BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Docket No. 2026-0743-PET
Rule Project No. 2026-029-PET-NR

PETITIONER'S RESPONSE TO THE EXECUTIVE DIRECTOR'S RECOMMENDATION OF DENIAL

To the Honorable Chairman and Commissioners:

Justin Lazo of Lazo Management LLC, on behalf of the coalition of El Paso County emissions inspection station operators that filed the petition in this docket (petitioners), respectfully submits this response to the Executive Director's August 7, 2026 memorandum recommending denial of the petition, and respectfully requests that the Commission grant the petition and initiate rulemaking notwithstanding that recommendation.

I. The Recommendation Rests on a Single Metric That Does Not Measure Fee Adequacy

The Executive Director's sole stated justification is that the number of licensed inspection stations in El Paso County rose from 181 in 2007 to 242 in 2024, which is read as an indication that the fee is adequate. Station count measures licensed participation. It does not measure whether the $11.50 fee covers the cost of performing the inspection.

Many El Paso stations, including the petitioners' fourteen locations, maintain emissions inspection capability because inspections bring motorists in the door for other services, even when the inspection itself is performed at a loss. A rising station count is fully consistent with private businesses subsidizing a state-mandated program out of other revenue, which is precisely the injury this petition alleges. Participation under compulsion of the market is not evidence of fee adequacy.

The Commission does not need a proxy, because it possesses direct evidence. The Commission's own 2024 Vehicle Emissions Inspection Program Test Fee Analysis, commissioned for the specific purpose of evaluating whether the fee covers station costs, found El Paso County break-even levels of $27.00 to $32.00 based on equipment costs alone and $37.00 to $45.50 when equipment and single-bay costs are included, and recommended a statewide fee range of $24.50 to $28.50. The memorandum acknowledges that costs have increased but sets aside the agency's own direct cost analysis in favor of an indirect participation count. The direct evidence should control.

II. The Station-Count Data Predates the Elimination of Safety Inspections

Every station-count data point cited in the memorandum comes from biennial reports through 2024. Effective January 1, 2025, the Legislature eliminated mandatory safety inspections for noncommercial vehicles, removing the inspection revenue that historically supported inspection bay operations. The cited data therefore describes an economic structure that no longer exists. The memorandum proposes to wait for future biennial reports, meaning the earliest reconsideration would occur only after post-2025 economics have already forced stations to absorb losses or exit the program.

III. Waiting for Station Counts to Fall Guarantees Harm Before Action

The memorandum states that TCEQ will monitor for decreases in station count as the indicator for reconsidering the fee. Under that standard, El Paso motorists must first lose inspection access, through station exits, reduced hours, or longer waits, before the Commission corrects a fee that its own commissioned analysis has already found inadequate. Fee-setting authority under Texas Health and Safety Code Section 382.202(e) exists to keep the required inspection network viable, not to ratify its contraction after the fact.

IV. The Recommendation Does Not Address the Commission's Own Prior Actions

The memorandum does not mention that in 2024 the Commission formally proposed raising the maximum El Paso County fee to $18.50 (Project Nos. 2024-013-114-AI and 2024-014-SIP-NR) and took public comment on a fee up to $28.50, informed by the same 2024 fee analysis. Nor does it address that the Commission set the Bexar County fee at $18.50 in November 2023, before that program performed a single inspection and without any viability precondition, or that the Dallas-Fort Worth and Houston-Galveston-Brazoria areas operate at $18.50 today. No cost-based justification is offered for applying a wait-for-harm standard only to El Paso County.

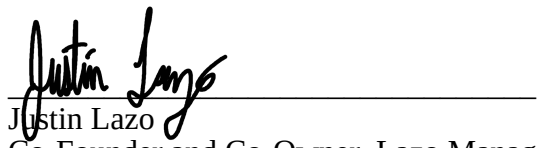
V. Requested Action

Petitioners respectfully request that the Commission grant the petition and direct the Executive Director to initiate rulemaking to raise the maximum El Paso County OBD emissions inspection fee to at least $18.50.

In the alternative, petitioners respectfully request that the Commission direct the initiation of rulemaking limited to fee parity at $18.50, deferring any consideration of a higher fee to a future proceeding.

At minimum, petitioners respectfully request that the Commission direct staff to conduct an expedited El Paso County fee analysis reflecting post-January 2025 economics, rather than awaiting the ordinary biennial cycle, and to report to the Commission within a defined period.

Respectfully submitted,



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On behalf of the El Paso County emissions inspection station operators listed in Exhibit B of the petition

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