

Texas Commission on Environmental Quality

Interoffice Memorandum

Date: January 29, 2024

To: Kelly Keel, Executive Director

Thru: Richard C. Chism, Director *RCC*
Office of Air

From: Donna F. Huff, Division Deputy Director
Air Quality Division

Subject: Rulemaking and State Implementation Plan (SIP) Revision Draft Concept and Initiation Memo
Title 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles
Inspection and Maintenance (I/M) SIP Revision

Suggested short titles: House Bill (HB) 3297 and Senate Bill (SB) 2102 Implementation and Vehicle Inspection and Maintenance (I/M) Program Updates; I/M SIP Revision

Introduction and reason(s) for the rulemaking and SIP revision:

A rulemaking and SIP revision are necessary to implement two bills passed during the 88th Texas Legislature, 2023, Regular Session: House Bill (HB) 3297¹ eliminates the mandatory annual vehicle safety inspection program for noncommercial vehicles, effective January 1, 2025; and Senate Bill (SB) 2102² extends the initial registration and inspection period for rental vehicles to three years. Pending the results of a 2024 I/M fee study in progress, this rulemaking and SIP revision would also be necessary to adjust the maximum fee inspection stations are allowed to charge for an emissions inspection.

Seventeen counties in Texas are subject to 30 TAC Chapter 114 I/M rules and the I/M SIP: 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; Travis and Williamson Counties in the Austin-Round Rock area; and El Paso County. The commission adopted revisions to Chapter 114 and the I/M SIP on November 29, 2023 to implement an I/M program in Bexar County by no later than November 1, 2026 (Project Nos. 2022-026-114-AI and 2022-027-SIP NR). At the November 29, 2023 commissioners' agenda meeting, the commission set an emissions inspection fee of \$18.50 for the Bexar County I/M program. The commission referenced results from a previous I/M fee study that indicated an appropriate statewide fee range could be considered at \$18 to \$22. The draft 2024 fee study is expected to be available in February 2024 and would inform any fee proposed in this rulemaking and SIP revision.

Scope of the proposed rule and SIP revision:

The proposed rulemaking would amend 30 TAC Chapter 114, Subchapters A and C, to implement provisions of HB 3297 and SB 2102 and provide for an overall clean-up of the rule language to remove outdated program-related definitions, references, and requirements. The proposed rulemaking may also revise the maximum fee that inspection stations may charge for emission inspections. The associated proposed I/M SIP revision would incorporate the proposed I/M rules into the SIP.

¹ Tex. [H.B. 3297](#), 88th Leg., R.S. (2023).

² Tex. [S.B. 2102](#), 88th Leg., R.S. (2023).

HB 3297 requires rulemaking to remove references and requirements related to safety inspections from 30 TAC Chapter 114, Subchapters A and C. HB 3297 also requires revisions to the SIP to modify the method for determining eligibility for the low-mileage waiver to comply with the bill and to move items 12 through 15 of the safety inspection process in Texas Transportation Code (TTC) §548.051, which include visual inspection of emissions equipment and the pressurized testing of the fuel tank cap, to the emissions inspection process.

SB 2102 requires rulemaking to make applicable revisions to 30 TAC Chapter 114, Subchapters A and C and the I/M program included in the SIP to allow one additional year of exemption from emissions inspections for rental vehicles. "Rental vehicle" will need to be defined in the rulemaking.

A.) Scope required by federal regulations or state statutes:

The proposed rulemaking and SIP revision would implement HB 3297 to satisfy the requirements of the Texas Health and Safety Code (THSC), Chapter 382, and the TTC, Chapters 502, 547, 548, and 731. The rulemaking and SIP revision would implement SB 2102 to satisfy the requirements of the THSC, Chapter 382, and the TTC, Chapters 502 and 548. The SIP revision would include I/M performance modeling and an anti-backsliding demonstration under federal Clean Air Act (FCAA), §110(l) to show that implementation of SB 2101 would not interfere with attainment or maintenance of the ozone National Ambient Air Quality Standards (NAAQS).

B.) Additional staff recommendations:

As required by state statute in THSC §382.202(f)(1), staff is currently conducting a fee study to assess the adequacy of the I/M fee. If the results of the fee study show that the fee is potentially too low for businesses to make a reasonable profit, staff recommends adjusting the maximum fee inspection stations are allowed to charge for an emissions inspection. The draft report is expected by the end of February 2024.

Staff also recommends that the language in 30 TAC Chapter 114, Subchapters A and C be modified to remove outdated program-related definitions, references, and requirements, and to restructure the rule language for clarity. Language and definitions related to acceleration simulation mode and two-speed idle testing that is no longer conducted can be removed as they are no longer applicable. Language referencing the "single sticker transition date" as defined in §114.1 can be removed and the rule language can be restructured for clarity.

Potential controversial concerns and legislative interest:

If an inspection fee increase were proposed, owners of vehicles subject to vehicle emissions inspections in those areas would incur those increased fees. Vehicle inspection station owners in those areas may be interested in the increase of the maximum fee that they are allowed to charge for the emissions inspection. Any change in the current maximum inspection fee in existing I/M areas is expected to be controversial.

Potential alternatives:

There is no alternative to rulemaking. HB 3297 and SB 2102 are required to be implemented.

Effect on the:

A.) Regulated community:

If the maximum fee inspection stations are allowed to charge for an emissions inspection were increased, vehicle inspection station owners would be able to charge more for providing emissions inspections.

B.) Public:

If the maximum fee inspection stations are allowed to charge for an emissions inspection were increased, owners of vehicles subject to emissions testing in those areas would likely pay an increased fee at the time of inspection.

C.) Agency programs:

None

Proposed schedule and constraints:

Anticipated Proposal Date: June 12, 2024

Anticipated Public Comment Period: June 14, 2024 through July 29, 2024

Anticipated Adoption Date: November 20, 2024

Planned Stakeholder involvement:

If the proposed rulemaking and SIP revision are approved by the commission for public comment and public hearing, then a formal public comment period would be opened, and public hearings would be offered in the affected areas.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

Statutory authority:

Texas Water Code (TWC), § 5.102 General Powers

TWC § 5.103, Rules

TWC § 5.105, General Policy

Texas Health and Safety Code (THSC) § 382.017, Rules

THSC § 382.011, General Powers and Duties

THSC § 382.202, Vehicle Emissions Inspection and Maintenance Program

THSC § 382.203, Vehicles Subject to Program; Exemptions

THSC § 382.205, Inspection Equipment and Procedures

Direction and Guidance: [To be completed at ED briefing]

Rule or Non-Rule Project number: 2024-013-114-AI; 2024-014-SIP-NR

Electronic cc: Kelly Keel
Steven Schar
Dennise Braeutigam
Cameron Poursoltan
Ryan Vise
Gwen Ricco
Richard C. Chism
Donna F. Huff
Sarah Thomas
Beryl Thatcher
Contessa N. Gay
Terry Salem

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NOTE: *TR will submit electronic notice to the following after ED Briefing:*
Office of General Counsel
Office of Public Interest Counsel