission and deposited to the credit of the clean air account and the Texas Department of Public Safety (DPS) general revenue fund in the Texas Treasury under Texas Health and Safety Code, §382.202(e) and (k), are used for the purpose of supporting the vehicle emissions inspection and maintenance (I/M) program. In addition, the clean air account receives $2.00 per vehicle from an automobile safety inspection that is dedicated for use in the air quality programs of Texas.

Article 6 of the General Appropriations Act specifically earmarked funds available to develop, administer, evaluate, and maintain the vehicle emissions I/M program, including federally required reporting measures to demonstrate compliance with applicable federal and state laws.

Beginning on the single sticker transition date, when the new requirements of HB 2305 are concurrently implemented by the DPS and the Texas Department of Motor Vehicles (DMV), on a date that is no sooner than March 1, 2015, $2.50 of the fee collected for each vehicle registration issued by the DMV will be available to the Texas Commission on Environmental Quality (TCEQ) and the DPS. The TCEQ commits to maintaining a staffing level necessary for the I/M program design, oversight, and evaluation. On the single sticker transition date, the registration denial component of the I/M program will be conducted by the DMV. The DPS has access to a wide variety of vehicles for use in covert audits of the vehicle emissions inspection program and commits to a dedicated staffing level of no less than 52 full-time equivalent (FTE) employees to the I/M program implementation, administration, enforcement, and support. The breakdown of FTE employees by agency is shown in Table 5.1: *TCEQ FTE Employee Descriptions*, Table 5.2: *DPS FTE Employee Descriptions*, and Table 5.3: *DMV FTE Employee Description*.

Table 5.1: TCEQ FTE Employee Descriptions

FTE Description	Number of FTE Employees
Data collection and analysis	2 FTE employees
Performance monitoring/evaluation	1 FTE employee
State implementation plan amendments, rulemaking, and program development	2 FTE employees
Consumer assistance	2 FTE employees
Technical assistance	2 FTE employees
Other administrative and management functions	1.5 FTE employees

Table 5.2: DPS FTE Employee Descriptions

FTE Description	Number of FTE Employees
Technician assistance	4 FTE employees
Overt and covert auditing	31 FTE employees
Consumer assistance	2 FTE employees
Waiver oversight	4 FTE employees
Enforcement	6 FTE employees
Other administrative and management functions	4 FTE employees

FTE Description	Number of FTE Employees
Remote sensing	1 FTE employee

Table 5.3: DMV FTE Employee Descriptions

FTE Description	Number of FTE Employees
Registration denial	1 FTE employee

5.3 PROGRAM ADMINISTRATION (UPDATED)

The TCEQ oversees emissions inspection data collection and analyzes the results to improve I/M program requirements, and the DPS oversees the remote sensing program that was implemented in October 1998. House Bill 2305 requires that the TCEQ and DPS work collectively to ensure the DMV has access to timely and accurate vehicle emissions inspection data to ensure vehicle compliance with the I/M program prior to a vehicle being re-registered. The DMV will continue to provide the TCEQ and DPS access to registration data and ensure that required staffing is available to enforce the registration denial component of the I/M program.

CHAPTER 6: TEST FREQUENCY AND CONVENIENCE (UPDATED)

6.1 INSPECTION FREQUENCY (UPDATED)

An annual emissions and gas cap integrity inspection is required for all subject vehicles as part of the inspection and maintenance (I/M) program. Inspection frequency implementation is detailed in 30 Texas Administrative Code (TAC) §114.50. Under this inspection frequency, modeling runs show that emissions targets are achieved. 30 TAC §114.50 will be revised to incorporate the requirements of House Bill 2305, 83rd Texas Legislature, 2013, Regular Session, which require a motorist to pass an emissions inspection no more than 90 days before a vehicle's registration expiration date and to correct outdated references to 37 TAC §23.93, which was repealed by DPS on March 13, 2013.

An initial vehicle emissions inspection is given to each subject vehicle presented for inspection and an inspection fee is charged to the motorist. If the vehicle passes the inspection, an inspection report is issued. If the vehicle fails the initial vehicle emissions inspection, applicable repairs must be completed and annotated on the vehicle repair form. The motorist's vehicle may then be reinspected at the same facility at no charge if the reinspection is completed within 15 days after the initial inspection was conducted. The motorist may choose to go to a different facility for reinspection, although the motorist is charged the full price of an inspection. If the reinspection occurs more than 15 days after the initial inspection was conducted, a complete inspection is conducted and the motorist is charged a full inspection fee. An inspection report will not be issued until the subject vehicle, which failed an initial inspection, passes a reinspection or complies with the I/M program requirements.

6.2 TEST-ON-RESALE (NO CHANGE FROM 2005 I/M SIP REVISION)

6.3 INSPECTION CONVENIENCE (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 7: VEHICLE COVERAGE (UPDATED)

7.1 SUBJECT VEHICLES (UPDATED)

The inspection and maintenance (I/M) program requires annual emissions inspections for all gasoline-powered motor vehicles that are:

- two through 24 years old based on the model-year;
- required by the Texas Department of Public Safety (DPS) to comply with vehicle safety inspection requirements; and
- registered and primarily operated in Brazoria, Collin, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Harris, Johnson, Kaufman, Montgomery, Parker, Rockwall, and Tarrant Counties.

Dual-fueled vehicles capable of operating on gasoline and leased vehicles that meet these criteria are also subject to I/M program requirements. Subject vehicles are identified through the registration database provided to the Texas Commission on Environmental Quality (TCEQ) by the Texas Department of Motor Vehicles (DMV). The DMV also provides electronic updates to this database. Table 7.1: *2012 Subject Vehicle Registrations by County* provides an estimate of the number of subject vehicles by county based on the DMV's 2012 registration database.

Table 7.1: 2012 Subject Vehicle Registrations by County

County	Number of Vehicles
Brazoria	207,183
Collin	517,271
Dallas	1,532,971
Denton	414,661
Ellis	107,948
El Paso	482,117
Fort Bend	374,856
Galveston	190,943
Harris	2,485,486
Johnson	103,484
Kaufman	68,024
Montgomery	295,389
Parker	78,667
Rockwall	54,760
Tarrant	1,170,690

Businesses and public agencies operating any number of vehicles may inspect and repair their own vehicles. However, these businesses and agencies are required to obtain an emissions station inspection license that includes licensing of inspection technicians from the DPS. Once a business or public agency is licensed, all other I/M program requirements apply.

7.1.1 Compliance (Updated)

Subject vehicles must pass an emissions inspection at a facility certified to perform safety and emissions inspections by the DPS and receive a valid vehicle inspection report. Failure to pass

I/M program requirements results in noncompliance of a vehicle. The TCEQ compares registration and vehicle inspection data to identify noncompliant subject vehicles. Registered vehicle owners in affected counties are notified if they are not in compliance with I/M program requirements. The enforcement for noncompliance ranges from issuance of a citation to denial of re-registration. Enforcement of the I/M program is discussed further in Chapter 11: *Motorist Compliance Enforcement* and Chapter 12: *Enforcement Program Oversight*. In addition, remote sensing is used to identify gross polluting vehicles that are operated and registered in I/M program areas.

7.1.2 Remote Compliance (No change from 2005 I/M SIP Revision)

7.2 EXEMPT VEHICLES (NO CHANGE FROM 2005 I/M SIP REVISION)

7.3 FEDERAL VEHICLES (NO CHANGE FROM 2005 I/M SIP REVISION)

7.4 UNITED STATES ARMED FORCES PRIVATELY OWNED VEHICLES (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 8: TEST PROCEDURES, STANDARDS, AND TEST EQUIPMENT (UPDATED)

8.1 GENERAL (NO CHANGE FROM 2009 I/M SIP REVISION)

8.2 INSPECTION PROCESS AND STANDARDS (UPDATED)

Owners of all subject gasoline-powered vehicles that are two through 24 years old that are annually inspected through the Texas Department of Public Safety (DPS) certified safety inspection stations are required to have an applicable emissions inspection performed. Vehicles less than two years or greater than 24 years old are exempt from the Inspection and Maintenance (I/M) program requirements. Texas implemented annual vehicle emissions inspections in:

- Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties in the Dallas-Fort Worth (DFW) area;
- Brazoria, Fort Bend, Galveston, Harris, and Montgomery Counties in the Houston-Galveston-Brazoria (HGB) area; and
- El Paso County in the El Paso area.

An acceleration simulation mode (ASM), two-speed idle (TSI), or On-Board Diagnostics (OBD) inspection, and a gas cap integrity inspection are performed on all subject vehicles as part of the annual safety and emissions inspection. In addition, as a part of the annual safety and emissions inspection, vehicles are subject to anti-tampering checks including:

- the exhaust gas recirculation system;
- the evaporative emissions control system;
- the positive crankcase ventilation system;
- the thermostatic air cleaner;
- the air injection system; and
- the catalytic converter for selected model-years.

Evaporative system purge testing is not performed in the I/M program. Unsafe vehicles or vehicles with missing or leaky exhausts that are presented for emissions inspections are rejected.

OBD inspections for 1996 and newer model-year vehicles and ASM inspections for pre-1996 model-year vehicles began on May 1, 2002 in Collin, Dallas, Denton, Tarrant Counties in the DFW area and Harris County in the HGB area. On May 1, 2003, these inspection requirements were expanded to include Ellis, Johnson, Kaufman, Parker, and Rockwall Counties in the DFW area and Brazoria, Fort Bend, Galveston, and Montgomery Counties in the HGB area.

On January 1, 2007, El Paso County continued emissions inspections on pre-1996 model-year vehicles using TSI and began emissions inspections on all 1996 and newer model-year vehicles using OBD inspections.

The vehicle emissions inspection begins when the vehicle identification number, license plate, make, model, model-year, and other relevant vehicle information have been entered into the inspection analyzer. Pre-existing data, based on the registration database and the prior vehicle emissions inspection history of the subject vehicle, are retrieved. The inspector confirms the vehicle information from the vehicle identification database (VID) with the subject vehicle

presented for emissions inspection. If no match or contact occurs with the VID, the inspector manually enters the vehicle information into the vehicle emissions inspection analyzer. All emissions inspection results are electronically sent via modem to the Texas Information Management System host computer immediately following the completion of each inspection. A copy of the inspection results can be obtained from any inspection station within 13 months of the inspection. All emissions inspection results are accessible to the Texas Commission on Environmental Quality (TCEQ) and the DPS.

An official inspection, once initiated, is performed in its entirety regardless of the intermediate outcomes, except in cases of invalid inspection conditions, unsafe conditions, or fast pass/fail algorithms. Inspections involving measurements are performed with program-approved equipment that has been calibrated. Emissions standards are applicable to all vehicles subject to the I/M program and repairs are required for failure of any standard. The commission may adjust standards as necessary to maintain a passing rate of at least 80%. If a vehicle fails the emissions inspection, the vehicle is to be reinspected for all pollutants. A second failure of any pollutant level results in a second failure of the vehicle. Vehicles will fail visual inspections of subject emissions control devices if such devices are part of the original certified configuration and are found to be missing, modified, disconnected, improperly connected, or found to be incorrect for the certified vehicle configuration under inspection.

30 Texas Administrative Code Chapter 114, Control of Air Pollution from Motor Vehicles, outlines requirements for tampering. The DPS is responsible for enforcing vehicle tampering requirements.

The DPS uses remote sensing to identify high-emitting vehicles operating in the DFW, HGB, and El Paso program areas. Remote sensing may also be used as a quality assurance tool for randomly selected or suspect vehicle emissions facilities. Remote sensing screening is conducted according to reliable engineering practices to assure the accuracy of the inspection.

8.3 INSPECTION EQUIPMENT AND REQUIRED FEATURES (NO CHANGE FROM 2009 I/M SIP REVISION)

8.4 ACCEPTANCE TEST PROCEDURES (NO CHANGE FROM 2009 I/M SIP REVISION)

8.5 INSPECTION EQUIPMENT CERTIFICATION REQUIREMENTS (NO CHANGE FROM 2009 I/M SIP REVISION)

8.6 DETECTION METHODS, INSTRUMENT RANGES, ACCURACY, AND REPEATABILITY (NO CHANGE FROM 2009 I/M SIP REVISION)

8.7 REFERENCES (NO CHANGE FROM 2009 I/M SIP REVISION)

CHAPTER 9: QUALITY CONTROL (UPDATED)

9.1 OVERVIEW (NO CHANGE FROM 2009 I/M SIP REVISION)

9.2 EQUIPMENT CALIBRATION AND MAINTENANCE (NO CHANGE FROM 2009 I/M SIP REVISION)

9.3 DOCUMENT SECURITY (UPDATED)

All vehicle inspection reports (VIR) are printed with a unique serial number. House Bill 2305, 83th Texas Legislature, 2013, Regular Session, provides for the Texas Department of Public Safety to adopt rules regarding the issuance of VIRs, including rules providing for the format and safekeeping of the reports.

A passing inspection report is not issued until a vehicle passes all components of the safety and emissions inspection. The inspection station will issue a passing VIR to the owner or operator of each vehicle inspected by the station that passes all components of the safety and emission inspection.

CHAPTER 10: WAIVERS AND TIME EXTENSIONS (UPDATED)

10.1 WAIVER SUMMARY (NO CHANGE FROM 2005 I/M SIP REVISION)

10.2 LOW-MILEAGE VEHICLE WAIVER (NO CHANGE FROM 2005 I/M SIP REVISION)

10.3 INDIVIDUAL VEHICLE WAIVER (UPDATED)

If a vehicle has failed an emissions inspection, a motorist may petition the Texas Department of Public Safety (DPS) for an individual vehicle waiver in order for the vehicle to receive a vehicle inspection report. The DPS will review the measures taken by the motorist to ensure that they have been performed. A vehicle may be eligible for an individual vehicle waiver provided that:

- it failed both the initial emissions inspection and the reinspection;
- the motorist demonstrates that all reasonable measures including, but not limited to, diagnostics, repairs, and replacement parts, have been taken to try to bring the vehicle into compliance with the inspection and maintenance program;
- the motorist has incurred qualified emissions-related repairs costs equal to or in excess of the maximum reasonable repair expenditure amounts for the county in which the vehicle is registered ($450 in El Paso County and $600 for all other counties); and
- further measures would be economically unfeasible and would result in a minimal impact on air quality.

10.4 PARTS AVAILABILITY TIME EXTENSION (UPDATED)

If a vehicle fails its initial emissions inspection and the repairs necessary for a reduction in emissions require an uncommon part, the vehicle may qualify for a parts availability time extension. This type of extension is granted by a DPS representative on a case-by-case basis and is issued for either 30, 60, or 90 days, or longer, if applicable, but not to exceed one inspection cycle. An automotive emissions-related part is considered uncommon if it takes more than 30 days for expected delivery, the motorist can demonstrate that a reasonable attempt was made to locate necessary emissions control parts by retail or wholesale parts suppliers, and the time required to receive the part exceeds the expiration date of the vehicle's current inspection cycle.

The motorist is required to submit the following information to a DPS representative for each component to demonstrate that the necessary emissions control components have been ordered:

- an invoice or receipt indicating that the necessary emissions control components have been ordered; or
- the name, address, and phone number of the parts distributor, the order number, the name, description, and catalog number of each component; and
- any other information as necessary.

The DPS representative may contact the parts distributor to verify the length of time necessary for the components to be received. The DPS representative may issue a time extension that includes additional time needed to complete the repairs. The motorist must return to an inspection station for an emissions reinspection when the repairs are complete. If the vehicle passes the reinspection, it is issued the appropriate inspection report. If the vehicle fails the reinspection and meets the necessary criteria, the motorist may then apply for a low-mileage waiver, individual vehicle waiver, or low-income time extension.

The Texas Commission on Environmental Quality periodically audits the vehicle inspection data to ensure that vehicles receiving parts availability time extensions are being properly repaired

and reinspected. A vehicle that receives a parts availability time extension in one inspection cycle without receiving a reinspection is ineligible for a parts availability time extension in the subsequent inspection cycle and is subject to other applicable enforcement mechanisms.

10.5 LOW-INCOME TIME EXTENSIONS (NO CHANGE FROM 2005 I/M SIP REVISION)

10.6 WAIVER RATE (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 11: MOTORIST COMPLIANCE ENFORCEMENT (UPDATED)

11.1 GENERAL (NO CHANGE FROM 2009 I/M SIP REVISION)

11.2 REGISTRATION DENIAL (UPDATED)

Prior to the single sticker transition date, when the new requirements of HB 2305 are concurrently implemented by the Texas Department of Public Safety (DPS) and the Texas Department of Motor Vehicles (DMV), on a date that is no sooner than March 1, 2015, the Texas Commission on Environmental Quality (TCEQ) is required to supply emissions inspection data to the DPS to implement registration denial as an enforcement tool. Beginning on the single sticker transition date, the DPS is required to manage a database to contain emissions inspection data and transmit the vehicle inspection data and make it accessible to the DMV. The DMV is required to verify a vehicle's compliance using the database to register a vehicle and notify the vehicle owner. Registered vehicle owners may also present a passing vehicle inspection report (VIR) to the DMV or county tax assessor-collector to verify compliance with the inspection and maintenance (I/M) program. Registered vehicle owners of non-compliant vehicles that do not comply with the I/M program are denied registration until the vehicle has complied with I/M program requirements.

11.3 STICKER-BASED ENFORCEMENT (UPDATED)

Prior to the single sticker transition date, registration certificates, which are affixed on the windshield immediately above the safety inspection certificate, have markings that indicate a vehicle is registered in an I/M program area. The safety inspection program uses a windshield certificate indicating the subject vehicle is in compliance with both the emissions and the safety inspection program. Law enforcement officials can visually compare the county of registration and the county of inspection. Beginning on the single sticker transition date, vehicle registration insignia stickers, which are affixed on the windshield, indicate the subject vehicle is compliant with the I/M program.

All VIRs are printed with a unique serial number. The DPS may adopt rules regarding the issuance of VIRs, including rules providing for the format of the reports. The DPS may add additional security features to deter counterfeiters. The DPS is required to track inspection report numbers with assistance from the vehicle identification database (VID) and the TCEQ's "Specifications for Vehicle Exhaust Gas Analyzer Systems for Use in the Texas Vehicle Emissions Testing Program" (http://www.tceq.state.tx.us/assets/public/implementation/air/ms/IM/txvehanlspecs.pdf).

Motorists are issued citations by local and state law enforcement officials for driving a vehicle with an expired or invalid registration or for evading the emissions inspection or inspection outside of the affected area. These violations of the Texas Transportation Code (TTC), §548.602 (Class C misdemeanor) and §548.603 (Class B misdemeanor) are punishable by a fine starting at $200 and not exceeding $2,000 for each occurrence. The owner is subject to an additional citation every time the vehicle is driven. Violators are given notification that they shall comply with the I/M program requirements. Noncompliance will result in delivery of additional citations and fines that may accumulate to more than the expense of a minimum expenditure waiver.

Fines for motorists involved in bribery or fraud are substantially higher and may result in incarceration. Under TTC, §548.603 (Class B misdemeanor), a motorist suspected of obtaining a passing inspection report in a neighboring county to avoid the emissions portion of an inspection may be charged with willful purchase of a fraudulent inspection report.

11.4 ADDITIONAL ENFORCEMENT ACTIVITIES (NO CHANGE FROM 2009 I/M SIP REVISION)

CHAPTER 12: ENFORCEMENT PROGRAM OVERSIGHT (UPDATED)

12.1 GENERAL (NO CHANGE FROM 2005 I/M SIP REVISION)

12.2 PROCEDURES (NO CHANGE FROM 2005 I/M SIP REVISION)

12.3 INSPECTION REPORT (RENAMED AND UPDATED)

Vehicle inspection reports (VIR) are designed to prevent counterfeiting as discussed in Chapter 9: *Quality Control*. Texas Department of Public Safety (DPS) and Texas Department of Motor Vehicles personnel are provided written instructions and training to enable them to recognize fraudulent documents. The DPS and local law enforcement have a program that is designed to find counterfeit vehicle registration insignia stickers and prosecute those making, possessing, or selling them. The DPS has established measures to control and track inspection report distribution and handling. Additionally, the DPS maintains a complete record of all VIRs issued at each inspection facility.

The DPS conducts a monthly check for proper issuance of VIRs. The DPS conducts biannual audits of inspection reports and has adopted a unique inspection reports for use in the inspection and maintenance program areas.

12.4 OVERSIGHT (NO CHANGE FROM 2005 I/M SIP REVISION)

12.5 COMPUTERIZED TESTING (NO CHANGE FROM 2005 I/M SIP REVISION)

12.6 DATABASE (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 13: QUALITY ASSURANCE (UPDATED)

13.1 OVERVIEW (NO CHANGE FROM 2005 I/M SIP REVISION)

13.2 PERFORMANCE AUDITS (NO CHANGE FROM 2005 I/M SIP REVISION)

13.2.1 Overt Audits (No change from 2005 I/M SIP Revision)

13.2.2 Covert Audits (No change from 2005 I/M SIP Revision)

13.3 RECORDS AUDITS

Vehicle inspection station and inspector records are reviewed at least monthly to assess document security, recordkeeping practices, certifications, and other required display information. This audit of the records also assists in identifying problems that may indicate potential fraud or incompetence. An electronic database is used to perform computer analyses of emissions data in order to identify statistically inconsistent information, discrepancies, patterns, and unusual entries.

An auditor visits an inspection station to review records not already covered in the electronic analysis. A comprehensive accounting for all inspection reports is also performed during an audit of the records.

13.4 EQUIPMENT AUDITS (NO CHANGE FROM 2005 I/M SIP REVISION)

13.5 AUDITOR TRAINING AND PROFICIENCY (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 14: ENFORCEMENT AGAINST CONTRACTORS, STATIONS, AND INSPECTORS (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 15: DATA COLLECTION (UPDATED)

15.1 GENERAL (NO CHANGE FROM 2005 I/M SIP REVISION)

15.2 INSPECTION DATA (UPDATED)

A contractor has established a statewide central database for the collection, processing, transmission, monitoring, and reporting of vehicle emissions inspection data. The vehicle identification database (VID) has the capability to receive, process, and transmit vehicle emissions inspection data at the beginning and conclusion of each emissions inspection on a real-time basis. In addition, the VID is designed to receive and process vehicle data obtained by remote sensing devices. The data contractor is responsible for maintaining the data collection system and for providing oversight and administrative capabilities to the Texas Commission on Environmental Quality and the Texas Department of Public Safety.

The following data are collected for each vehicle inspection conducted:

- inspection record number;
- inspection station number;
- analyzer number;
- inspector identification number;
- inspection system number;
- date of inspection;
- emissions inspection start time;
- time final emissions scores are determined;
- vehicle identification number;
- license plate number;
- inspection report number;
- gross vehicle weight rating;
- transmission type;
- fuel type;
- vehicle model-year;
- vehicle make;
- vehicle type;
- inspection procedure used;
- odometer reading;
- type of inspection performed (initial or reinspection);
- results of each visual and parameter inspection;
- results of the gas cap integrity inspection;
- results and standards for hydrocarbons, carbon monoxide, nitrogen oxides, and carbon dioxide for each inspection mode;
- overall inspection results;
- audit flag;
- dispute and waiver flag;
- number of cylinders or engine displacement;
- type of vehicle preconditioning performed;
- emissions inspection sequences used; and
- results of the on-board diagnostics inspection expressed as a pass or fail along with the diagnostic trouble codes revealed.

15.3 QUALITY CONTROL (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 16: DATA ANALYSIS AND REPORTING (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 17: INSPECTOR LICENSING AND CERTIFICATION (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 18: PUBLIC INFORMATION AND CONSUMER PROTECTION (UPDATED)

18.1 PUBLIC AWARENESS PLAN (NO CHANGE FROM 2005 I/M SIP REVISION)

18.2 VEHICLE INSPECTOR REPORT (NO CHANGE FROM 2005 I/M SIP REVISION)

18.3 VEHICLE REPAIR FORM (NO CHANGE FROM 2005 I/M SIP REVISION)

18.4 GENERAL REPAIR INFORMATION (NO CHANGE FROM 2005 I/M SIP REVISION)

18.5 REPAIR INDUSTRY PERFORMANCE STATISTICS (NO CHANGE FROM 2005 I/M SIP REVISION)

18.6 CONSUMER PROTECTION PROVISIONS (NO CHANGE FROM 2005 I/M SIP REVISION)

18.6.1 DPS Challenge Facilities (Updated)

The Texas Department of Public Safety (DPS) provides challenge/referee facilities so that a motorist whose vehicle fails an emissions inspection may challenge the findings at a DPS challenge facility. The DPS tracks the number and results of all challenge inspections. If a vehicle passes its challenge reinspection, the motorist is issued a vehicle emissions inspection report indicating the passing status of the vehicle. If the report is issued by the station that performed the initial inspection, no fee is assessed for the second emissions inspection when it is obtained within 15 days of the initial inspection. An emissions inspection station that produces excessive challenge reinspections may be subjected to more frequent auditing.

18.6.2 DPS Oversight (No change from 2005 I/M SIP Revision)

18.6.2.1 Audits (No change from 2005 I/M SIP Revision)

18.6.2.2 System Calibration Surveillance (No change from 2005 I/M SIP Revision)

18.6.2.3 Technician Monitoring (No change from 2005 I/M SIP Revision)

18.6.3 Whistle Blowers Protection (No change from 2005 I/M SIP Revision)

18.6.4 Compliant Handling Procedures (No change from 2005 I/M SIP Revision)

18.6.5 Warranty Repair Assistance (No change from 2005 I/M SIP Revision)

18.6.5.1 Performance Warranty (No change from 2005 I/M SIP Revision)

18.6.5.2 Design and Defect Warranty (No change from 2005 I/M SIP Revision)

CHAPTER 19: IMPROVING REPAIR EFFECTIVENESS (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 20: COMPLIANCE WITH RECALL NOTICES (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 21: ON-ROAD TESTING (NO CHANGE FROM 2005 I/M SIP REVISION)

CHAPTER 22: STATE IMPLEMENTATION PLAN SUBMISSION (NO CHANGE FROM 2005 I/M SIP REVISION)

Appendices Available Upon Request

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RESPONSE TO COMMENTS RECEIVED REGARDING THE INSPECTION AND MAINTENANCE STATE IMPLEMENTATION PLAN REVISION

The Texas Commission on Environmental Quality (TCEQ or commission) offered public hearings for this state implementation plan (SIP) revision on October 29, 2013 at 2:00 p.m. in Houston at the Houston-Galveston Area Council of Governments (HGAC); October 30, 2013 at 10:00 a.m. in Austin at the TCEQ headquarters; October 31, 2013 at 2:00 p.m. in Fort Worth at the TCEQ Region 4 Office; and November 1, 2013 at 3:00 p.m. in El Paso at the City Public Library. None of the hearings were opened because no party signed in to provide oral comment.

The comment period opened September 27, 2013 and closed November 4, 2013. The commission received written comments from the City of Houston's Department of Health and Human Services, the Envirotest Systems Holdings Corporation (Envirotest), the United States Environmental Protection Agency (EPA), and the North Central Texas Council of Governments (NCTCOG). Two commenters expressed support for this I/M SIP revision and the corresponding rulemaking (Rule Project No. 2013-035-114-AI). Two commenters suggested changes to this SIP revision and the corresponding rulemaking.

COMMENTS AND RESPONSES

The EPA expressed support for the revisions to §§114.1, 114.2, 114.21, 114.50, 114.53, 114.82 - 114.84, and 114.87 and commented that the revisions will implement the preferred registration denial enforcement strategy and may improve the enforcement and compliance components of the vehicle emissions inspection and maintenance (I/M) program.

The commission appreciates the EPA's support of this I/M SIP revision and the corresponding rulemaking (Rule Project No. 2013-035-114-AI). No changes were made in response to this comment.

The EPA requested an explanation regarding how vehicle owners will be made aware of the requirement to perform an emissions inspection no earlier than 90 days before the expiration of the vehicle registration.

TCEQ staff plan to work with the Texas Department of Motor Vehicles (DMV) and the Texas Department of Public Safety (DPS) to develop a public outreach campaign to alert vehicle owners of the revised requirement to have the vehicle inspected within 90 days of the expiration of the vehicle registration. No changes were made in response to this comment.

The EPA requested an explanation of how the transition from sticker-based enforcement to registration denial enforcement starting March 1, 2015 will take place, especially when inspection due dates and vehicle registration dates do not coincide. The EPA commented that under such a scenario some vehicles would have to be inspected more than once in a 12-month period and asked what special provisions or exemptions might be afforded to those vehicle owners.

No special provisions or exemptions are included in the corresponding rulemaking (Rule Project No. 2013-035-114-AI). TCEQ staff plans to work with the DMV and the DPS to develop the process for implementing the transition from sticker-based enforcement to registration denial enforcement of the I/M program requirements. TCEQ staff anticipates that details of the process will be provided as part of a public outreach campaign after the development of the transition process is completed. The current dual sticker system will remain in place and effective until the provisions of HB 2305 are implemented by DPS and the DMV to ensure stability of the I/M program. No changes were made in response to this comment.

The NCTCOG conveyed its support for House Bill 2305. The NCTCOG recommended that the TCEQ establish a robust educational program to help the public understand the changes taking place, especially as they relate to the fees charged at the inspection station for acceleration simulation mode (ASM) and on-board diagnostic (OBD) tests since the Low Income Repair and Replacement Assistance Program (LIRAP) fee will no longer be collected at the time of inspection. The NCTCOG commented that a proper education program in place will help to avoid potential disproportionate imprints under Executive Order 12898 (Environmental Justice) since ASM vehicles are older and often owned by lower-income individuals.

Executive Order 12898 applies only to actions by federal agencies and does not apply to the TCEQ's rulemaking. However, TCEQ staff plans to work with the DMV and the DPS to develop the plan for implementing the I/M program changes required in the corresponding rulemaking (Rule Project No. 2013-035-114-AI) and this SIP revision. TCEQ staff anticipates that details of the plan will be provided as part of a public outreach campaign to inform motorists of changes to the fees charged by the inspection station at the time of the vehicle inspection and to those charged by the DMV or county tax assessor-collector at the time of vehicle registration. No changes were made in response to this comment.

The NCTCOG expressed support for the use of remote sensing technology to identify high-emitting vehicles and conveyed its belief that this technology is not being used often enough to be effective. The NCTCOG included a June 2011 report entitled, "Enhanced Remote Sensing Performance Based Pilot Programs," based upon a study conducted by the NCTCOG and the Envirotest Systems Holdings Corporation (Envirotest). The NCTCOG commented that based upon the referenced study, more stringent cut-points and a greater sampling of vehicles are key to making remote sensing successful. The NCTCOG suggested that the increased use of remote sensing would assist the Texas Department of Public Safety in enforcing the requirement to conduct emissions testing on vehicles that are registered outside of an I/M county but travel within an I/M area more than 60 days per year.

The commission appreciates the NCTCOG's support on enforcement of the I/M program. However, expanding the role of the remote sensing component of the current I/M program is beyond the scope of the rulemaking (Rule Project No. 2013-035-114-AI) corresponding with this SIP revision. No changes were made in response to this comment.

The NCTCOG expressed support for the revisions to §114.21 (e) and (f) that require removing and destroying vehicle inspection certificates and vehicle registration insignia stickers from vehicles currently exempt from anti-tampering requirements before the vehicles are offered for

sale or public examination. The NCTCOG suggested that this requirement be extended to all retail vehicle sales and to all vehicles sold at auction.

The commission appreciates the NCTCOG's support of the revisions to §114.21(e) and (f) in the rulemaking (Rule Project No. 2013-035-114-AI) corresponding with this SIP revision. However, expanding the use of this requirement to all retail vehicle or auction sales is beyond the scope of that rulemaking or this SIP revision. No changes were made in response to this comment.

The NCTCOG requested more transparency regarding the State's I/M Advisory Committee. The NCTCOG suggested that meeting notices be posted on the TCEQ, DPS, and DMV websites and that an e-mail distribution list be developed to inform interested parties of upcoming meetings. The NCTCOG also recommended that committee meetings be hosted in each of the four I/M regions once per year to help increase attendance.

The commission appreciates the NCTCOG's suggestions regarding the state's Vehicle Inspection Advisory Committee. The purpose and task of the advisory committee are the responsibility of the DPS. The TCEQ is responsible for appointing one member to the committee and will inform the committee of the NCTCOG's suggestions. No changes were made in response to this comment.

Envirotest commented that it applauds the TCEQ's SIP programs and supports the I/M SIP revision. Envirotest urged the TCEQ to continue vigorous enforcement of the I/M requirements and identified I/M programs as essential to attainment of health standards in nonattainment areas. Envirotest urged continued use of remote sensing technology and rigorous enforcement of Texas I/M program requirements in support of the Texas SIP and to help prevent backsliding. Envirotest also suggested increasing the use of the remote sensing technology in order to restore the on-road program to measuring 10-20% of I/M area registered vehicles.

The commission appreciates Envirotest's support. As discussed in the *Demonstrating Noninterference under Federal Clean Air Act, §110(l)* of the Background and Summary section of the preamble to the rulemaking (Rule Project No. 2013-035-114-AI) corresponding with this SIP revision, no backsliding is anticipated as a result of these changes. Expanding the role of the remote sensing component of the I/M program is beyond the scope of the rulemaking (Rule Project No. 2013-035-114-AI) corresponding with this SIP revision. No changes were made in response to this comment.

The City of Houston's Department of Health and Human Services offered to assist the TCEQ with the public hearings as needed.

The commission appreciates City of Houston's Department of Health and Human Services offer for assistance with the public hearing process for this SIP revision and the corresponding rulemaking (Rule Project No. 2013-035-114-AI). No changes were made in response to this comment.

ORDER ADOPTING AMENDED RULES AND
REVISIONS TO THE STATE IMPLEMENTATION PLAN

Docket Nos. 2013-1109-RUL and 2013-1108-SIP
Rule Project Nos. 2013-035-114-AI and 2013-041-SIP-NR

On February 14, 2014, the Texas Commission on Environmental Quality (Commission), during a public meeting, considered adoption of amendments to 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A: *Definitions*, §114.1 and §114.2, Subchapter B: *Motor Vehicle Anti-Tampering Requirements*, §114.21, and 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, 114.53, and Division 3: *Early Action Compact Counties*, §114.82 - 114.84, and 114.87 and corresponding revisions to the State Implementation Plan (SIP).

The Commission adopts these amendments, in 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A: Definitions, §114.1 and §114.2, Subchapter B: Motor Vehicle Anti-Tampering Requirements, §114.21, and 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, 114.53, and Division 3: Early Action Compact Counties, §114.82 - 114.84, and 114.87; and corresponding revisions to the SIP. The adopted amendments implement House Bill 2305 from the 83rd Texas Legislature, 2013, Regular Session, relating to replacing the dual windshield sticker system for vehicle inspection and registration with a single vehicle registration insignia sticker and modifying the method used to collect the state portion of the vehicle safety and emissions inspection fee, in addition to minor non-programmatic updates to rule language to correct outdated references and for general clarity. Under Tex. Health & Safety Code Ann. §§ 382.011, 382.012, and 382.023 (Vernon 2011), the Commission has the authority to control the quality of the state's air and to issue orders consistent with the policies and purposes of the Texas Clean Air Act, Chapter 382 of the Tex. Health & Safety Code. The proposed rules were published for comment in the October 11, 2013, issue of the *Texas Register* (38 TexReg 7067).

Pursuant to Tex. Health & Safety Code Ann. § 382.017 (Vernon 2001), Tex. Gov't Code Chapter 2001 (Vernon 2008), and 40 Code of Federal Regulations § 51.102, and after proper notice, the Commission conducted a public hearings to consider the amended rules and revisions to the SIP. Proper notice included prominent advertisement in the areas affected at least 30 days prior to the dates of the hearings. Public hearings were offered in Houston, Texas, on October 29, 2013; in Austin, Texas, on October 30, 2013; in Fort Worth, Texas, on October 31, 2013; and in El Paso, Texas, on November 1, 2013. No member of the public wished to present comments, so staff did not formally open the public hearings.

The Commission circulated hearing notices of its intended action to the public, including interested persons, the Regional Administrator of the EPA, and all applicable local air pollution control agencies. The public was invited to submit data, views, and recommendations on the proposed amended rules and SIP revisions, either orally or in writing, at the hearings or during the comment period. Prior to the scheduled hearings, copies of the proposed amended rules and SIP revisions were available for public inspection at the Commission's central office and on the Commission's Web site.

Data, views, and recommendations of interested persons regarding the proposed amended rules and SIP revisions were submitted to the Commission during the comment period, and were considered by the Commission as reflected in the analysis of testimony incorporated by reference to this Order. The Commission finds that the analysis of testimony includes the names of all interested groups or associations offering comment on the proposed amended rules and the SIP revisions and their position concerning the same.

IT IS THEREFORE ORDERED BY THE COMMISSION that the amended rules and revisions to the SIP incorporated by reference to this Order 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 and the revisions to the SIP are incorporated by reference in this Order as if set forth at length verbatim in this Order.

IT IS FURTHER ORDERED BY THE COMMISSION that on behalf of the Commission, the Chairman should transmit a copy of this Order, together with the adopted rules and revisions to the SIP, to the Regional Administrator of EPA as a proposed revision to the Texas SIP pursuant to the Federal Clean Air Act, codified at 42 U.S. Code Ann. §§ 7401 - 7671q, as amended.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Tex. Gov't Code, § 2001.033 (Vernon 2008).

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.

Issued date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Bryan W. Shaw, Ph.D., Chairman