

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 31, 2024

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

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

Docket No.: 2024-0354-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 114, Control of Air Pollution from Motor Vehicles
House Bill (HB) 3297 and Senate Bill (SB) 2102 Implementation and Vehicle
Inspection and Maintenance (I/M) Program Updates
Rule Project No. 2024-013-114-AI

Background and reason(s) for the rulemaking:

This rulemaking is necessary to implement two bills passed during the 88th Texas Legislature, 2023, Regular Session: HB 3297 eliminates the mandatory annual vehicle safety inspection program for noncommercial vehicles, effective January 1, 2025;¹ and SB 2102 extends the initial registration and inspection period for rental vehicles to three years.² This rulemaking is also necessary to adjust the maximum fee inspection stations are allowed to charge for an emissions inspection. A state implementation plan (SIP) revision would also be required to incorporate this proposed rulemaking into the SIP.

Eighteen counties in Texas are subject to 30 Texas Administrative Code (TAC) Chapter 114 I/M rules: 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 (ARR) area; Bexar County; and El Paso County. The commission adopted revisions to Chapter 114 and an associated I/M SIP revision 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). All I/M counties will be subject to the implementation of HB 3297 and SB 2102. 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 \$18 to \$22. The [March 29, 2024, Vehicle Emissions Inspection Program Test Fee Analysis for AirCheckTexas Program \(ERG No. 0488.00.001\)](#) study (2024 I/M Fee Analysis) was completed to assess the adequacy of the I/M fee and informed the fee proposed in this rulemaking.

Scope of the rulemaking:

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 would revise the maximum fee that inspection stations may charge for emission inspections. The associated proposed I/M SIP revision (Project No. 2024-014-SIP-NR) would incorporate the proposed I/M rules into the SIP.

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

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

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

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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" is defined in the proposed rulemaking.

A.) Summary of what the rulemaking would do:

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.

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

The proposed rulemaking 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 would implement SB 2102 to satisfy the requirements of the THSC, Chapter 382, and the TTC, Chapters 502 and 548. The rulemaking would revise the SIP and would include a demonstration of non-interference with the SIP to meet federal Clean Air Act, §110(l) requirements to show that implementation of SB 2102 would not interfere with attainment or maintenance of the ozone or carbon monoxide National Ambient Air Quality Standards.

C.) Additional staff recommendations that are not required by federal rule or state statute:

As required by state statute in THSC §382.202(f)(1), the 2024 I/M Fee Analysis was conducted to assess the adequacy of the I/M emissions inspection fee. Based on the results of the 2024 I/M Fee Analysis, staff recommend a proposed maximum fee of \$18.50 for an emissions inspection conducted in the ARR area and El Paso County. This change would set the fee at \$18.50 in all program areas since the fee in Bexar County, DFW, and HGB program areas are already set at \$18.50. Additionally, staff recommend the commission take comment on a maximum fee up to \$28.50 in each program area as informed by the 2024 I/M Fee Analysis.

Staff also recommend an overall clean-up of the language in 30 TAC Chapter 114, Subchapters A and C to remove outdated program-related definitions, references, and requirements, and to restructure the rule language for clarity. The clean-up process would include revisions to repeal 30 TAC §114.50(b)(2) related to vehicles operated by any federal government agency employee under the jurisdiction of a federal government agency as the provision has not been approved as part of the SIP by the U.S. Environmental Protection Agency. Language and definitions related to acceleration simulation mode and two-speed idle testing that are no longer conducted would be removed as those tests are no longer applicable. Language referencing the "single sticker transition date," as defined in 30 TAC §114.1, would be removed, and the remaining rule language would be restructured for clarity.

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

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THSC § 382.205, Inspection Equipment and Procedures

Effect on the:

A.) Regulated community:

Businesses that conduct emissions testing in I/M program counties may charge the maximum fee allowed by rule for performing an annual emissions inspection. 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. A proposed maximum fee of \$18.50 for an emissions inspection conducted in the ARR area and El Paso County would match the maximum fee currently set for the remaining I/M counties. This fee increase would allow inspection stations in the three affected counties to charge \$7.00 more for each annual emissions inspection than they may currently charge.

The proposed rulemaking would also solicit public comment on a maximum fee in each program area up to \$28.50, as informed by the 2024 I/M Fee Analysis. This would increase the fee inspection stations are allowed to charge annually for an emissions inspection by up to \$17 per vehicle in the ARR area and El Paso County, and by up to \$10 per vehicle in the remaining I/M counties.

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. The proposed maximum fee of \$18.50 for an emissions inspection conducted in the ARR area and El Paso County would increase by \$7.00 annually the amount per vehicle that the public could be charged for an emissions inspection in those counties.

A maximum fee up to \$28.50, as informed by the 2024 I/M Fee Analysis, could increase the amount that the public pays annually for an emissions inspection by up to \$17 per vehicle in the ARR area and El Paso County, and by up to \$10 per vehicle in the remaining I/M counties.

C.) Agency programs:

None.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, if the proposed rulemaking is approved by the commission for public comment and public hearing, then a formal public comment period would be opened, and a public hearing would be offered.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

Potential controversial concerns and legislative interest:

If an inspection fee increase were adopted, 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.

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Would this rulemaking affect any current policies or require development of new policies?
This rulemaking does not affect any current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
There is no alternative to rulemaking. HB 3297 and SB 2102 are required to be implemented.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: June 12, 2024

Anticipated *Texas Register* publication date: June 28, 2024

Anticipated public hearing date: July 24, 2024

Anticipated public comment period: June 14, 2024 through July 29, 2024

Anticipated adoption date: November 20, 2024

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