

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 177]

### Enhanced Emission Inspection

The Department of Transportation (Department), Bureau of Motor Vehicles (Bureau), under the authority contained in 75 Pa.C.S. §§ 4103, 4531, 4701, 4706, 4707 and 6103 (Vehicle Code) proposes to amend Chapter 177 (relating to enhanced emission inspection program) as set forth in Annex A. These regulations are promulgated as required by the Federal Clean Air Act (Clean Air Act), as amended by Pub. L. No. 101-54, 104 Stat. 2399—2712 (42 U.S.C.A. §§ 7401—26718) and Pub. L. No. 104-59, \_\_\_ Stat. \_\_\_ (known as the National Highway System Designation Act of 1995 (NHS Act)).

#### *Purpose of the Chapter*

The purpose of this chapter, consistent with sections 4531, 4701, 4702, 4706, 4707 and 4721 of the Vehicle Code, is to implement an enhanced emission inspection program as required by the Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and the regulations promulgated thereunder, 40 CFR Part 51.

#### *Purpose of these Amendments*

These proposed amendments delete the existing Chapter 177 and reestablish the same to enable the Commonwealth to create and maintain an annual, enhanced vehicle emission inspection and maintenance (I/M) program that meets Federal requirements.

The 1990 amendments to the Clean Air Act impose strict requirements on states to clean the air, particularly in polluted urban areas. The Clean Air Act requires that in counties with serious or worse ozone problems, several steps be taken to reduce emissions, including implementing an enhanced I/M program. The only areas in this Commonwealth classified under the 1990 Clean Air Act amendments as having a serious or worse ozone problem are the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, also referred to as the "five county Philadelphia area."

However, the 1990 amendments to the Clean Air Act also created the Northeast Ozone Transport Region. An ozone transport region is a group of states or parts of states that adjoin each other and that comprise a geographical area where air currents carry pollution from one part of the region to another, thus affecting the air quality of neighboring areas. States in this ozone transport region, which includes Pennsylvania, must implement enhanced I/M programs regardless of the quality of the air in those counties, if the area meets a certain population threshold of 100,000 or more. As a result, Pennsylvania must implement an enhanced I/M program in 25 counties, not just the five county Philadelphia area.

The Clean Air Act also requires each state to submit a State Implementation Plan (SIP) which details how the state will control all types of pollutants, including mobile source pollutants, and how the state will achieve and maintain clean air standards. One of the key elements of the SIP is the I/M program, since it provides for control of a major source of pollution and can achieve results soon after it is implemented. An effective I/M program will also

help offset growth in vehicle use and miles travelled and allow for new industrial growth that might cause additional pollution.

Vehicles depend on properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly, and the Environmental Protection Agency (EPA) estimates that the average car on the road emits 3 to 4 times the amounts of pollutants permitted by new car standards. Since major malfunctions in the emission control system can cause emissions to skyrocket, the EPA has also estimated that 10% to 30% of vehicles cause the majority of the vehicle related pollution problem.

An I/M program achieves its objective by identifying vehicles that have high emissions of pollutants as a result of one or more malfunctions, and by requiring these vehicles to be repaired. An enhanced I/M program covers more model years of vehicles operated in an area, identifies high emitting vehicles and has additional or "enhanced" features to assure that vehicles are tested properly and are effectively repaired. The Clean Air Act directed the EPA to establish minimum performance standards for an enhanced I/M program.

Section 182(c)(3) of the Clean Air Act (42 U.S.C.A. § 182(c)(3)), required the EPA Administrator to publish guidance in the *Federal Register* for enhanced I/M which includes a performance standard achievable by a model or benchmark program combining emission testing, including on-road emission testing, with visual inspection to detect tampering with emission control devices and misfueling for certain passenger vehicles and light duty trucks; and program administration features necessary to reasonably assure that adequate management resources, tools and practices are in place to attain and maintain the performance standard.

The Clean Air Act further specifies that each enhanced I/M program shall include, at a minimum, computerized emission analyzers; on-road testing devices; denial of waivers for warranted vehicles or repairs relating to tampering; a \$450 expenditure to qualify for waivers for emissions-related repairs not covered by warranty; enforcement through registration denial unless an existing program with a different mechanism can be demonstrated to have greater effectiveness; annual inspection unless a state can demonstrate that less frequent testing is equally effective; centralized testing unless the state can demonstrate that decentralized testing is equally effective; and inspection of the emission control diagnostic system. These are required design elements of each enhanced I/M program, not merely of a model or benchmark program. In addition, each enhanced I/M state must biennially submit to EPA a comprehensive evaluation of program effectiveness, including an assessment of emission reductions achieved by the program. Enhanced I/M programs must achieve minimum emission reductions of volatile organic compounds and oxides of nitrogen from vehicles in the affected ozone nonattainment areas and emission reductions of carbon monoxide in the affected carbon monoxide nonattainment areas.

When the amendments to the Clean Air Act were enacted, the state-of-the-art technology was the BAR 90, the acronym used for the California Bureau of Automotive Repair's "Exhaust Gas Analyzer Specifications," an upgrade to the simple idle test used in most currently operating I/M programs. The BAR 90 specifications were

required for analyzer use in California to measure emissions of volatile organic compounds and carbon monoxide. The emissions stations currently operating in the ongoing Pennsylvania decentralized test and repair program are the BAR 80, the predecessor to the BAR 90.

On November 5, 1992, the EPA published the required guidance as a final rule containing the I/M program requirements (1992 Rule). According to the EPA, the concept of a performance standard provides affected states flexibility in designing an enhanced I/M program, as long as the numerical goal for emission reductions is attained. Except where mandated by the Clean Air Act, states may choose to vary any of the design elements of the model program provided the overall effectiveness is at least as great as the performance standard. The 1992 Rule detailed various requirements for design and implementation of all I/M programs. These included improved enforcement, quality assurance, quality control, test procedures, on-road testing and other aspects of the program.

In the 1992 Rule, the EPA stated that the simple idle test used in ongoing I/M programs has serious flaws. The idle test works well for pre-1981 carbureted, noncomputerized cars because typical emission control problems could be detected while the vehicle was idling. According to the EPA, today's high-tech cars, with sensors and computers that continuously adjust engine operations, are more effectively tested with procedures that include cycles of acceleration and deceleration. Sensor and computer operation and emissions must be tested during the high emission acceleration and deceleration driving modes to most reliably identify high polluting cars. At the same time, the EPA was of the opinion that the visual inspection of emission control devices is less relevant. This is because tampering and misfueling rates have declined significantly with the phase out of leaded gasoline and the difficulty of tampering with today's high-tech cars.

Another flaw identified by the EPA with the simple idle test is its inability to detect excessive evaporative emissions. Over the last several years, the EPA has learned that vapors which escape from various points in the vehicle fuel system present a huge source of hydrocarbon emissions, generally greater than tailpipe exhaust. No ongoing I/M program tests for these evaporative emissions. Therefore, in the 1992 Rule, the EPA would require implementation of two functional checks which determine whether vehicle evaporative emission control systems are operating properly: (1) a pressure check to find leaks in the fuel system, such as a bad gas cap or cracked evaporative system hose; and (2) a check of the purge system that removes gasoline vapors stored in the charcoal canister and routes them to the engine where they can be burned as fuel. The purge check is done during testing which takes place while the vehicle is in a driving mode because the purge system does not operate during idle.

Instead of requiring an upgrade to the BAR 90 in addition to the two functional tests, the 1992 Rule based its performance standard on a different test which required new equipment known as the IM 240, which simulates actual driving and allows measurement of tailpipe emissions and evaporative system purge. According to the EPA, the IM 240 also reliably identifies vehicles needing repair. The EPA noted that the IM 240 costs about \$140,000 per lane versus \$15,000 to \$40,000 for variations on the BAR 90. The EPA also noted that the time it takes from when a vehicle enters the test lane until the vehicle leaves is 10—15 minutes versus about 5 minutes for the simple idle test.

In its 1992 Rule, the EPA also announced its preference for centralized test-only networks for enhanced I/M programs. The 1992 Rule also contained a provision for case-by-case equivalency, in which emission reduction credits for test-and-repair networks are assumed to be 50% less than for a test-only network for the tailpipe emission test, purge test, evaporative system integrity test, catalyst check, and gas cap check; and 75% less for the evaporative canister checks, positive crankcase ventilation check, and air system checks. This meant that if a state chose to implement a test-and-repair I/M program, the EPA would automatically penalize the program design, and that the loss of emission reduction credits would have to be made up elsewhere in the program such as by testing more model years or more frequently. The EPA stated that smaller reductions and loss of credits for the various test protocols could be claimed if a state could demonstrate to the satisfaction of the EPA Administrator that, based on past performance with the specific test type and inspection standards employed, its test and repair system will exceed these levels. At a minimum, the 1992 Rule required that a demonstration include: (1) surveys that assess the effectiveness of repairs performed on vehicles that fail the tailpipe emission test and evaporative system test; (2) measurement of actual tampering rates, their change over time, and the change to finding and fixing such tampering as opposed to deference effects; and (3) undercover surveys of inspector effectiveness as it relates to identifying vehicles that need repair.

However, in its preamble to the 1992 Rule, the EPA stated that it believed

... it could not accept any of the currently operating decentralized programs as equally effective to centralized. With these effectiveness losses, it is not possible for a decentralized test and repair program to meet the performance standard for enhanced I/M, regardless of the test type and vehicle class coverage.

The EPA believed that significant changes were needed in the design and oversight of decentralized programs. The EPA suggested that tests were more likely to be performed correctly if the testing agent did not have any interest or involvement in the repair of vehicles. Another important consideration is oversight of the multitude of stations found in low volume decentralized programs. Extensive quality assurance efforts are necessary because of the greater number of stations and inspectors, limited oversight capability, greater incentive for improper testing and lack of effective enforcement mechanisms in many programs. Even very tightly designed and run quality assurance processes and decentralized systems do not insure that proper inspections do take place, that forms are adequately controlled, or that the program actually achieves estimated emission reductions. The EPA stated that while advanced analyzer technology, such as the BAR 90, may improve the effectiveness of decentralized testing, the analyzer alone would not eliminate the incentive for private station owners to perform tests improperly, or solve the quality assurance and oversight programs repeatedly identified in decentralized programs.

Given all of the hurdles the EPA was imposing on states that desired to implement a decentralized test-and-repair network to satisfy the enhanced I/M requirements, the Commonwealth proceeded with the EPA preferred IM 240 centralized test-only network under section 4706 of the Vehicle Code (relating to prohibition on expenditures for emission inspection program) A single contractor, Envirotest Systems, was selected to construct and operate 86 test-only locations in the 25 affected counties. A

vehicle would be required to use one of the Envirotest sites for the emissions test, go to a repair facility for any needed repairs, and then return to an Envirotest location for a retest. The test fee, determined in the contract between the Department and Envirotest, would have averaged \$17.20. The program as then proposed would have been a biennial program, testing approximately 5.9 million vehicles every 2 years. Compliance with the program was to have been ensured by registration denial: if an emissions test was not performed or if a waiver were not issued, the vehicle would not be permitted to be registered. Moreover, vehicle owners would have been required to spend at least \$450 in repairs before a waiver could be issued.

However, section 4706(c) of the Vehicle Code required the Department to cease implementation of the centralized, test-only system and move to consideration of either a totally decentralized or a hybrid testing network. A hybrid testing network would consist of elements of both test-only and decentralized test-and-repair stations.

The EPA thereafter announced in December 1994, that it would soon amend its 1992 Rule to establish separate "high" and "low" enhanced I/M performance standards for areas required to implement enhanced I/M programs, and on September 7, 1995, the EPA published its "Inspection Maintenance Flexibility (I/M Flexibility Rule) Amendments." The "high" standard would be the same as the performance standard originally established by the 1992 Rule. The "low" standard would be applicable to areas that could comply with the other Clean Air Act pollution reduction requirements and achieve attainment with a program that had less emission reduction requirements than the high performance standard. The EPA asserted that since the low standard would be considerably more lenient, states subject to it would have more flexibility in terms of the program that they would implement.

In addition to the new low performance standard, the EPA developed emission reduction credits for several other program concepts for which the EPA had never given emission reduction credits. These included credits for: (1) technician training and certification; (2) retest based hybrid I/M networks; and (3) alternate test equipment known as the ASM, an acronym for "Acceleration Simulation Mode." The technician training and certification concept offers additional emission reductions if a state adds certain elements to its program. The retest based hybrid and ASM approaches can be used to meet the high enhanced or low enhanced performance standard. However, the EPA maintained its preference for the IM 240 test-only centralized network, and its belief that a test-and-repair program, even with ASM, purge and full technician training credit, cannot meet or even come close to the high enhanced I/M performance standard. The main reason a decentralized test-and-repair network does not meet the high enhanced performance standard is because of the automatic 50% penalty imposed in the 1992 Rule.

The I/M Flexibility Rule also revised the high enhanced I/M performance standard to include a visual inspection of the positive crankcase ventilation valve on all passenger vehicles and light duty trucks for model years 1968 to 1971, inclusive, and of the exhaust gas recirculation valve on all passenger vehicles and light duty trucks for model years 1972 through 1983, inclusive.

The 1992 Rule required that states with enhanced I/M programs shall implement a \$450 minimum expenditure to qualify for a waiver when the I/M program starts in 1995. For emissions related repairs not covered by war-

ranty, the Clean Air Act requires a minimum expenditure of \$450 for vehicles to qualify for a waiver. The Clean Air Act also requires that the waiver limit be adjusted annually based on the consumer price index (CPI) with a base year of 1989. With the I/M Flexibility Rule, the EPA postponed full implementation of the enhanced I/M waiver requirements until July 1, 1998, to allow states time to reach the long term goals of the Clean Air Act. The EPA believed that the enhanced I/M program should be fully implemented by 1998, including the CPI adjusted \$450 waiver, which would enable areas to achieve the reductions contemplated by the program prior to the November 15, 1999, attainment deadline for serious ozone nonattainment areas. EPA also stated that the extension of the waiver deadline will give states the opportunity to improve technician training so that by 1998, the majority of vehicles would be repaired for well below the CPI adjusted \$450 minimum waiver amount.

Later in September of 1995, the EPA issued a notice of proposed rulemaking for Inspection and Maintenance Ozone Transport Region Flexibility Amendments (OTR I/M). The proposed OTR I/M rulemaking may revise the I/M requirements by adding a special low enhanced performance standard for qualified areas in ozone transport regions. This additional performance standard would apply to attainment, marginal and moderate ozone nonattainment areas in the OTR. The OTR low enhanced performance standard model program would consist of the following elements: annual testing of 1968 and newer light duty vehicles and light duty trucks; on-board diagnostic (OBD) checks for 1996 and newer vehicles; remote sensing of 1968 through 1995 vehicles; catalyst checks on 1975 and newer vehicles; and PCV valve checks on pre-1975 vehicles. The EPA is still in the process of evaluating the emission impact of the OTR I/M rule.

On November 28, 1995, the NHS Act was enacted. The NHS Act specifically addresses the 50% penalty. Section 347 of the NHS Act states that "the Administrator of the Environmental Protection Agency shall not require adoption or implementation by a state of a test only IM 240 enhanced vehicle inspection and maintenance program as a means of compliance with . . . [Enhanced IM requirement]." It further provided that the "Administrator shall not disapprove or apply an automatic discount to a state implementation plan revision . . . on the basis of a policy, regulation or guidance providing for a discount of emissions credits because the inspection and maintenance program and such plan revision is decentralized or a test and repair program."

The NHS Act permits, within 120 days of the date of its enactment, a state to submit a SIP revision proposing an interim inspection and maintenance program. The 120 days ends on March 27, 1996. The NHS Act requires the EPA Administrator to

. . . approve such program based on the full amount of credits proposed by the state for each element of the program if the proposed credits reflect good faith estimates by the state and the revision is otherwise in compliance with such Act. If, within such 120 day period, a state submits to the Administrator proposed revisions to the implementation plan, has all of the statutory authority necessary to implement the revisions, and has proposed a regulation to make the revisions, the Administrator may approve the revisions without regard to whether or not such regulation has been issued as a final regulation by the state.

The conference language accompanying the NHS Act recognized that the 1990 Clean Air Act Amendments included some specific requirements for enhanced I/M programs but, beyond these requirements, which did not include centralized testing or a particular testing technology, states were to be given broad latitude to design programs meeting a general performance standard. Accordingly, the NHS Act prevents the EPA Administrator from requiring states to use the test-only IM240 in enhanced I/M programs.

Another consideration for reevaluating the test equipment to be used is the increasing availability of on-board diagnostic equipped vehicles, or vehicles that have the ability to perform self-diagnosis of emissions problems. Section 202(m) of the Clean Air Act (42 U.S.C.A. § 7521(m)), directed the EPA to promulgate regulations requiring manufacturers to install OBD systems on all new 1994 and later model year light duty vehicles and light duty trucks. According to the EPA, these OBD systems will monitor emission control components for any malfunction or deterioration causing violations of any emission standards, and alert the vehicle operator to the need for repair. When a malfunction occurs, diagnostic information must be stored in the vehicle's computer to assist the mechanic in diagnosis and repair.

Since OBD equipped vehicles will not constitute a significant portion of the fleet for several years, the EPA expects existing I/M programs to identify and cause to be repaired those vehicles in all I/M areas which exceed the emission standard for that vehicle. The EPA does not attribute any emission reductions to OBD until the year 2005. By that year, the EPA estimates that roughly 73% of the in-use fleet will be OBD equipped, and an increasingly significant number of these will be reaching higher mileages where repairs will be more typically required. The EPA also estimates that the existing I/M test equipment will likely be aged to the point of requiring significant maintenance and perhaps replacement. Therefore, instead of potentially investing large sums of money in updating all their I/M test equipment, the EPA assumes that I/M programs will begin using a check on the OBD system to make pass/fail determination on OBD equipped vehicles during I/M inspection. Pre-OBD vehicles would continue to be subject to the enhanced I/M test discussed in this proposed rulemaking.

The OBD will save the consumer money. The EPA expects stations to reduce charges for vehicles which undergo an OBD I/M inspection, since the inspection would consist solely of a quickly conducted check of the OBD system for stored trouble codes. The reduction in time spent by repair technicians is expected to result in a reduction in labor costs and an overall reduction in the cost to repair many malfunctioning vehicles. In addition, the vehicles operate more efficiently when emission repairs are made.

By the year 2005, the EPA estimates that there will be roughly 65 million OBD equipped vehicles in 49-state I/M areas. The EPA has not been able to adequately quantify some potential cost savings, such as those savings associated with early repairs of malfunctions which, if left undetected and unrepaired, could result in the need for even more costly repairs in the future. Also, improved repair effectiveness should reduce the potential for a part to be unnecessarily replaced in attempting to fix a problem. Repair facilities should also benefit from the availability of generic tools for accessing and using the OBD system in problem diagnosis and repair. These service facility benefits could be passed along to the

consumer in the form of lower repair costs. While none of these cost savings have been quantified, all should reduce the cost of OBD implementation.

Since test technology is at the threshold of OBD implementation, the issue for the Commonwealth was what enhanced I/M program to implement, consistent with section 4706 of the Vehicle Code. Air quality monitoring results from the summer of 1995, establish that the Commonwealth cannot wait until OBD is here to upgrade its current I/M program. However, the Commonwealth did not want to require test-and-repair facilities to spend an exorbitant amount of money for test-and-repair equipment that the EPA estimates might very well be obsolete within the next decade. Thus, given that the structure of any enhanced I/M system may change over time, the IM 240 was rejected as unfeasible.

These proposed amendments contain the starting point to meet enhanced I/M program requirements with a totally decentralized test-and-repair network. The program outlined in these proposed amendments will affect approximately 5.9 million vehicles. Under the program, all test and repairs will be conducted on an annual basis, in conjunction with the existing annual safety inspections. A monetary cap for repairs will be phased in, beginning at \$150, for the first 2 years of the program. Many private garages will be available for testing, not just the limited number of 86 stations as originally proposed under the centralized testing program. The schedule for emissions inspections will be coordinated with annual safety inspections rather than with vehicle registration renewals. An emission inspection must be completed prior to undergoing a safety inspection. A certificate of emission inspection or sticker will be prominently displayed on the vehicle's windshield which can be readily observed by police officers as an enforcement measure.

The decentralized test-and-repair program will be phased in. Under the NHS Act, the enhanced I/M program must begin no later than 12 months after the EPA has approved the Commonwealth's I/M SIP, a decision on which the EPA expects to issue in July or August, 1996. EPA is requiring that the program be implemented in at least 9 counties by July or August, 1997. The counties that would be required to implement the program in 1997, are Beaver, Allegheny, Washington, Westmoreland, Bucks, Montgomery, Philadelphia, Delaware and Chester. The Department believes that it will have a test-and-repair network in place in time for those counties to have a program that meets the EPA requirements because these areas have an ongoing I/M program operating now. The counties of Lehigh and Northampton will continue with the current emissions program until 1999, when an enhanced system of emissions testing will be required to be implemented. The remaining 14 counties, which do not now have an emission program operating, also will have a program in 1999.

Counties which must meet the high enhanced performance standard are Philadelphia, Bucks, Montgomery, Chester and Delaware. The test procedure proposed to be used in those counties will be the Acceleration Simulation Mode (ASM) test procedure. The remaining 20 counties which must meet the low-enhanced performance standard are Allegheny, Beaver, Berks, Blair, Cambria, Centre, Cumberland, Dauphin, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Lycoming, Luzerne, Mercer, Northampton, Washington, Westmoreland and York.

The Department is proposing that there be no cap on the test fee that test-and-repair stations can charge for

the enhanced emissions test. While a cap on the test fee serves the purpose of ensuring that the fee is affordable to motorists, the Department believes that a cap artificially lowers the fee and may unintentionally encourage emissions facilities to fail vehicles that should pass just so that the station can recover the costs of performing the test. The safety inspection program, another inspection program managed by the Department, operates successfully without a cap on the fee that stations can charge for performing the safety inspection. As in the safety inspection program, the fee would not be set by the State but rather would be market-driven, and motorists would be able to select their preferred facility using criteria that are important to that particular motorist, such as location, price, and/or service. The Department expects market competition to keep the emissions test fee low.

The Department is not proposing that all vehicles be repaired until they pass the emissions test. Rather, as in the ongoing I/M program, a vehicle can be waived from passing the emissions test if it spends a minimum amount on emission-related repairs. The waiver amount in the current emission program is \$50 or \$25, depending on the age of the vehicle. However, there are few, if any, emissions related repairs that can be performed at these amounts. Since the purpose of the enhanced emissions program is to identify the vehicles that need repairs and have those repairs made, the Department is proposing that the waiver amount be set at \$150, for the first 2 years of the enhanced program. Thereafter, the waiver amount will be the minimum amount required by the EPA.

In addition, the Department intends to issue requests for proposals for data collection, quality assurance/audits, inspector/mechanic training, remote sensing and an overall program manager. These requests will be drafted to ensure that EPA requirements will be met.

An issue raised with the previously proposed centralized testing program was the lack of public input into the structure of the program. The Department and the Department of Environmental Protection have established ozone stakeholder groups in the southeast and the southwest parts of the state to work on specific solutions to the ozone problems in those regions. Accordingly, the Department expects and seeks significant public input into the final form of the program.

Section 4706(g)(3) of the Vehicle Code provides the necessary statutory authority to implement a totally decentralized test-and-repair enhanced I/M program. However, the Department will be seeking amendments to allow a visual component to the inspection, coordinate the emissions inspection to the safety inspection, as well as to permit the Department to charge certain fees: application fees to facilities and technicians, and a sticker fee to motorists. These fees would be remitted to the Department to enable the enhanced program to be self-supporting. These portions of the enhanced emissions program will not be implemented until enactment of the statutory amendments.

The following represents a summary of the significant provisions which are contained in these proposed amendments. Although the Department realizes that there is keen public interest in the arena of emission inspection and certainly wanted to canvas a broad cross-section of affected persons for their input in developing these proposed amendments, under the time constraints imposed upon the Commonwealth by the EPA and the National Highway System Designation Act of 1995, as part of the Commonwealth's SIP the Department must

submit an accompanying published, proposed rulemaking not later than March 27, 1996. Accordingly, the Department was not able to have the diversity of discussion and participation that is desired and felt necessary for proposing regulations of this magnitude. The Department, however, in an effort to alert a portion of the affected industry to the Department's proposed program and to solicit comment, met informally with the Service Station Dealers and Automotive Repair Association, and the Automotive Service Association of Pennsylvania. Further, the Department strenuously and earnestly invites comment on these proposed amendments.

Proposed §§ 177.21—178.23 (relating to implementation of the enhanced I/M program) explain the implementation procedure for the new I/M program. These sections provide for the current test program to cease as of the date specified by the Secretary of the Department by notice in the *Pennsylvania Bulletin*, and the enhanced emission inspection program to begin on a date designated by the Secretary by notice in the *Pennsylvania Bulletin*, or 60 days after the Secretary has certified the effective date of the commencement of the program by notice in the *Pennsylvania Bulletin*.

Proposed § 177.51 (relating to program requirements) provides an outline of the proposed enhanced I/M program. The program includes the establishment of a decentralized emission inspection network of privately owned and operated, Department-certified facilities. Subject vehicles and exhaust emission test types are established, including a visual inspection of the emission control devices or an antitampering inspection. The geographical areas subject to emission inspection are to be established by certification by the Secretary and are to be published in the *Pennsylvania Bulletin*.

Section 177.51(i) provides for the on-road or roadside testing of vehicles outside the normal enhanced I/M procedure and establishes that subject vehicle owners shall comply with all emission related recall notices concerning their vehicles as a prerequisite to completing the emission inspection and registration process. Federal regulations require that enhanced areas are required to use on-road testing to evaluate the in-use performance of at least 0.5% of the vehicles subject to testing each year, and owners of vehicles found to be high emitters are to be required to pass an out-of-cycle follow-up inspection. Moreover, the EPA has stated that it intends to grant extra emission credit for an enhanced I/M program that is designed to obtain significant reductions over and above those already achieved by other aspects of the program. Section 4706(g)(3) of the Vehicle Code requires the Department to "utilize the newest and most efficient technologies, including, but not limited to, remote roadside testing, identification and targeting of gross polluting vehicles and alternative equipment to existing inspection technology."

The Commonwealth also intends to seek statutory authority to have visual inspections performed as part of the emissions test. In the 1992 Rule, the EPA had exempted older vehicles from the IM240, visual inspections and evaporative systems checks. The EPA also had stated its intent to not enforce the requirement for visual inspections. Section 9 of the act of February 10, 1994 (P. L. 10, No. 2) deleted the Department's authority to require visual inspections. However, under the opinion of the Court of Appeals for the District of Columbia Circuit, *Natural Resource Defense Council v. EPA*, 22 F.3d 1125 (D.C. Cir. 1994), the EPA was required to establish an enhanced I/M performance standard that was "the prod-

uct of two different kinds of testing," including a visual and an emission test. Since EPA's 1992 Rule included only one test, a steady-state, idle-based tailpipe test on vehicle model years 1968 through 1983 and did not require a visual inspection of those cars, the Court found that the 1992 Rule fell short of complying with the letter of Clean Air Act for those model years. The EPA amended the enhanced I/M performance standard to include the required visual checks, and these proposed amendments are drafted to be consistent with the visual inspection requirements.

Accordingly, the Department reserved § 177.51(l), relating to program requirements, to address the visual inspection component of the enhanced I/M test. If the Department is successful in receiving the necessary statutory authority, § 177.51(l) subheading would be entitled emissions control device inspection," and would state as follows: "A visual emission control device inspection shall be administered as specified in § 177.205 (relating to visual emission control device inspection)." The Department also has reserved § 177.205 relating to the visual emission control device inspection. This reserved section would address the EPA requirement as follows:

§ 177.205. Emission control device inspections.

(a) Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(b) Visual inspection of the positive crankcase ventilation valve on 1968 through 1971 model years, inclusive, and of the exhaust gas recirculation valve on 1972 through 1983 model year vehicles, inclusive.

According to the EPA, tampering surveys have shown that these emission control devices have been tampered with or inadequately maintained. A visual check can identify such problems and emission reductions can occur on individual cars as a result of repairs to these devices.

Proposed § 177.101 (relating to subject vehicles) identifies all vehicles subject to emission inspection. Subject vehicles include all gasoline powered vehicles with a gross vehicle weight of 9,000 pounds or less, which are registered in or are required to be registered in an I/M area. This includes leased vehicles that are registered or titled in the name of someone other than the lessee or user. Other subject vehicles include vehicles owned or leased by civilian or military personnel and operated on Federal installations located within an I/M area, regardless of where the vehicles are registered. Vehicles exempted from this requirement are tactical military vehicles and vehicles operated by personnel visiting the base for less than 60 days per calendar year.

Each Federal installation is required to provide proof to the Department that all vehicles operated on the installation comply with this section. The Federal installation can determine compliance by accepting proof from each vehicle owner that the vehicle has passed an emission test at a Pennsylvania emission inspection site or through any other I/M program deemed acceptable by the Department.

The Department specifically seeks comment on whether certificates of compliance with a required emission program issued by another state should be accepted by the Commonwealth in lieu of requiring a another emission test in the affected area. Proposed § 177.106 (relating to inspection of vehicles registered in this Commonwealth but operated outside this Commonwealth) permits the owner or operator of a subject vehicle registered in this Commonwealth, but operated outside this Commonwealth or not present in this Commonwealth at the time of the

expiration of the subject vehicle's emission inspection, to submit to the Department proof of inspection from another state. The Department will accept the inspection if that state's I/M program is comparable to the Commonwealth's I/M program. The Commonwealth currently does not accept any other state's certificate of compliance with a safety inspection program as equivalent to the safety inspection program conducted by the Commonwealth.

The Department specifically seeks comments on whether the Commonwealth should certify emission repair technicians as opposed to recognizing them. As proposed, § 177.107 (relating to repair technician training) provides that the Department will establish a voluntary repair technician training program. Persons successfully completing all phases of the training program and passing all testing requirements would qualify as "recognized repair technicians." However, the Department's preference is to certify repair technicians, which would require specialized training to have been completed. Effective repairs are the key to achieving the goals of the enhanced emission program. The EPA encourages states to establish repair technician and repair certification programs. Emphasizing training requirements increases the probability that vehicles that need repairs will be repaired.

The EPA intends to work with any state that is interested in pursuing a technician training and certification program to assign a level of emission reduction credits that is appropriate to the type and level of effort involved and the potential for getting a given fraction of vehicles repaired by trained technicians. According to the EPA, any state that requires training and certification of all technicians and requires vehicles to be repaired by trained technicians, can claim full emissions reduction credit. In an effort to meet both the high and low enhanced performance standards, the Department needs to receive full emission reduction credit for its proposed technician training requirements. The Department specifically seeks comment on the following training related issues: whether a facility should have a minimum number of technicians trained and certified; the type of training program used; the incentives to technicians to use the training; the availability of proposed diagnostic equipment; whether the BAR 80 should be used as diagnostic equipment; the incentives for vehicles owners to patronize facilities employing trained and certified technicians, and whether training and certification is mandatory or voluntary. The Department does not intend to establish certification standards but intends to approve those persons that have completed a Nationally recognized emission repair course and/or examination.

Proposed §§ 177.201—177.205 (relating to general) describe the various emission test procedures and list the standards for each model year and weight class of subject vehicle. These are based on test procedures and standards established in 40 CFR Part 51.

The following are two types of emission tests established by these proposed amendments:

(1) An idle test for all model year subject vehicles everywhere except the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia. This is because the Commonwealth can meet the low enhanced performance standard with idle testing.

(2) An ASM test for all model year subject vehicles. This test will be used only for the subject vehicles registered in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia. The Commonwealth can-

not meet the required high enhanced performance standard in these counties with the BAR 90, so a more sophisticated test is required.

Proposed §§ 177.231—177.233 (relating to recall provisions) describe the requirement that subject vehicle owners shall comply with all emission related recall notices issued by vehicle manufacturers. This includes recall notices for modifications that the manufacturer must make and those that are voluntary. Mandated modifications are those that a vehicle owner must have done to keep the vehicle warranty in effect, while voluntary recall notices include suggested repairs or modifications that may not affect the vehicle warranty. The owners or lessees of subject vehicles that have received recall notices must show proof to the emission inspection station that they have completed all recall requirements before the emission inspection process can be accomplished. Lists of vehicles affected and the recall notices will be provided to the Department by the EPA or by the vehicle manufacturers.

Proposed §§ 177.251—177.253 (relating to the emission inspection test report) provide that the owner or driver of a vehicle that has received an emission inspection shall be given a computer-generated record of the test results by the emission inspection station, including the name and identification number of the emission inspector, the type of test performed, the test standards and test results. For vehicles that fail the test, it will include information on the possible causes of the failure and warranty coverage for the vehicle.

Proposed §§ 177.281 and 177.282 (relating to issuance of waiver) establish the procedure for the issuance of a certificate of waiver. A waiver may be issued to a vehicle that has failed the emission inspection if all qualifying repairs have been completed and the subject vehicle has failed the retest. All emission controls, as originally equipped, shall be installed, unless the devices are obsolete and cannot be obtained through original equipment or aftermarket manufacturers or used parts suppliers. Although the Clean Air Act provides that an expenditure of an amount of \$450 or more for emission-related repairs is necessary to qualify for the waivers, the EPA implementing regulations allow for a phase-in of that waiver until January 1, 1998.

The Department proposes an initial waiver amount of \$150 for the first 2 years of the enhanced I/M program. Thereafter, the waiver amount shall be at least \$450 adjusted annually thereafter based on the Consumer Price Index as specified by the EPA. The Department anticipates starting the program in July or August, 1997, in Beaver, Allegheny, Washington, Westmoreland, Bucks, Montgomery, Philadelphia, Delaware and Chester Counties. The remaining 16 counties of Berks, Blair, Cambria, Centre, Cumberland, Dauphin, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Lycoming, Luzerne, Mercer, Northampton and York, will have a program in 1999.

Expenses that may not be counted toward the waiver total include costs of repair, adjustment or replacement of emission control devices that have been tampered with or are missing or are not installed. In addition, costs that are recoverable under an emission warranty, insurance policy or prepaid maintenance agreement may not be included in the waiver total.

The EPA permits a time extension, not to exceed the period of the inspection frequency, to be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met.

After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle must be tracked and reported by the program. Because the enhanced I/M testing requirements are annual, the Department has not included a hardship exception in these proposed amendments. The Department has reserved § 177.283 to address the hardship exemption.

Proposed §§ 177.301—177.305 (relating to on-road testing) establish that the Department will conduct on-road tests of vehicles outside the normal emission inspection station procedure. This testing may include the use of remote sensing devices that measure the exhaust emissions of vehicles being driven past the test device and may also record images of those vehicles' license plates. It may also include tailpipe exhaust testing of a subject vehicle stopped for a roadside check. The Clean Air Act requires on-road testing to be part of the overall enhanced I/M program. As of this date, the EPA has not issued guidance on how states should employ remote sensing technology or address its current limitations and possibilities. The Department reserved § 177.303 to address the on-road testing component.

Proposed § 177.304 (relating to failure of on-road emission test) provides that the owner or operator of a vehicle that fails a roadside emission test has 30 days to have the vehicle pass an enhanced emission test, even if the vehicle bears a current certificate of emission inspection. If the Department does not receive notification of a passed test or a waiver, the Department, under § 177.305 (relating to failure to produce proof of correction of on-road emission test failure) will recall the registration of the vehicle.

Proposed § 177.401 (relating to appointment) delineates the certification requirements for official emission inspection stations. These include authorization by the Department as an official emission inspection station, the posting of a sign stating the fee for an emission inspection and the notification that no additional charge will be made for one reinspection within 30 days if the vehicle fails the initial inspection. Each station must also maintain a list of emission inspectors.

The Commonwealth intends to pursue additional statutory authority which would permit the Department to charge a fee to stations that wish to be appointed as an official emissions inspection station. Predicated on receiving the necessary statutory authority, the Department will charge \$100 as part of the application process.

Section 177.408 (relating to certified emission inspectors) sets forth the requirements to be certified as an emission test inspector. The Department will certify all emission inspectors and all emission tests shall be conducted by certified emission inspectors.

Proposed § 177.408(f) limits the number of emission inspections that can be performed on a daily basis by the same certified emission inspector. The number of inspections may not exceed 4 per hour per inspector. It is the Department's opinion that there are a limited number of inspections that can be performed properly by a single emission inspector in a given length of time.

Proposed § 177.421(a)(4) (relating to obligations and responsibilities of station owners/agents), provides that the enhanced emission inspection station keep, for a period of 2 years, all emission inspection records at the station for examination by the inspection station investigator or other authorized persons. The emission inspection records shall include, but not be limited to, the

records identified at § 177.421(a)(5)—(9), (11)—(13) (relating to general emission inspection station). The Department does not believe that keeping these records will be burdensome because the test equipment and procedures required will compile most of this information automatically.

Proposed § 177.426(d) (Reserved), will refer to a sticker fee, the Department intends to pursue additional statutory authority to permit a certificate of emission inspection or sticker fee to be charged by the participating stations for the enhanced emission inspection program to be self-supporting. Presently, there is no sticker fee for the emission inspection program, but there is a \$2.00 sticker fee for the safety inspection program. The Department expects the enhanced emission program to cost between \$8 and \$10 million annually. Inspecting approximately 5.9 million vehicles and receiving \$2.00 per vehicle would generate approximately \$11,800,000 in revenue. Stations would be permitted to charge the fee back to its customers. If the Department is successful in obtaining statutory authority, then the rule regarding this fee will be incorporated in § 177.426(d).

Proposed § 177.431 (relating to quality assurance), establishes that the Department will conduct performance audits on the emission inspection facilities on a periodic basis. These will include both overt (announced) and covert (unannounced) audits. During the overt audits, Department quality assurance officers will check to see that proper inspection and recordkeeping procedures are followed. They will also evaluate the security practices concerning certificates of emission inspection and waiver. The EPA believes that a strong covert audit program is also necessary to insure the effectiveness of any emission inspection program. Thus, the Department will conduct covert audits of the emission inspection stations that may include visual observation of inspection station personnel. Department personnel may also make site visits using covert vehicles to determine whether the vehicles are inspected correctly. Other authorized Commonwealth agents, such as personnel from the Office of Attorney General or the State Police, may also conduct audits of operations and records.

Proposed § 177.501 (relating to equipment approval procedures) provides the obligations and responsibilities of station owners/agents chosen by the Department to participate in the decentralized emission inspection program. The station owner/agent is responsible for the actions of all personnel during the operation of the emission inspection program. This includes responsibility for all emission inspections performed, the issuance and security of all certificates of emission inspection and waivers, maintenance and calibration of all emission inspection equipment and violations of the emission inspection regulations by employees. This section also requires the station owner/operator to maintain good customer relations with motorists using the inspection facilities, and to be courteous and patient when explaining the requirements and procedures relating to emission inspection. The station owner/agent shall provide the Department with data on all emission tests performed. The Department will use this data to update necessary records and to monitor the enhanced I/M program. Periodic reports will also be prepared for the EPA using the test data.

Proposed § 177.503(b) (relating to performance commitment) requires that a bond, in an amount of \$1,000,000 initially and an additional \$400,000 for every 250 analyzers sold to Pennsylvania licensed emission inspection

stations, be furnished by equipment manufacturers and approved service providers in an amount equal to the replacement value of the equipment used in the enhanced I/M program. The bond is to ensure proper performance by the equipment as well as to protect the emission station that purchases equipment or a service contract, or both.

Proposed §§ 177.602—177.605 (relating to the schedule of penalties and suspensions) establish a schedule of penalties to insure proper conduct of the enhanced I/M program by the emission inspection station and the emission inspectors. There are separate classes of penalties, graduated by severity of offenses, for emission inspection stations and emission inspectors. Monetary fines are provided for as required by 40 CFR Part 51, and permitted by section 4706(b.1)(v) of the Vehicle Code.

The Department believes that the more severe penalties should be accorded to those offenses in which fraud is committed or there is deliberate action on the part of the emission station or inspector to deviate from the requirements of the enhanced emission program.

Proposed §§ 177.651 and 177.652 (relating to the Departmental hearing procedure) provide a Departmental hearing procedure for a person charged with violation of the requirements of this chapter. The hearing will be conducted by Department personnel and will be similar to the hearing process used in the current safety and emissions inspection programs.

Proposed §§ 177.671 and 177.672 (relating to restoration after suspension) set forth the procedure to permit the restoration of emission inspection privileges to emission inspectors who have been suspended. The sections require that, for the more serious violations, the certification will not be restored unless the emission inspector obtains classroom instruction and passes a written test and a hands-on test. The proposed sections also requires that an emission inspection station will have to re-apply to have its privileges restored, complete with another application fee.

Section 177.691 (relating to Registration Recall Committee) provides the composition of the Registration Recall Committee and establishes the grounds upon which the Committee may make a determination to recall a vehicle registration. It also provides the appeal procedure to a recall of a vehicle registration.

#### *Persons or Entities Affected*

These proposed amendments will affect approximately 5.9 million vehicle owners in designated areas of this Commonwealth, which is an increase from the 3.2 million vehicle owners currently affected by the present emission inspection program. These proposed amendments will also affect owners and operators of the existing emission inspection and repair stations and the current emission inspectors as well as safety inspection stations in I/M areas where emission tests are not performed under the present emission inspection program. However, existing safety inspection station owners, operators and mechanics will be able to continue to perform vehicle safety inspections and repairs without being required to also perform emission inspections.

#### *Fiscal Impact*

These proposed amendments will impose costs on State and local governments as a consequence of emission inspection and possible repair of their vehicles. EPA estimates the equipment required for IM240 enhanced



testing will cost approximately \$140,000 per inspection lane versus \$15,000 for the BAR 90 and \$40,000 for the ASM.

These proposed amendments will impose additional costs on vehicle owners. Since the Department is not proposing to place a cap on the enhanced emission inspection fee, the initial cost of the fee is estimated to be higher than the current fixed charge of \$8.00 in this Commonwealth's existing emission inspection program. In addition, there is a higher cost/waiver limit. Upon failing the initial test, vehicle owners will be required to spend up to \$150 to bring their vehicles into compliance. It is the EPA's opinion, however, that only a small percentage of these vehicles will be unrepairable within the waiver expenditure requirement and that the average cost for repairs will range between \$38 and \$120. The EPA also estimates that fuel cost savings that result from the repairs will offset a considerable portion of these costs. The purpose of the enhanced emission program is to clean up the air, and identifying those vehicles that excessively pollute and repairing them to acceptable levels is will benefit the Commonwealth. Not only will the Commonwealth avoid the loss of its Federal highway funds, but the formation of ground level ozone will be reduced. Ground level ozone can cause throat irritation, congestion, chest pain, nausea, labored breathing and respiratory problems. It is particularly harmful to older people and those individuals with chronic heart and lung conditions. The United States Congress Office of Technology Assessment estimates that the reduction of ozone to meet the clean air health standards will result in the elimination of many millions of incidents of respiratory symptoms annually.

On August 31, 1994, a final Federal rule was published in 59 FR 44936 which conditionally approved the November 3, 1993, Pennsylvania SIP submittal for a centralized, test-only enhanced I/M program. The first two conditions of the conditional approval were required to be fulfilled by December 31, 1994. The first two conditions for approvability were as follows: (1) by December 31, 1994, the Commonwealth was required to submit to the EPA as a SIP revision, the *Pennsylvania Bulletin* notice which certified the geographic areas which were subject to the enhanced I/M program, and certified the commencement date of the enhanced I/M program and (2) by December 31, 1994, the Commonwealth was required to submit to the EPA as a SIP amendment, the amendments to the Pennsylvania I/M regulation, 67 Pa. Code §§ 178.202—178.204 which require the EPA approval prior to implementation of any alternate purge test procedure and incorporated the test standards and procedures found in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications," EPA-AA-EPSPD-IM-93-1, April 1994.

The proposed Federal final rule stated that if the Commonwealth did not submit, by December 31, 1994, a SIP revision in response to the first two conditions of the approval action, the conditional approval would convert to a disapproval. The Commonwealth did not submit a SIP revision. The EPA notified the Commonwealth by an April 13, 1995, letter that the conditional approval of the Pennsylvania enhanced I/M SIP had been converted to a full disapproval in accordance with section 110(k)(4) of the Clean Air Act. This action taken on April 13, 1995, started both the 18 and subsequent 6 month sanctions time periods or clocks and the 24-month Federal Implementation Plan clock. The Commonwealth must submit and the EPA must take rulemaking action to approve an

enhanced I/M SIP by October 13, 1996, and April 13, 1997, respectively, in order to halt these sanctions and Federal Implementation Plan clocks.

However, under section 348 of the National Highway System Designation Act of 1995, the EPA can no longer disapprove an I/M State Implementation Plan based on the 1992 Rule providing for a default discount for test-and-repair I/M programs nor can the default discount be applied to any plan. Second, the EPA is required to approve, on an interim basis, SIPs that claim emission reduction credits that reflect "good faith estimates." The National Highway System Designation Act of 1995 has stringent timing requirements: the Commonwealth has until March 27, 1996, to submit to the EPA a revision to the SIP describing its enhanced decentralized test-and-repair program. If this plan is not submitted on time, the Commonwealth loses the opportunity to avoid the automatic default discount, which would make it more difficult for the Commonwealth to submit an approval SIP revision in time to avoid sanctions.

There are two sanctions. The first is the loss of Federal highway funds, except for certain specified highway projects. For Pennsylvania, this could mean the loss of up to \$900 million per year in highway funding. The second sanction is the requirement for a two-for-one emissions offset for new sources of pollution in areas that fail to meet the health-based air quality standards. This means that if a new factory generating 50 tons of pollutants per year was to be built in an affected area, a source or sources that generate at least 100 tons of pollution would have to be closed. The sanctions are mandatory. The EPA must impose one of the sanctions initially, upon a finding by the EPA that a state has failed to meet a requirement of the Clean Air Act. The second sanction must be imposed after 6 months if the state has still not complied with the requirements during that time period. The imposition of either or both of these sanction will seriously hinder economic development in the Commonwealth and could impede any economic recovery.

The cost to the Commonwealth to implement an enhanced I/M program has been estimated for an expanded, decentralized I/M program. First year start-up costs associated with a decentralized program are estimated at \$10 million and \$8 million annually thereafter. The Commonwealth intends to recover these costs through revenues generated by sticker sales.

All efforts associated with creating and maintaining an enhanced I/M program will be structured to achieve environmental benefits in a cost effective manner, ensuring consistency with national energy and economic policies.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of these proposed amendments on March 4, 1996, to Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting these proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The

notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Sunset Date

The Department is not establishing a sunset date for these proposed amendments since the amendments are needed to administer provisions required under the Vehicle Code. These proposed amendments will be continuously monitored for effectiveness by the Department.

Interested persons are invited to submit written comments, suggestions or objections regarding these proposed amendments to the Director, Bureau of Motor Vehicles, Room 104, Transportation and Safety Building, Harrisburg, PA 17120.

Contact Person

The contact person for these proposed amendments is Peter L. Gertz, Vehicle Control Division, Room G-134, Transportation and Safety Building, Harrisburg, PA 17120, (717) 787-2895.

BRADLEY L. MALLORY, Secretary of Transportation

Fiscal Note: 18-336. (1) Motor License Fund—Transportation; (2) Implementing year 1997-98 is \$10,000,000; (3) 1st Succeeding Year 1998-99 is \$8,000,000; 2nd Succeeding Year 1999-00 is \$8,000,000; 3rd Succeeding Year 2000-01 is \$8,000,000; 4th Succeeding Year 2001-02 is \$8,000,000; 5th Succeeding Year 2002-03 is \$8,000,000; (4) FY 1995-96 \$New Program; FY 1994-95 \$New Program; FY 1993-94 \$New program; (8) recommends adoption.

The costs of implementing this regulation may be offset if legislation to authorize the sale of emission certificates or "stickers" and to authorize the imposition of a fee for certification of emission inspection stations or emission inspectors, or both, is passed.

Annex A

TITLE 67. TRANSPORTATION DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VII. VEHICLE CHARACTERISTICS

CHAPTER 177. ENHANCED EMISSION INSPECTION PROGRAM

Subch.

- A. GENERAL PROVISIONS
B. SUBJECT VEHICLES
C. EMISSION TEST PROCEDURES AND EMISSION STANDARDS
D. OFFICIAL EMISSION INSPECTION STATION REQUIREMENTS
E. EQUIPMENT MANUFACTURERS' AND CONTRACTOR'S REQUIREMENTS AND OBLIGATIONS
F. SCHEDULE OF PENALTIES AND HEARING PROCEDURE

Subchapter A. GENERAL PROVISIONS

GENERAL

- Sec. 177.1. Purpose.
177.2. Application of equipment rules.
177.3. Definitions.

IMPLEMENTATION OF ENHANCED EMISSION INSPECTION PROGRAM

- 177.21. Cessation of current vehicle emission inspection program.
177.22. Commencement date.
177.23. Notification of requirement for emission inspection.

ENHANCED I/M PROGRAM

- 177.51. Program requirements.
177.52. Emission inspection prerequisites.
177.53. Vehicle inspection process.

GENERAL

§ 177.1. Purpose.

This chapter implements elements of Part IV of the Vehicle Code, 75 Pa.C.S. §§ 4531, 4701, 4702, 4706, 4707 and 4721.

§ 177.2. Application of equipment rules.

Equipment rules apply to subject vehicles operated on a highway, unless specifically exempted by this chapter.

§ 177.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ASM test—Acceleration Simulation Mode test—A type of transient or "loaded" mode emission test, utilizing a dynamometer, which simulates driving a vehicle at a predetermined speed and driving condition.

Antique motor vehicle—A motor vehicle, which displays a current antique motor vehicle registration plate issued by the Department, and which is consistent with the definition of "antique motor vehicle" as provided in section 102 of the Vehicle Code (relating to definitions).

Approved exhaust emission analyzer—An instrument, developed for measuring the hydrocarbon, carbon monoxide, carbon dioxide or oxides of nitrogen emissions from the exhaust system of a vehicle, which meets required emission analyzer specifications and program requirements and has been approved by the Department under § 177.406(b) (relating to tools and equipment).

BAR 90—The acronym used for the California Bureau of Automotive Repair's "Exhaust Gas Analyzer Specifications" provided in 1990, for the testing and documentation of technical specifications required for the approval of analyzer use in California for the measurement of hydrocarbon and carbon monoxide emissions. These specifications, including performance criteria, design characteristics, instrument evaluation procedures and documentation, warranty requirements and logistics must be met or surpassed for an exhaust gas analyzer to be considered equivalent to the BAR 90 exhaust gas analyzer. Copies of the BAR 90 specifications may be obtained from the Department of Consumer Affairs, Bureau of Automotive Repair, California Vehicle Inspection Program, 3116 Bradshaw Road, Sacramento, California 95827. A fee for this document may be required.

BAR 80—The acronym used for the California Bureau of Automotive Repair's "Exhaust Gas Analyzer Specifications: 1979" provided in 1980 for the testing and documentation of technical specifications required for the approval of analyzer use in California for the measurement of hydrocarbon and carbon monoxide emissions.

Bureau—The Bureau of Motor Vehicles of the Department of Transportation of this Commonwealth.

Business day—Each day in which an appointed emission inspection station is open for business, excluding Sundays and selected State holidays determined by the Department.

CO—Carbon monoxide—A colorless, odorless gas formed by incomplete combustion of carbon, including gasoline. It is considered a mobile source pollutant.

*CO<sub>2</sub>—Carbon dioxide*—A colorless, odorless incombustible gas formed during respiration and combustion.

*Certificate of emission inspection*—A serially numbered sticker that, when affixed to the windshield of a vehicle, indicates that the vehicle has passed an emission inspection consistent with this chapter.

*Certificate of waiver*—An official Department document indicating that the requirement of passing emission reinspection has been waived for a vehicle under § 177.291 (relating to certificates of emission inspection procedures).

*Certified emission inspector*—A person who holds a valid certification card issued by the Bureau which certifies that the person is qualified and has passed the requirements to perform enhanced emission inspections on subject vehicles in an appointed emission inspection station.

*Classic motor vehicle*—A motor vehicle, but not a reproduction thereof, which displays a current classic motor vehicle registration plate issued by the Department and meets the definition provided in section 102 of the Vehicle Code.

*Commonwealth emission inspection station*—An inspection station appointed to conduct enhanced emission inspections on subject vehicles owned by and engaged exclusively in the performance of the official duties of the Federal Government, the Commonwealth or a political subdivision of the Commonwealth.

*Consumer complaint emission inspection procedure*—The method provided for consumers who wish to have the results of the emission inspection verified at an inspection facility or lane operated under contract to the Department where the verification is supervised by a Department designated official.

*Decentralized inspection*—A system for vehicle enhanced emission inspections using privately owned and operated, Department-certified facilities to provide for vehicle emission testing or allowing for repairs, or both.

*Department*—The Department of Transportation of the Commonwealth.

*EPA*—The Environmental Protection Agency.

*Emission inspection*—The testing of the exhaust emissions of a subject vehicle, while it is running, for CO, HC or NO<sub>x</sub>, as required by Department procedures.

*Emission inspection test report*—A document automatically generated by the analyzer testing device once the testing cycle is completed. This document will be reviewed by a certified emission inspector before presentation to the owner or driver of the subject vehicle and will provide emission related inspection information, including the test standards and the actual test results for the subject vehicle.

*Enhanced emission inspection program*—A vehicle emission inspection program as defined by the EPA and includes computerized emission analyzers, on-road testing and inspection of vehicle emission control devices through a decentralized inspection program.

*Federal standard*—A minimum standard of vehicle or vehicle equipment performance issued under the National Traffic and Motor Vehicle Safety Act (15 U.S.C.A. § 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C.A. § 1901) or the Clean Air Act (42 U.S.C.A. § 1857).

*Field certified exhaust emission analyzer*—An approved exhaust emission analyzer certified by the manufacturer or distributor as being properly calibrated at the emission inspection station according to the manufacturer's specifications and Department procedures and capable of properly recording, storing and transferring test data.

*Fleet emission inspection station*—An inspection station appointed to inspect a minimum of 15 subject vehicles, space permitting, leased or owned and registered in the name of the person in whose name the certificate of appointment is issued.

*GVMR—Gross vehicle weight rating*—The value specified by the manufacturer on the Federal weight certification label as the loaded weight of a single vehicle.

*General emission inspection station*—An inspection station appointed to conduct emission inspections on subject vehicles.

*HC*—Hydrocarbon.

*Idle test*—A vehicle emission inspection test procedure for sampling exhaust emissions which requires maintaining the vehicle's engine speed in the idle range of rpms. The vehicle engine speed is set with the operational range of rpms as prescribed in 40 CFR Part 51, Subpart S, Appendix B(I) (relating to test procedures), and the exhaust gas emissions are measured within the single idle speed range.

*I/M*—Inspection/Maintenance.

*I/M area*—The geographic area which the Department has identified as an enhanced emission I/M program designated area. These areas are certified by the Secretary and published in the *Pennsylvania Bulletin*. Copies of the designations are available upon request.

*I/M indicator insert* (for safety certificate of inspection)—An insert containing an indicator in the background to be affixed to the safety certificates of inspection to indicate a requirement for an emission I/M inspection.

*I/M monthly insert* (for a certificate of emission inspection)—An insert to be affixed to the certificate of emission inspection to show the expiration date of the current emission I/M inspection.

*I/M registration indicator*—An indicator on the registration card which identifies the vehicle as a subject vehicle which shall be emission inspected annually.

*Inspection station investigator*—A person designated by the Department to investigate, inspect and supervise the operations of general, fleet, consumer complaint and Commonwealth emission inspection stations.

*Implement of husbandry*—A vehicle designed or adapted and determined by the Department to be used exclusively for agricultural operations and only incidentally operated or moved upon highways.

*Inspection area*—The area in which emission inspections shall be conducted.

*Light duty trucks*—Trucks weighing less than 6,000 pounds GVWR.

*Light duty vehicles*—Passenger cars or multi-purpose vehicles weighing less than 6,000 pounds GVWR.

*Limited fleet inspection periods*—Inspection periods in which approved fleet owners/lessors are required to emission inspect their vehicles, as specified in the Application for Fleet Stations form provided by the Department.

*NMHC—Nonmethane hydrocarbons*—A mobile source or exhaust pollutant for which the EPA has set allowable standards.

*OBD—On board diagnostic device*—monitors the performance of emission control equipment, the vehicle's fuel metering system and ignition system, and other equipment and operating parameters for the purpose of detecting malfunction or deterioration in performance that would be expected to cause a vehicle to fail emissions standards. When these problems are detected, a malfunction indicator lamp located in the dashboard of the vehicle will be illuminated.

*On-road testing device*—An exhaust gas analyzer capable of measuring vehicle exhaust gas content outside of the emission inspection station, while the vehicle is in motion on the road or at roadside.

*NO<sub>x</sub>—Oxides of nitrogen*—A mobile source or exhaust pollutant for which the EPA has set allowable standards.

*Qualified Commonwealth employe*—An individual, police officer or qualified Department employe, who has completed training in the inspection or weighing of vehicles as required by section 4704, 4981 or 8302 of the Vehicle Code (relating to inspection by police or Commonwealth personnel; weighing and measurement of vehicles; and powers and duties of department).

*Qualifying repairs*—Vehicle repairs necessary to correct the deficiencies which resulted in a vehicle's failure of the emission inspection test and which count toward the minimum dollar amount required before a waiver may be issued. For those repairs where repair or replacement of emission-related parts requires replacement of other non-emission related equipment constructed as one indivisible unit by the manufacturer, the total replacement costs or repair costs may be counted toward qualifying repairs.

*Quality assurance officer*—A person designated by the Department to investigate, inspect and supervise the operations of contractor-operated emission inspection stations and a vehicle dealer authorized to issue new vehicle emission certificates.

*Ppb*—Part per billion.

*Ppm*—Part per million.

*Rpm*—Revolution per minute.

*Recognized repair facility*—A business engaged in the diagnosis and repair of automotive engines and related systems, and one that has been issued or applied for a state sales tax identification number by the Commonwealth or another state jurisdiction.

*Recognized repair technician*—A person who has received and has proof of formal training in the diagnosis and repair of automotive engines and related systems, or holds a valid emissions certification certificate issued by the Department, or is employed by a recognized repair facility primarily for the purpose of diagnosing and repairing automotive engines and their related systems.

*Registration recall*—A formal action of the Department to withdraw, for an indefinite period, the vehicle registration of a vehicle owner or operator for failure to produce proof of correction or waiver of an on-road emission test failure.

*Residency exemption*—A document issued by the Department stating that a residency exemption application has been verified and approved, and that the vehicle listed is exempt from an emission inspection.

*Residency exemption application*—An application issued by the Department and used by a Commonwealth vehicle owner residing outside of a designated emission I/M program area to apply for an exemption from emission inspection when the owner has incorrectly received an I/M indicator on the registration card or registration renewal card.

*Secretary*—The Secretary of the Department.

*Special mobile equipment*—Vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including ditch digging apparatus; well boring apparatus; earth moving and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, snowplows, ditchers, graders, finishing machines, road rollers, scarifiers, earth moving carryalls, scrapers, power shovels and draglines; and self-propelled cranes and tractors, other than truck tractors. The term does not include house trailers; dump trucks; truck-mounted transit mixers, cranes or shovels; or other vehicles designed for the transportation of persons or property to which machinery has been attached.

*Street rod*—A motor vehicle, or a reproduction thereof, with a model year of 1948 or older which has been materially altered or modified by the removal, addition or substitution of essential parts and with a gross weight or registered gross weight of not more than 9,000 pounds.

*Subject emission control device*—The vehicle emission control devices, including the catalytic convertor, the fuel tank inlet restrictor and the exhaust gas recirculation (EGR) valve which are required to be inspected as part of the emission inspection program.

*Transient test*—A vehicle emission inspection test in which the vehicle is tested for exhaust emissions under conditions simulating actual on-road driving conditions. Testing equipment includes a dynamometer that permits simulation of driving and exhaust gas analyzer equipment that analyzes the exhaust gas emissions under various driving conditions.

*Two-speed test*—A vehicle emission inspection test in which the exhaust emissions are measured at two ranges of engine revolutions per minute (rpm) as prescribed in 40 CFR Part 51, Subpart S, Appendix B(II) (relating to test procedures—two speed idle test).

*Unsafe condition*—A defect, malfunction or condition which may expose an emission inspector to harm in the performance of an emission inspection of that vehicle.

*Vehicle Code*—75 Pa.C.S.

*Vehicle Control Division*—The division within the Bureau which administers vehicle equipment and inspection matters.

*Vehicle equipment standard*—A minimum standard for vehicle performance or vehicle equipment performance which meets the needs of vehicle safety, noise control or air quality control, and which is practicable and provides objective criteria.

*VIN—Vehicle identification number*—A combination of numbers or letters, or both, which the manufacturer assigns to a vehicle for identification purposes, or, if no VIN is present on the vehicle, which the Department may assign for identification and for registration purposes.

*Vehicle year*—The date of manufacture of a vehicle as specified by the VIN, or, if this number is not available or cannot be interpreted for the year, the annual production period of the vehicle as designated by the manufacturer.

### IMPLEMENTATION OF ENHANCED EMISSION INSPECTION PROGRAM

#### § 177.21. Cessation of current vehicle emission inspection program.

The vehicle emission inspection program which exists at *Pennsylvania Code* serial pps. 125257—125266, 140091—140094, 125271—125288, 153617—153620, 125291—125306, 182533 and 182554 will cease to be effective on a date designated by the Secretary by notice in the *Pennsylvania Bulletin* as provided in § 177.22 (relating to commencement date). Certificates of appointment issued to emission inspection stations in the program which exists at the *Pennsylvania Code* serial pages listed in this section will terminate on a date designated by the Secretary in the *Pennsylvania Bulletin*. Emission inspection stations in the emission inspection program which exists at the *Pennsylvania Code* serial pages listed in this section that elect not to be certified to conduct emission inspections under the enhanced emission inspection program shall submit emission inspection related material to Department personnel upon a final audit by the Department.

#### § 177.22. Commencement date.

The enhanced I/M program, as described in this chapter, will commence on a date designated by the Secretary by notice in the *Pennsylvania Bulletin*. The notice will provide affected motorists with at least 60 days notice. The Department may exercise discretion in the implementation of the enhanced I/M program with respect to phasing in the areas required to comply.

#### § 177.23. Notification of requirement for emission inspection.

The Department will notify the owner or lessee of a subject vehicle that is required to have an enhanced emission inspection test.

### ENHANCED I/M PROGRAM

#### § 177.51. Program requirements.

(a) *Network type*. Testing shall be performed through a decentralized system of privately owned and operated, Department-certified facilities.

(b) *Test-and-repair*. Emission inspection stations may conduct both testing and repairing of subject vehicles.

(c) *Annual inspection*. Subject vehicles shall be inspected annually in coordination with safety inspection according to procedures established by the Bureau. A safety inspection for a vehicle subject to an emission inspection may not be initiated until the subject vehicle has passed an emission inspection or received a waiver as provided in § 177.281 (relating to issuance of waiver). Safety inspection stations are not required to conduct emission inspections to maintain certification as safety inspection stations.

(d) *I/M areas covered*. The Department will establish areas of this Commonwealth which are subject to an emission inspection by certification of the Secretary of the need to comply with Federal law and will publish the certification as a notice in the *Pennsylvania Bulletin* listing the I/M areas.

(e) *Model year coverage*. Subject gasoline-powered motor vehicles with a model year of 1975 and newer are subject to an emission inspection.

(f) *Exhaust emission test types*. The following test types will be administered to the appropriate model years and fuel types:

(1) ASM emission testing of 1975 and newer vehicles, utilizing test equipment and procedures as specified and approved by the EPA, for vehicles registered in the following counties:

- (i) Bucks.
- (ii) Chester.
- (iii) Delaware.
- (iv) Montgomery.
- (v) Philadelphia.

(2) Idle testing of subject vehicles as described in 40 CFR Part 51, Subpart S, Appendix B (relating to test procedures), which is adopted by reference, shall be required for vehicles registered in the remaining counties required to undergo emission inspection.

(g) *Emission test procedures and standards*. Emission test procedures and standards shall be consistent with §§ 177.201—177.205 (relating to general).

(h) *Exhaust emission test equipment*. Exhaust emission test equipment requirements shall be consistent with §§ 177.201—177.205.

(i) *On-road testing*. The Department will conduct on road testing of subject vehicles as authorized in section 4704(a)(4) of the Vehicle Code (relating to inspection by police or Commonwealth personnel). Drivers of vehicles shall permit the testing of their vehicles by authorized personnel.

(j) *Recall*. The owner of a vehicle for which a voluntary or mandatory manufacturer's emission-related recall notice was issued after 6 months after the commencement of an enhanced I/M program in the affected county shall have the necessary repairs completed prior to presenting the vehicle for emission inspection as a prerequisite to begin the emission inspection process.

(k) *Subsequent approval by the EPA of emission test equipment, test procedures or report requirements*. If the EPA develops or approves other emission test equipment, test procedures or report requirements, the Department may adopt the subsequently approved equipment, procedures or reports consistent with section 4706(e) of the Vehicle Code (relating to prohibition on expenditures for emission inspection program).

(l) (Reserved).

#### § 177.52. Emission inspection prerequisites.

The following prerequisites shall be accomplished by the vehicle owner or driver prior to the performance of the emission inspection:

(1) The vehicle owner or driver shall present the vehicle registration card to the emission inspection station and pay the required test fee to the inspection station. This fee shall also include one free retest, if the vehicle owner or driver complies with the retest requirements as provided in §§ 177.271—177.274 (relating to retest).

(2) If a subject vehicle is presented for an initial emission inspection after the assigned emission inspection period, the vehicle owner or driver shall be charged a \$10 late fee for each month or portion thereof past the assigned emission inspection period in addition to the emission inspection fee. This late fee will be collected by the emission inspection station and shall be remitted to the Department.

(3) The Department may waive the collection of late fees for failure to comply in a timely manner with the

emission inspection period for any month up to 4 months after the assigned emission inspection period. The Department will not assess a late fee if the registrant can demonstrate that the subject vehicle was not operated after the vehicle registration expired or after the assigned vehicle emission inspection period. The accumulated late fees will not exceed \$40.

(4) The inspection station shall check to determine whether an applicable emission-related manufacturer recall notice was issued for the subject vehicle.

(5) If a subject vehicle was targeted for a voluntary or mandatory manufacturer's applicable emission recall notice, the vehicle owner or operator shall present proof of compliance with the recall notice to the emission inspection station before the enhanced emission inspection begins.

#### § 177.53. Vehicle inspection process.

The vehicle inspection process shall be as follows:

(1) If a subject vehicle passes the enhanced emission inspection requirements, the emission inspection station shall provide the vehicle owner or driver with an emission inspection test report certifying that the vehicle has passed the emission inspection.

(2) If a subject vehicle fails any phase of the enhanced emission inspection requirements, the emission inspection station shall provide the vehicle owner or operator with an emission inspection test report indicating which phases of the emission inspection that the vehicle failed.

(3) If a subject vehicle fails any phase of the enhanced emission inspection, the vehicle owner shall have the vehicle repaired and submit the vehicle for retesting.

(4) If the subject vehicle fails the retest, the vehicle owner can apply for a waiver. If the waiver requirements as prescribed in §§ 177.281 and 177.282 (relating to issuance of waiver; and annual adjustment of minimum waiver expenditure) are met, a waiver will be issued.

(5) An emission inspector will place a certificate of emission inspection on the windshield of the subject vehicle, as prescribed in § 177.291 (relating to certificates of emission inspection procedures), which has passed the emission requirements or received a waiver.

#### Subchapter B. SUBJECT VEHICLES

Sec.

- 177.101. Subject vehicles.
- 177.102. Inspection of vehicles reentering this Commonwealth.
- 177.103. New or used vehicles after sale or resale.
- 177.104. Vehicles registered in non-designated areas or other states.
- 177.105. Vehicles requiring emission inspection due to change of Address.
- 177.106. Inspection of vehicles registered in this Commonwealth but operated outside this Commonwealth.
- 177.107. Repair technician training.

#### § 177.101. Subject vehicles.

(a) *Subject vehicles.* Subject vehicles include gasoline powered 1975 and newer model year vehicles with a GVWR of 9,000 pounds or less which are:

(1) Registered in or required to be registered in an I/M area.

(2) Leased vehicles with registration or titling in the name of someone other than the lessee or user where the motor vehicle is registered or required to be registered in an I/M area.

(3) Operated on Federal installations located within an I/M area, regardless of where the vehicles are registered. This requirement applies to employe-owned or leased

vehicles, including vehicles owned, leased or operated by civilian and military personnel on Federal installations, as well as agency-owned or operated vehicles. Vehicles exempted from this requirement are:

(i) Tactical military vehicles.

(ii) Visiting agency, employe or military personnel vehicles as long as the visits do not exceed 60 calendar days per calendar year.

(b) *Documentation of compliance.* The Federal installation shall provide annually, or as requested, documentation of proof of compliance with subsection (a)(3) to the Department. This documentation shall be updated periodically, but at least in each inspection cycle. The installation shall present a valid certificate of compliance with the I/M program of the Commonwealth or an I/M program deemed acceptable to the Department, for each vehicle.

(c) *Other exempted vehicles.* Other exempted vehicles shall include vehicles operated or registered as one of the following:

(1) Special mobile equipment.

(2) Implements of husbandry.

(3) Motor vehicles being towed.

(4) Classic or antique motor vehicles.

(5) Motorcycles.

(6) Motorized pedalcycles.

(7) Street rods.

(8) Vehicles repossessed by a financier or collector through the use of miscellaneous motor vehicle business registration plates.

#### § 177.102. Inspection of vehicles reentering this Commonwealth.

Vehicles subject to emission inspection which have been outside of this Commonwealth continuously for 30 days or more and which, at the time of reentering this Commonwealth, do not bear a currently valid certificate of emission inspection are not required to be inspected until 10 days after reentering this Commonwealth.

#### § 177.103. New or used vehicles after sale or resale.

(a) A new or used vehicle, after sale or resale, may be driven without a current inspection certificate for 10 days after the date of sale or resale or entry into this Commonwealth, whichever occurs later. The purchaser of the vehicle, unless contracted otherwise, assumes full responsibility for having the vehicle inspected.

(b) New or used vehicles, acquired after sale or resale, bearing a currently valid certificate of emission inspection may be driven on Commonwealth highways until the certificate of emission inspection expires.

#### § 177.104. Vehicles registered in nondesignated areas or other states.

A vehicle registered outside a designated area or another state may be inspected for emissions but may not be issued a certificate of emission inspection unless the certificate is specifically requested by a vehicle owner.

#### § 177.105. Vehicles requiring emission inspection due to change of address.

Subject vehicles required to participate in the Enhanced Emission I/M Program because of vehicle registration change of address shall be phased into the emission

inspection program during the time of the expiration of the current certificate of safety inspection.

**§ 177.106. Inspection of vehicles registered in this Commonwealth but operated outside this Commonwealth.**

For subject vehicles registered in this Commonwealth, but operated outside this Commonwealth or not present in this Commonwealth at the time of expiration of the subject vehicle's emission inspection, proof of inspection from another state may be accepted if the Department determines that the I/M program in that state is comparable to the Commonwealth's I/M program.

**§ 177.107. Repair technician training.**

(a) *Voluntary technician training program.* The Department will establish a voluntary repair technician training program through private or public facilities. The training may include:

- (1) Diagnosis and repair of malfunctions in computer controlled close-loop vehicles.
- (2) Application of emission control theory and diagnostic data to the diagnosis and repair of failures of the transient emission test and the evaporative system function tests.
- (3) Utilization of diagnostic information on systematic or repeated failures observed in the transient emission test and the evaporative system function tests.
- (4) Generalized training on the various subsystems related to emission control.

(b) *Completion of training program.* A person who successfully completes all phases of the training program and who passes the required testing will qualify as a recognized repair technician.

(c) *Supplemental training.* The Department may authorize periodic supplemental training as a requirement for a person to maintain the status of a recognized repair technician.

**Subchapter C. EMISSION TEST PROCEDURES AND EMISSION STANDARDS**

**GENERAL**

- Sec.
- 177.201. General requirements.
- 177.202. Emission test equipment.
- 177.203. Test procedures.
- 177.204. Emission standards.
- 177.205. (Reserved).

**RECALL PROVISIONS**

- 177.231. Requirements regarding manufacturer recall notices.
- 177.232. Compliance with recall notices.
- 177.233. Failure to comply.

**EMISSION INSPECTION TEST REPORT**

- 177.251. Record of test results.
- 177.252. Emission inspection test report.
- 177.253. Responsibility of the station owner for vehicles which fail the I/M test.

**RETEST**

- 177.271. Procedure.
- 177.272. Prerequisites.
- 177.273. Content of repair data form.
- 177.274. Retest fees.

**ISSUANCE OF WAIVER**

- 177.281. Issuance of waiver.
- 177.282. Annual adjustment of minimum waiver expenditure.
- 177.283. (Reserved).

**CERTIFICATES OF EMISSION INSPECTION PROCEDURES.**

- 177.291. Certificates of emission inspection procedures.
- 177.292. Recording inspection.

**ON-ROAD TESTING**

- 177.301. Authorization to conduct on-road emission testing.
- 177.302. On-road testing devices.
- 177.303. (Reserved).
- 177.304. Failure of on-road emission test.
- 177.305. Failure to produce proof of correction of on-road emission test failure.

**GENERAL**

**§ 177.201. General requirements.**

Emission tests and functional tests shall be subject to the following requirements:

- (1) Vehicles shall be tested in as-received condition. A vehicle capable of operating on gasoline and other fuel is subject to testing and shall be tested while operating in the gasoline mode.
- (2) An initial test is the emission test that occurs the first time in a test cycle. The initial test shall be performed without prior repair or adjustment to the subject vehicle at the emission inspection station, except as provided for in the evaporative system integrity test. An emission inspection performed after the initial test in a test cycle shall be considered a retest.
- (3) An official test, once initiated, shall be performed in its entirety regardless of immediate outcome except in the case of an invalid test condition, unsafe conditions or fast pass/fail algorithms.

(4) Tests involving measurements shall be performed with approved equipment that has been calibrated according to the quality control procedures contained in 40 CFR Part 51, Subpart S, Appendix A (relating to calibrations, adjustments and quality control), which is adopted by reference.

(5) Vehicles may not be tested if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition.

(6) Alteration of a vehicle's configuration so that it changes from a certified to a noncertified configuration is prohibited. In the inspection process, vehicles that have been altered from their original certified configuration shall be tested in the same manner as other subject vehicles, in accordance with the following:

- (i) Vehicles with engines other than the engine originally installed by the manufacturer, or an identical replacement engine shall be subject to the test procedures and standards for the chassis type and model year, including visual equipment inspections for components that are part of the original certified configuration and part of the normal inspection.
- (ii) Vehicles that have been altered from an engine of one fuel type to another fuel type that is subject to the I/M program—for example, from a diesel engine to a gasoline engine—shall be subject to the test procedures and standards for the current fuel type, and to the requirements of subparagraph (i).

(iii) Vehicles that are altered to a fuel type for which there is no certified configuration shall be tested according to the most stringent emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the Department determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for that model year without these devices.

**§ 177.202. Emission test equipment.**

(a) *Performance features of emission test equipment.* Computerized test systems are required for performing

any measurement on subject vehicles. The test equipment shall be certified to meet EPA requirements, including those contained in 40 CFR Part 51, Subchapter S, Appendix D (relating to steady-state short test equipment), which is adopted by reference. Newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

(1) Emission test equipment shall be capable of testing subject vehicles and shall be updated as needed to accommodate new technology vehicles as well as changes to the program.

(2) At a minimum, emission test equipment shall be:

(i) Automated to the highest degree commercially available to minimize the potential for intentional fraud or human error, or both.

(ii) Secure from tampering or abuse, or both.

(iii) Based upon written specifications.

(iv) Capable of simultaneously sampling dual exhaust vehicles.

(b) *Functional characteristics of computerized test systems.* The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

(1) The test system shall automatically:

(i) Make pass/fail decisions for all measurements.

(ii) Record test data to an electronic medium.

(iii) Conduct regular self-testing of recording accuracy.

(iv) Perform electrical calibration and system integrity checks before each test, as applicable.

(v) Initiate system lockouts for:

(A) Tampering with security aspects of the test system.

(B) Failing to conduct or pass periodic calibration or leak checks.

(C) Failing to conduct or pass the constant volume sampler flow rate check, if applicable.

(D) Failing to conduct or pass one or more of the dynamometer checks, including coast-down, roll speed and roll distance, power absorption capability and inertia weight selection checks, if applicable.

(E) Failing to conduct or pass the pressure monitoring device check, if applicable.

(F) Failing to conduct or pass the purge flow metering system check, if applicable.

(G) Failing to have installed in the test analyzer a full data recording medium or one that passes a cyclical redundancy check.

(2) Test systems shall include a data link to the Department computer or other computers as specified by the Department.

(3) The test system shall insure accurate data collection by limiting, cross-checking or confirming manual data entry.

(c) *Test systems for transient emission tests.* Test equipment for transient emission testing shall be as specified in Federal regulation at 40 CFR, Part 85 (relating to control of air pollution from motor vehicles and motor vehicle engines), which is adopted by reference.

(d) *Steady state idle test equipment.* Steady state idle test equipment requirements for model years 1968—1981

shall be as specified in 40 CFR Part 51, Subpart S, Appendix D which is adopted by reference.

(e) *Two-speed idle test equipment.* Two-speed idle test equipment shall be as specified in 40 CFR Part 51, Subpart S, Appendix D which is adopted by reference.

#### § 177.203. Test procedures.

The Department has approved the following test procedures:

(1) *Idle testing.* Idle tests of all model year subject vehicles shall be performed in accordance with the procedures specified in 40 CFR Part 51, Subchapter S, Appendix B(I) (relating to test procedures—idle tests) which is adopted by reference. The following steps shall be taken when testing subject vehicles, except 1981 and later Ford Motor Company vehicles:

(i) Emission test data shall be entered into the analyzer by a certified emission inspection inspector using the alpha-numeric keyboard in the sequence specified.

(ii) The digital engine tachometer of the analyzer shall be connected to the subject vehicle engine being tested by means of an inductive pickup.

(iii) The engine shall be at normal operating temperature, not overheating, and with all accessories off.

(iv) The analyzer shall be warmed-up in proper operating condition, and the tachometer pickup shall be attached.

(v) With the motor vehicle in park or neutral gear and wheel chocks in place and the emergency brake secured, accelerate the engine to revolutions per minute, plus or minus 300 revolutions per minute, for seconds. Release the accelerator and allow the engine to return to idle.

(vi) With the engine operating at idle, insert the sample probe of the emission analyzer into the vehicle's exhaust pipe. The probe tip shall be inserted at least 12 inches into the tailpipe, or, in the case of a restriction, a device shall be added to prohibit test sample dilution. If multiple tailpipes are present, hardware which is capable of simultaneously sampling both sources shall be used. No simultaneous sampling hardware is necessary for exhaust systems in which the exhaust pipes originate from a common point.

(vii) Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. These results shall be compared by vehicle model year as shown in § 177.204 (relating to emission standards).

(viii) Subject motor vehicles having engines replaced shall be emission inspected by standards corresponding to the model year of the engine.

(ix) For purposes of determining truck test standards, the greater of the registered gross weight or manufacturer's GVWR shall be used.

(2) *Restart idle mode test.* For 1981 and later Ford Motor Company vehicles, follow the same sequence as required in the idle mode test in paragraph (1), but add the following requirement between the steps set forth in paragraph (1)(v) and (vi). The engine shall be turned off and then restarted. After the completion of the 30 second/2500 rpm cycle in paragraph (1)(vi), the inspector shall immediately insert the sample probe into the tailpipe and immediately proceed with the completion of the emission test.

(3) *ASM test.* The ASM test of 1975 and newer model year subject vehicles shall be performed in accordance



with the procedures contained in 40 CFR Part 85 which is adopted by reference. The ASM test procedure, including algorithms and other procedural details, shall be approved by the EPA prior to use in the I/M program of the Commonwealth. Special test algorithms and pass/fail algorithms may be employed to reduce test time when the test outcome is predictable with near certainty, if approved by the EPA.

(4) *Subsequent test procedures approved by the EPA.* If the EPA develops other test procedures, including test procedures prescribed in this section, the Department may adopt these subsequently approved test procedures consistent with section 4706(e) of the Vehicle Code (relating to prohibition on expenditures for emission inspection program).

**§ 177.204. Emission standards.**

Subject vehicles shall be rejected if they exceed the following standards:

(1) *Idle test standards.*

(i) Passenger Cars and Trucks less than 6,000 pounds GVWR.

| Model Year | CO% | HC (ppm) |
|------------|-----|----------|
| 1975—1979  | 4.0 | 400      |
| 1980       | 3.0 | 300      |
| 1981—1985  | 1.2 | 220      |

(ii) Trucks 6,000 pounds through 9,000 pounds GVWR.

| Model Year | CO% | HC (ppm) |
|------------|-----|----------|
| 1975—1978  | 6.0 | 650      |
| 1979       | 4.0 | 400      |
| 1980       | 3.0 | 300      |
| 1981—1985  | 1.2 | 220      |

(iii) Maximum exhaust dilution shall be measured as at least 6% CO plus CO<sub>2</sub> on vehicles subject to a steady-state test as described in 40 CFR Part 51, Subpart S, Appendix B (relating to test procedures), which is adopted by reference.

(2) *ASM test emission standards.*

| Model Year     | HC (gpm) | CO (gpm) | NO <sub>x</sub> (gpm) |
|----------------|----------|----------|-----------------------|
| 1977-79        |          |          |                       |
| 1980           |          |          |                       |
| 1981-82        |          |          |                       |
| 1983 and newer |          |          |                       |

**§ 177.205. (Reserved).**

**RECALL PROVISIONS**

**§ 177.231. Requirements regarding manufacturer recall notices.**

Owners or lessees of vehicles for which voluntary or mandatory manufacturer emission-related recall notices have been issued, shall have the necessary repairs completed prior to submitting the vehicle for emission testing and shall present proof of compliance with the recall notice at the time of emission inspection. This is required to complete the emission inspection process.

**§ 177.232. Compliance with recall notices.**

Owners or lessees of subject vehicles for which the vehicle manufacturer has issued a recall notice more than 3 months prior to the beginning of the emission inspection period shall show proof of compliance with the recall notice prior to commencement of the emission inspection.

**§ 177.233. Failure to comply.**

Failure to comply with the requirements of this section and §§ 177.231 and 177.232 (relating to requirements regarding manufacturer recall notices; and compliance with recall notices) shall be considered grounds to refuse to initiate an emission inspection.

**EMISSION INSPECTION TEST REPORT**

**§ 177.251. Record of test results.**

The station shall provide the vehicle owner or driver with a computer-generated emission inspection test report.

**§ 177.252. Emission inspection test report.**

The emission inspection test report shall include:

- (1) A vehicle description, including license plate number, vehicle title number, VIN, vehicle make and model and odometer reading.
- (2) The date and time of the test.
- (3) The name or identification number of the individuals performing the tests and the location of the test station and lane number.
- (4) The type of tests performed.
- (5) The applicable test standards.
- (6) The test results, including exhaust concentrations and pass/fail results for each mode measured.
- (7) A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act (42 U.S.C.A. § 7525).
- (8) The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed.
- (9) A certification that tests were performed in accordance with this chapter.

**§ 177.253. Responsibility of the station owner for vehicles which fail the I/M test.**

Owners or operators of vehicles that fail the I/M test shall be provided with an emission inspection test report as described in § 177.252 (relating to emission inspection test report) as well as the consumer complaint procedure, including the telephone number of the quality assurance officer or the Vehicle Control Division. A challenge regarding the performance or results of the test shall be made within 10 days of the failure of the emission inspection.

**RETEST**

**§ 177.271. Procedure.**

Vehicles that fail the initial test or a retest shall be retested after repair to determine if the repairs were effective for any portion of the inspection that was failed on the previous test. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested.

**§ 177.272. Prerequisites.**

For a retest, the vehicle owner or driver shall present to the inspection station the emission inspection test report and the repair data form as described in § 177.273 (relating to content of repair data form). If the repairs were performed by the owner or someone other than a recognized repair technician, the repair data form shall be completed. If the repairs were performed at a recognized repair facility, the repair data form completed by the repair facility shall be presented to the emission inspection station.

**§ 177.273. Content of repair data form.**

The repair data form shall include the following:

- (1) The repairs performed.
- (2) The cost of repairs.
- (3) The repair technician's number or name if the person who made the repairs does not have a Department issued technician number.
- (4) The repairs recommended by the repair facility that were not performed.
- (5) The name, address and telephone number of the repair facility.

**§ 177.274. Retest fees.**

If the vehicle owner or driver presents the emission inspection test report and the completed repair form to the emission inspection station within 30 calendar days of the initial emission inspection, the vehicle owner or driver shall receive one free retest. Retests after the 30-day period or retests performed after the free retest shall only be performed upon payment of the emission inspection test fee to the emission inspection station.

**ISSUANCE OF WAIVER****§ 177.281. Issuance of waiver.**

The emission inspection station shall issue a certificate of emission inspection with an indicator to show that the vehicle has received a waiver if:

(1) The subject vehicle has failed the initial emission inspection, qualifying repairs have been completed and the subject vehicle has failed the retest.

(2) Emission control devices, as originally equipped, are installed. Vehicles with emission devices which are obsolete and cannot be obtained through the original equipment manufacturer, aftermarket manufacturers or suppliers of used parts are exempt from this paragraph. Specific reporting requirements shall be completed and maintained as specified by the Department.

(3) The amount spent on qualifying repairs shall:

(i) Be at least \$150 for the 2-year period after commencement of the program in the affected area, and which thereafter shall be subject to annual adjustment as described in § 177.282 (relating to annual adjustment of minimum waiver expenditure).

(ii) Include parts costs and labor costs paid for qualifying emission repair services performed on the vehicle if paid by the vehicle owner and if the qualifying repairs were performed by a recognized repair technician. For qualifying emission repair services performed by someone other than a recognized repair technician, the cost of parts but not labor utilized by nonrepair technicians may apply toward the waiver limit. The cost of parts for the repair or replacement for the following emission control components may be applied: oxygen sensor; catalytic convertor; thermal reactor; EGR valve; fuel filler cap; evaporative canister; PCV valve; air pump; distributor; ignition wires; coil; and spark plugs. The cost of hoses, gaskets, belts, clamps, brackets or other accessories directly associated with these components may also be applied to the waiver limit. These repairs shall have been performed no more than 60 days prior to the initial emission inspection test.

(iii) Be considered qualifying if they are appropriate to the cause of the test failure.

(iv) Exclude expenses which are incurred in the repair of emission control devices which are:

- (A) Found to be tampered with.
- (B) Rendered inoperative.
- (C) Not installed.

(v) Exclude costs recoverable under an emission warranty, insurance policy or prepaid maintenance agreement. These recoverable cost repairs shall be used before necessary repair costs can be applied toward the waiver cost limitations. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act (42 U.S.C.A. § 7525(b)) shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived.

(vi) Exclude the fee for emission inspection.

(vii) Exclude charges for giving a written estimate of needed repairs.

(viii) Exclude charges for checking for the presence of emission control devices.

(4) The vehicle owner or driver shall present the original of repair bills or receipts for parts to the inspection station to demonstrate compliance with the qualifying dollar amount for that year. The bills shall:

(i) Include the name, address and telephone number of the repair facility.

(ii) Describe the repairs that were performed.

(iii) State the labor or parts costs, or both, for each repair.

(iv) State on the written estimate the general problem, the necessary major parts replacement items and the total necessary repair and labor costs which would exceed the total cost limitations.

(5) Upon completion of waiver requirements and a visual check to determine that repairs were actually made, a certificate of emission inspection with a waiver indicator shall be affixed to the subject vehicle.

(6) Vehicles subject to a transient emission test may be issued a certificate of emission inspection with a waiver indicator without meeting the emission test standards of § 177.204 (relating to emission standards) if, after failing an emission retest, a complete, documented physical and functional diagnosis and inspection performed by emission inspection station personnel shows that no additional emission-related repairs are needed.

**§ 177.282. Annual adjustment of minimum waiver expenditure.**

The minimum expenditure for the first 2 years after commencement of the program in an affected area is \$150. Beginning with the 3rd year of the program in an affected area, an expenditure of at least \$450 shall be required to qualify for a waiver. The \$450 expenditure shall be adjusted annually in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index for 1989. The procedure for using the Consumer Price Index for determining the minimum waiver expenditure shall be as follows:

(1) The Consumer Price Index for a calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(2) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

**§ 177.283. (Reserved).**

**CERTIFICATES OF EMISSION INSPECTION PROCEDURES**

**§ 177.291. Certificates of emission inspection procedures.**

(a) *Certificates issued.* The Department will issue a certificate of emission inspection, through an official emission inspection station, valid until the next scheduled emission inspection, for a subject motor vehicle which meets one of the following:

(1) The motor vehicle has passed an inspection or reinspection performed by the emission inspection station.

(2) The motor vehicle has all required emission control devices installed under § 177.281 (relating to issuance of waiver).

(b) *Certification procedures.*

(1) Motor vehicles inspected under safety inspection regulations existing on \_\_\_\_\_ (the blank refers to the effective date of adoption of this proposal) shall have their registration card checked by the examining inspector for an I/M designated code printed on the registration card.

(2) A registration card containing the designation I/M shall indicate that the vehicles shall be emission inspected. This shall include school buses 9,000 pounds or less GVWR and other buses with a seating capacity of 26 seats or less with a GVWR of 9,000 pounds or less.

(3) A motor vehicle with a registration card containing the designation "emission inspection required" shall have a specified I/M indicator insert placed on the proper certificate of safety inspection and affixed to the windshield upon passing safety inspection.

(4) A subject vehicle shall be required to undergo an annual emission inspection and, with the exception of vehicles which receive a waiver under § 177.281 (relating to issuance of waiver) may not exceed the emission standards specified in § 177.204 (relating to emission standards). Upon compliance or issuance of a Certificate of Waiver an emission inspection sticker shall be affixed to the immediate right (when viewed from the driver's position) of the safety inspection sticker or, in the case where a truck weight class sticker is present, to the immediate right (when viewed from the driver's position) of the truck weight class sticker.

(5) If the vehicle fails the emission inspection, no certificate of emission inspection may be issued except under § 177.281.

(6) A motor vehicle bearing a specified safety inspection sticker with an I/M Indicator Insert which does not have a currently valid emission inspection sticker affixed to the windshield shall be in violation of section 4703 of the Vehicle Code (relating to operation of vehicle without official certificate of inspection) and shall be subject to the penalties and fines provided in the Vehicle Code.

(c) *Faulty inspection.* Any deviation or change in the procedure specified in this section shall be considered a faulty inspection and the certificate of emission inspection shall be void.

(d) *Unauthorized display of certificate of emission inspection.* A certificate of emission inspection may not be marked and affixed to a vehicle until it has successfully passed emission inspection requirements of Chapters 45

and 47 of the Vehicle Code (relating to other required equipment; and inspection of vehicles) and this chapter.

(e) *Required information.* The required information on the rear of the certificate of emission inspection shall be completed in permanent ink.

(f) *Inspection cycle.* The proper I/M monthly insert for certificate of emission inspection shall be coordinated with the vehicle safety inspection. Vehicles which are emission inspected shall receive an inspection for no more than 15 months and no less than 3 months, based on the vehicle's registration month and charts supplied by the Department.

(g) *Affixing certificate.* The certificate of emission inspection shall be affixed to the vehicle only at the premises of the official emission inspection station and on a portion of the premises located within 100 feet and on the same side of the street as the official emission inspection station. Certificates of emission inspection may not be issued or affixed at any other area or location.

(1) The surface on which the sticker is to be attached shall be wiped dry and clean of road film, grease or moisture for proper adhesion. The following instructions apply:

(i) Clean the glass thoroughly.

(ii) Remove the protective slip sheet from adhesive side of sticker.

(iii) Place the proper monthly indicator insert in the appropriate position so that month and year of expiration are visible to oncoming traffic.

(iv) Position the sticker carefully to the immediate right (when viewed from the driver's position) of the current certificate of safety inspection or, where a truck weight class sticker is present, to the immediate right (when viewed from the driver's position) of the truck weight class sticker. Press firmly until tightly affixed to windshield.

(2) It shall be the responsibility of the certified emission inspector to affix the certificate of emission inspection. Only the certified emission inspector who performed the entire emission inspection shall affix the certificate of emission inspection to the vehicle.

(h) *Faulty inspection.* A deviation or change in the procedure specified in this section shall be considered a faulty inspection and the certificate of emission inspection issued as a result shall be void.

(i) *Unauthorized display of certificate of emission inspection.* A certificate of emission inspection may not be marked and affixed to a vehicle until the vehicle has successfully passed an emission inspection meeting the emission requirements of Chapters 45 and 47 of the Vehicle Code and this chapter.

(j) *Data entry errors.* If a data entry error occurs, the error and the error correction shall be clearly noted on the computerized record of inspection.

(k) *Voided certificates of emission inspection.* If it is necessary to void a certificate of emission inspection, the certificate number and the reason shall be clearly noted on the computerized record of inspection.

**§ 177.292. Recording inspection.**

(a) *Fraudulent recording.* Fraudulent recording of required data or other forms and cards will be considered cause for suspension of inspection privileges.

(b) *Proper forms.* The emission inspection inspector shall enter required data into the emission analyzer and record required information on the proper and applicable report forms and place his signature in the appropriate columns designated. This shall be done immediately following the emission inspection.

(c) *Certificate of waiver.* A Certificate of Waiver Form shall be completed and maintained at the emission inspection station for every emission certificate of waiver issued. Information required on the form shall be completed and shall correspond exactly to the subject vehicle for which the waiver was issued. A large "W" shall be written, in blue or black permanent ink only, on the back of each emission certificate of inspection issued through the waiver process. The certificate of waiver form may be collected by the Department on an unannounced periodic basis.

(d) *Content.* Report sheets shall be neat and legible and contain the correct inspection number and date.

(e) *Nonrelated items.* Gas, oil or other nonrelated items may not be included in the total charges for emission inspection.

(f) *Supply.* A supply of report sheets and other emission forms may be obtained from the Vehicle Control Division.

#### ON-ROAD TESTING

##### § 177.301. Authorization to conduct on-road emission testing.

The Department will conduct on-road testing of subject vehicles as authorized in section 4704(a)(4) of the Vehicle Code (relating to inspection by police or Commonwealth personnel).

##### § 177.302. On-road testing devices.

Testing may include the use of remote sensing devices or systematic roadside checks using tailpipe exhaust testing devices.

##### § 177.303. (Reserved)

##### § 177.304. Failure of on-road emission test.

The owner or operator of a subject vehicle that was required to have an enhanced emission inspection and that fails an on-road emission test shall have 30 days following notice of the failure in which to have the failed vehicle pass an enhanced emission inspection or to produce evidence that the subject vehicle has a valid emissions test waiver.

##### § 177.305. Failure to produce proof of correction of on-road emission test failure.

If the owner of a subject vehicle fails to produce, within 30 days following notice of the failure of an on-road test, evidence that the vehicle has passed an emission inspection or evidence that the vehicle has a valid emissions inspection test waiver, the Department will recall the vehicle's registration. The vehicle may not be driven on the roads of this Commonwealth except as permitted under section 4703(b)(11) of the Vehicle Code (relating to operation of vehicle without official certificate of inspection).

#### Subchapter D. OFFICIAL EMISSION INSPECTION STATION REQUIREMENTS

##### GENERAL

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##### OBLIGATIONS AND RESPONSIBILITIES OF STATION OWNERS/AGENTS

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##### QUALITY ASSURANCE

- 177.431. Quality assurance.

##### § 177.401. Appointment.

(a) *Authority.* For the purpose of establishing a system of official enhanced emission inspection stations, the Bureau will issue certificates of appointment to facilities within this Commonwealth that comply with the Vehicle Code and this title. Official enhanced emission inspection stations are authorized to conduct enhanced emission inspections and issue official certificates of enhanced emission inspection.

(b) *Certificate of appointment.* The certificate of appointment for emission inspection stations will be issued only when the Bureau is satisfied that the station is properly equipped and employs certified enhanced emission inspectors to perform enhanced emission inspections. Only those stations fulfilling Department requirements and complying with this chapter will be issued an emission certificate of appointment. Prior involvement with a suspended inspection station may be sufficient cause to deny appointment. The emission certificate of appointment shall be conspicuously displayed at the place for which issued, in accordance with section 4722 (relating to certificate of appointment).

(c) *Certificate not assignable.* A certificate of appointment for an emission inspection station may not be assigned or transferred to another person, business entity or location and shall be valid only for the person or business entity in whose name it is issued and for transaction of business at the place designated therein.

(d) *Valid certificate required.* No person may represent any place as an official emission inspection station unless the station is operating under a valid certificate of appointment issued by the Bureau.

(e) *Inspection stations with common access.* An emission certificate of appointment will not be issued for operation of an official emission inspection station on a part of the premises of another official emission inspection station which utilizes the same access. This subsection does not apply where the inspection stations have separate internal accesses, though sharing a common external access.

(f) *Suspended inspection stations.* An emission certificate of appointment will not be issued for operation of an official emission inspection station on a part of the premises of an official emission inspection station which has been suspended if the owner of the suspended station continues to conduct any type of business which utilizes the same access. This subsection does not apply where the station and the other business each have a separate internal access, though sharing a common external access.

(g) (Reserved)

**§ 177.402. Application.**

(a) *Form.* The applicant shall file one copy of the Official Emission Inspection Station Update/Official Emission Inspection Station Application, with the Bureau. A separate application shall be made for each place of business.

(b) *Bond or proof of insurance.*

(1) An applicant for a certificate of appointment shall furnish a bond, on a form prescribed by the Department, or proof of insurance as required by section 4722(c) of the Vehicle Code (relating to certificate of appointment).

(2) The bond or insurance shall be in the amount of \$10,000 for each place of business and shall provide compensation to a vehicle owner for damage the vehicle may sustain while it is in the possession of the emission inspection station.

(3) The bond or insurance shall be renewed each year.

(4) Cancellation of the bond or insurance shall automatically void the certificate of appointment. Inspections shall cease until the Bureau receives a new bond or proof of insurance.

(c) *Specification of type.* The application shall indicate the type of emission inspection station authorization applied for, that is, Commonwealth, general or fleet.

(d) *Applicant.* The applicant shall be the owner of the business or, in the case of a corporation, some other person specifically authorized to sign the application:

(1) If a natural person, the applicant shall be at least 18 years of age or older.

(2) If the applicant is a corporation, co-partnership or association, the application shall be signed by an officer, partner or associate, or some other person specifically authorized to sign the application.

(i) The person who signs the application shall be 18 years of age or older.

(ii) Except in the case of an executive officer, partner or associate, written evidence of the authority of the person to sign the application shall be attached to the application and attested to by a partner, or corporation or association officer.

**§ 177.403. Approval of emission inspection station.**

(a) *Investigation.* An inspection station investigator will conduct an investigation of each applicant to determine full compliance with Chapter 47 of the Vehicle Code (relating to inspection of vehicles) and this chapter.

(b) *English comprehension.* The applicant and each certified emission inspector shall be sufficiently versed in the English language to understand the Vehicle Code and this chapter.

(c) *Issuance and display of certificate.* Upon approval of the application by the Bureau, a certificate of appointment will be issued to the applicant for the place of business within this Commonwealth as set forth in the application. Emissions inspections may not be performed unless a certificate of appointment has been issued to and is prominently displayed at the officially designated station.

**§ 177.404. Required certificates and station signs.**

After appointment the owner of an emission inspection station shall prominently display the following:

(1) A certificate of appointment for each type of emission inspection station approved for the location.

(2) A sign clearly stating the fee for inspection, that the fee is the same whether the vehicle passes or fails, that the fee for inspection includes the cost of labor for the inspection, but not the cost of parts, repairs and adjustments, and that no additional charge shall be made by the inspecting station for one necessary reinspection within 30 days of the original inspection. Fleet and Commonwealth stations are exempt from this paragraph.

(3) The current list of certified emission inspectors.

(4) An approved official emission inspection sign outside of the garage that is clearly visible to the public. This sign shall have a keystone design which is at least 24 inches high and 21 inches wide. The background shall be navy blue with gold lettering. The station number plate shall be at least 3 inches high and at least 13 inches wide. The background shall be green with white station numbers. If a keystone designated sign is already present, the station number shall be placed below present plates. If hung from a bracket, the sign shall be double faced. Fleet, consumer complaint and Commonwealth emission inspection stations are exempt from this paragraph.

(5) A sign clearly providing the location and telephone number of the quality assurance officer or the Vehicle Control Division.

**§ 177.405. Emission inspection areas.**

(a) *General provisions.*

(1) Enhanced emission inspections shall be conducted within approved enclosed or outside inspection areas that are safe, sound, well ventilated, and in good repair and condition.

(i) Emission inspections shall be conducted within an approved enclosed building when outside temperatures are below 35°F or above 110°F or relative humidity exceeds 85%, or when it is precipitating.

(ii) Emission inspections may be conducted in an approved area outside an enclosed building when outside temperatures are between 35°F and 110°F with from 0 to 85% relative humidity and if there is no precipitation. The analyzer shall remain within the approved enclosed building at all times, but the probe and exhaust gas hose may be extended outside to the vehicle being inspected.

(2) Anticipated alterations or changes affecting the condition, size or safety of inspection areas shall be reported to the inspection station investigator within 5 days of the anticipated alteration or change.

(3) The floor shall be of a hard, clean surface and in sound, smooth condition. Dirt floors will not be approved.

(4) The inspection area shall be free of obstructions, including shelves, work benches, partitions, displays, machinery and stairways, unless, in the opinion of the inspection station investigator, the obstruction does not protrude into the area far enough to curtail or interfere with inspection.

(b) *Minimum space requirements.* Enhanced emission inspection stations shall be at least 12 feet by 22 feet.

**§ 177.406. Tools and equipment.**

(a) *General requirements.* Official emission inspection stations shall have tools and equipment in good, satisfactory operating condition to be able to conduct emission inspections upon a subject vehicle. Tools required shall include the following:

(1) Portable light.

- (2) Socket set.
  - (3) Screw drivers (assorted).
  - (4) Floor jack.
  - (5) Pliers (assorted sizes).
  - (6) Floor stands (two).
  - (7) Tachometer.
  - (8) Vacuum gauge.
  - (9) Hand vacuum pump.
  - (10) Dwell meter.
  - (11) Timing light.
  - (12) Spark plug gapper.
  - (13) Propane enrichment set.
  - (14) Ohms resistance gauge.
  - (15) Wheel chocks.
  - (16) Approved emission inspection and maintenance textbooks/workbooks with supplements and current changes and approved handbooks and manuals.
  - (17) Exhaust emission analyzer approved by the Bureau and certified by the manufacturer as meeting or surpassing specifications set forth in subsection (b).
  - (18) PCV tester.
  - (19) Approved dynamometer, where applicable.
- (b) *Analyzer specifications.* Exhaust emission analyzers approved by the Bureau shall meet the following requirements:
- (1) Conform to BAR 90 and meet section 207b of the Federal Clean Air Act (42 U.S.C.A. § 7541(b)) warranty specifications.
  - (2) Conform with the following minimum automatic data collection (ADC) specifications:
    - (i) The ADC unit shall be completely compatible with the exhaust emission analyzer—bench portion.
    - (ii) There shall be an alpha-numeric keyboard capable of entering the following types of data for permanent transfer to a storage medium, and as set forth in subparagraph (ix). The system shall automatically enter data indicated—auto. Data shall be entered and stored to capture the following minimum information in the following steps:
      - (A) Date of test (Auto)—mandatory entry, field programmed by manufacturer.
      - (B) Station number (Auto)—mandatory entry, permanently set, 5 alpha-numeric characters, field programmed by manufacturer.
      - (C) Inspector number—mandatory entry, 9 numeric characters.
      - (D) Vehicle ID number—mandatory entry, Title number or VIN, maximum characters used is 26.
      - (E) Test type—mandatory entry, initial test indicator, retest indicator.
      - (F) Vehicle year or engine year—mandatory entry.
      - (G) Cylinder code—mandatory entry, indicator to key in number of cylinders on the vehicle; rotary engines shall be coded as 2 cylinder engines.
      - (H) Vehicle type—mandatory entry, two categories designated for: passenger cars and trucks under 6,000 pounds GVWR and trucks 6,000 to 9,000 pounds GVWR.

At this segment of the emission inspection, the emission inspection inspector shall proceed with the hang-up check. Upon successful completion of this check, the test may no longer be aborted requiring the emission inspector to insert the tailpipe probe and activate the Pennsylvania emission test automatically selecting the HC and CO standard required, plus the rpm and CO<sub>2</sub> values required. Sample collection shall require 17 seconds; validation of the sample shall require 5 seconds; and emission sampling immediately after validation shall require 10 seconds.

(I) Rpm reading (Auto)—actual reading, display suppressed during emission test.

(J) Hydrocarbon (HC, Auto)—reading in ppm, display suppressed during emission test.

(K) Carbon Monoxide (CO, Auto)—reading in %, display suppressed during emission test.

(L) Carbon Dioxide (CO<sub>2</sub>, Auto)—reading in %, display suppressed during emission test.

(M) Invalid Test (Auto)—display suppressed, during emission test.

Four categories designated for:

CO<sub>2</sub> pass/rpm pass;

CO<sub>2</sub> pass/rpm fail;

CO<sub>2</sub> fail/rpm pass;

CO<sub>2</sub> fail/rpm fail.

(N) Pass/Fail (Auto)—display suppressed, during emission test.

Four categories designated for:

HC pass/CO pass;

HC pass/CO fail;

HC fail/CO pass;

HC fail/CO fail.

The automatic test results (auto) suppressed during the Pennsylvania emission test may be displayed after the information is automatically stored. This is an optional feature which may be provided by the manufacturer.

(O) Emission inspection fee—mandatory entry.

(P) Emission adjustment or repair performed—adjustment or repair indicator (mandatory entry for retest entry, displayed only if retest is entered).

(Q) Waiver issued—Yes indicator or No indicator (mandatory entry for retest entry, displayed only if retest is entered).

(R) Sticker number or training number—mandatory entry for pass or if waiver used, 11 alpha-numeric characters (display and entry required for passing test or waiver).

(S) Manufacturer's ID (Auto)—2 alpha-numeric characters assigned by the Department.

(iii) Data shall be entered by a certified emission inspection inspector via the alpha-numeric keyboard in the sequence specified. Mandatory entry data shall be completed before being allowed to proceed to the next data entry item. Nonmandatory entry data are only required as specified. After completing the vehicle type entry the HC hang-up check shall be activated. Upon successful completion of this check the emission inspector may no longer abort the test and shall insert the probe into the subject vehicle's tailpipe and activate the Penn-

sylvania emission test. This shall automatically activate the collection, validation and emission sampling, and automatically key appropriate HC, CO, CO<sub>2</sub> and rpm limits, for pass/fail and invalid test decisions. The entry items designated "Display suppressed during emission test" may not be shown on the display until the test is completed. Test data shall be automatically entered directly into storage and printed on the consumer reports. Data entry items designated "field programmed by manufacturer" shall be capable of programming changes to meet Emission I/M Program required changes.

(iv) The analyzer shall be capable of use as a diagnostic tool and shall also be capable of testing for rpm, HC, CO and CO<sub>2</sub>, providing corresponding screens for diagnostic use when not activated in the Pennsylvania emission test.

(v) The keyboard shall be designed to accommodate the working environment of inspection facilities and to allow for wearing of gloves and contact with grease and oil compounds. The unit shall have the capacity to accommodate 16 present emission standards which may be changed by regulation.

(vi) The keyboard shall provide a capability function so that as data is improperly entered it can be corrected. The automatically-auto-entered data may not be affected by this function.

(vii) Upon the activation of the Pennsylvania emission test, the automatic data collection unit shall automatically set the standard required for comparison as defined in § 177.204 (relating to emission standards). Standards shall be field programmed by the manufacturer.

(viii) The Pennsylvania Emission I/M program shall require two legible consumer reports including full test details as listed below:

| <i>Data</i>                             | <i>Suggested Format</i>   |
|---|---|
| <i>Date</i>                             | <i>Date: month/day/year</i>   |
|   | 02/23/95  |
| Station Number                          | Station #:  |
| Inspector Number                        | Inspector #:  |
| Vehicle ID Number                       | Vehicle ID #:   |
| Rpm Reading                             | Rpm:  |
| HC Standard in PPM                      | HC Std. PPM:  |
| HC Test Reading in PPM                  | HC Test PPM:  |
| CO Standard in %                        | CO Std. %:  |
| CO Test Reading in %                    | CO Test %:  |
| CO <sub>2</sub> Reading in %            | CO <sub>2</sub> %:  |
| Invalid Test                            | CO <sub>2</sub> /rpm: (either invalid<br>CO <sub>2</sub> or rpm unstable) |
| Sticker Number                          | Sticker #:  |
| Total Cost                              | Total Cost:   |
| Certified Emission Inspector Signature: |   |
| Inspector Sig.: _____                   |   |

For signature, data will be manually completed.

(ix) When the data is transferred from the storage medium, the unit shall provide the following test after loading the replacement storage medium.

(A) Record a predetermined test record as in subparagraph (ii) in which all number fields are filled with the number "one" and all alpha and alpha-numeric field are filled with the letter "A."

(B) Stop recording.

(C) Read the predetermined test record now on the storage medium.

(D) Compare the predetermined test record on the storage medium with the predetermined record in memory:

(I) Prohibit the instrument from further recording on the storage medium and cause the instrument to indicate this storage medium failure to the operator if the predetermined test record does not correspond directly to that in the memory.

(II) Permit the system to proceed if the predetermined test record in the storage medium corresponds directly to that in the memory.

(x) The HC hang-up reading in the sampling system may not exceed 20 ppm hexane before each test as measured by the analyzer zeroed on room air. The analyzer shall be designed for automatic HC hang-up checks of the sampling system using room air. The analyzer shall have a selector switch, button with indicator light labeled "hang-up check" or other equivalent display prompter/indicator. "Hang-up" activation shall cause the analyzer to automatically sample room air through the sample line and probe. The check system shall continue to sample room air until the HC response is below 20 ppm hexane. When the HC level stabilizes below this value, an indication that testing may begin shall be displayed. The analyzer shall be precluded from operating until the HC level is met. The analyzer shall also be locked out unless a successful hang-up check has been performed since the last activation of the test sequence or the HC analyzer has not experienced an HC level greater than that specified in this subparagraph.

(xi) Engine tachometer/idle lockout shall be treated as follows:

(A) A digital tachometer shall be integrated with the console for the purposes of measuring engine speed according to the number of cylinders indicated 1 through 12 cylinder vehicles, in the data entry section. The hook-up to the engine shall be by means of an inductive pick-up.

(B) The following table provides maximum engine rpms allowable according to number of cylinder:

(I) Maximum idle speeds (shall be field programmed by the manufacturer)

(II) More than 4 cylinders 1200 rpm maximum

(III) Four or less cylinders 1600 rpm maximum

(C) A lock-out feature shall apply only to vehicles tested in the inspection mode and shall be provided in the tachometer that will cause an "invalid test" to occur and to be displayed, printed and stored if the test idle speed range is exceeded or if the speed fluctuates in excess of 20% of the reading. This data shall be field programmed by the manufacturer.

(xii) The analyzer shall be equipped with an antidilution feature to identify vehicle exhaust system leaks and sample dilution. The technique for identifying leaks is monitoring the CO<sub>2</sub> levels in the exhaust. If the CO<sub>2</sub> reading is less than the lower limit, the analyzer shall display, print and store "invalid test" indication. The minimum acceptable CO<sub>2</sub> values shall be field programmed by the manufacturer. At least two lower-limit CO<sub>2</sub> values shall be capable of being used:

(A) Vehicle equipped with air pump: 4%.

(B) Vehicle without air pump: 6%.

(xiii) In the record mode, if the space on the storage medium available for recording is not sufficient to record

the entire test and information as specified in subparagraph (ii), the test may not proceed and the analyzer shall immediately lock out the testing mode of the analyzer until the manufacturer or service provider replaces the storage medium. The emission inspector shall be prohibited from replacing the storage medium.

(xiv) The data collection system shall provide to the emission inspection inspector a visual display of the data as it is being entered, except for that data which is required under subparagraph (ii) to be suppressed during the emission test.

(xv) The analyzer system shall have the capability to provide an electronic-mechanical span/zero check every hour. If the check is not made or fails either span or zero (gas calibration or electrical component failure), the analyzer shall automatically lock out any capability of activating an emission test until the analyzer is properly adjusted or repaired. In addition, gas span checks or leak checks, checked on a weekly basis (180 calendar hours), which fail shall cause the analyzer to automatically lock out any capability of activating an enhanced emission test until the analyzer is properly adjusted or repaired.

(xvi) Approved exhaust emission analyzers shall be powered by alternating current.

(xvii) The sample probe shall meet or surpass BAR 90 sample probe requirements and be capable of being placed in the tailpipe a minimum of 12 inches with a device, if necessary, to preclude sample dilution.

(3) Provide all of the following capabilities:

(i) The standard is automatically selected upon activating the emission test.

(ii) The HC, CO, CO<sub>2</sub> and rpm readings are automatically taken and an automatic pass/fail or invalid test determination is supplied by one of the specific codes provided in paragraph (2)(ii) upon placing the probe into the subject vehicle tailpipe and activating the test sequence.

(iii) The HC, CO, CO<sub>2</sub>, rpm and pass/fail or invalid test data are automatically recorded into the storage medium and recorded onto the consumer reports.

(c) *Field calibration gases.* Field calibration gases shall meet the following standards: 1.6% CO, 600 ppm propane; and 11% CO<sub>2</sub>, the carrier gas in nitrogen, with a 5% blend tolerance and a certified analytical accuracy of  $\pm 2\%$ . More than three gas blends are acceptable if the 1.6% CO, 600 ppm propane and 11% CO<sub>2</sub> concentrations with a 5% blend tolerance and  $\pm 2\%$  accuracy are maintained. Accuracy of the field calibration gases traceable to NBS standard gas  $\pm 2\%$  shall be certified by the individual gas blender and attested to in affidavit form to the Department by a corporate officer. A concentration label stating the gas standard manufacturer's name and production location, batch number and container fill date shall be affixed to the container. Gases used shall be secured from Bureau approved gas blenders. The seller of emission analyzers sold, used or contracted shall have a full gas container installed and operational at time of delivery.

#### § 177.407. Hours of operation.

Enhanced emission inspection stations shall be open for business a minimum of 40 hours, Monday through Friday between 7 a.m. and 5 p.m. This section may be waived by the Bureau upon written request of the inspection station owner and prior approval of the inspection station investigator. To qualify for a waiver from the provisions of this section, 50% of the working hours shall be between 8 a.m.

and 5 p.m. Monday through Friday. This section does not apply to Commonwealth or fleet emission inspection stations.

#### § 177.408. Certified emission inspectors.

(a) *General rule.* Personnel who perform enhanced emission inspections at each emission inspection station will be certified by the Department as enhanced emission inspectors. The enhanced emission inspection shall be completely performed by certified enhanced emission inspectors.

(b) *Multiple stations.* A certified emission inspector may work at more than one emission inspection station.

(c) *Certified enhanced emission inspector requirements.* An inspector desiring to be certified shall:

(1) Be 18 years of age or older.

(2) Have done the following:

(i) Completed an enhanced emission inspection training course, approved by the Department, that included, at a minimum, information on the following:

(A) The air pollution problem, including its cause and effects.

(B) The purpose, function and goal of the inspection program.

(C) Emission inspection regulations and procedures of the Commonwealth.

(D) Technical details of the test procedures and the rationale for their design.

(E) Emission control device function, configuration and inspection.

(F) Test equipment operation, calibration and maintenance.

(G) Quality control procedures and their purpose.

(H) Public relations.

(I) Safety and health issues related to the inspection process.

(ii) Passed a required written test with a minimum of 80% correct test responses.

(iii) Proved, through means of a hands-on test under supervision of a Commonwealth quality assurance officer or other qualified Commonwealth employe or agent, the ability to perform a complete emission inspection, to properly utilize test equipment and to follow other required procedures. The inability to properly conduct the test procedures shall constitute failure of the test.

(3) Renew the certification every 2 years under procedures established by the Department.

(d) *Identification.* While conducting inspections, a certified enhanced emission inspector shall have in his possession a currently valid inspector certification card issued by the Department.

(e) *Names of inspectors.* The names of certified enhanced emission inspectors and their inspector certification numbers shall be placed on the Current List of Certified Emission Inspectors form which shall be posted in a conspicuous location at the enhanced emission inspection station.

(f) *Number of inspections.* The number of inspections performed by a certified enhanced emission inspector may not exceed 4 per hour.



**OBLIGATIONS AND RESPONSIBILITIES OF  
STATION OWNERS/AGENTS**

**§ 177.421. Obligations and responsibilities of station owners/agents.**

(a) *Personal liability.* It is the responsibility of the owner of an enhanced emission inspection station:

(1) To conduct the business of the official enhanced emission inspection station honestly and in the best interests of the Commonwealth, under the Vehicle Code and this chapter and, except in the case of a fleet or Commonwealth emission inspection station, to make every reasonable effort to inspect all vehicles upon request.

(2) To make official emission inspection regulations and supplements available for the use of all certified emission inspectors and other employees involved.

(3) To notify the inspection station investigator and the Vehicle Control Division when a certified emission inspector is hired, resigns or is dismissed.

(4) To keep, at the station, for 2 years, current emission inspection records for examination by the inspection station investigator or other authorized persons.

(5) To assume full responsibility for providing the vehicle emission test report to motorists after testing and to have the repair requirements stated on a form provided to the vehicle owner or operator.

(6) To keep, at the station, for 2 years duplicate copies of completed Certificate of Emission Requisition Forms, and the original Certificate of Waiver Forms, and other required forms.

(7) To assume full responsibility, with or without actual knowledge, for:

(i) Every emission inspection conducted at the emission inspection station.

(ii) Every emission inspection waiver issued at the emission inspection station.

(iii) Every certificate of emission inspection issued to the emission inspection station.

(iv) Every violation of the Vehicle Code or this chapter related to emission inspections committed by an employee of the emission inspection station.

(8) To perform required maintenance and calibration procedures of emission analyzers according to procedures established by the Department and perform electronic zero and span checks hourly during periods of operation and weekly leak checks.

(9) To complete and retain at the station, for 2 years, weekly emission analyzer maintenance and calibration records. The emission analyzer calibration record shall be submitted to the designated Department officials or representatives upon request.

(10) To place an emission analyzer out of service when calibration cannot be performed according to procedures established by the Department.

(11) To maintain instrument calibration test results. The analyzer manufacturer or other approved service representative shall write maintenance and calibration information on the Emission Analyzer Maintenance and Calibration Report. This report shall be maintained at the station for 2 years.

(12) To enter into an agreement with the manufacturer or distributor supplying an emission analyzer or other

approved service provider to provide the analyzer calibration on the station premises as required by this chapter.

(13) To maintain a copy of the inspection report for each inspection. The reports shall be kept in sequential test order whether a sticker is issued or not. Inspection reports shall be completed and signed by the emission inspector. Sticker information may be maintained on an Emission Inspection Record form for each emission inspection. The inspection reports shall be maintained for 2 years.

(14) To maintain adequate numbers of current certificates of emission inspection and inserts for issuance.

(i) *Data entry errors.* If a data entry error occurs, the error and the error correction shall be clearly noted.

(ii) *Voided stickers.* If it is necessary to void a sticker, the sticker number and the reason shall be clearly noted.

(b) *Certificate of appointment.* A certificate of appointment is not assignable and is valid only for the owner in whose name it is issued.

(1) If there is a change of ownership, the certificate of appointment, unissued certificates of inspection and inspection material shall be surrendered to the inspection station investigator. If the new owner desires to continue providing emission inspections, the owner shall submit an Official Emission Inspection Station Update/Official Emission Inspection Station Application to the Bureau. An investigation of the premises will be conducted by the inspection station investigator.

(2) In the following circumstances, it is not necessary to surrender unissued certificates of emission inspection; however, inspections may not be conducted until the new ownership has been approved and a new certificate of appointment has been issued:

(i) Creation, modification or termination of a partnership.

(ii) Incorporation of a business.

(iii) Transfer of the controlling interest in a corporation.

(iv) Transfer of ownership to a spouse, child or parent.

(3) If there are changes of location of an emission inspection station:

(i) An Official Emission Inspection Station Update/Official Emission Inspection Station Application shall be completed and submitted to the Bureau.

(A) An investigation of the premises shall be conducted by the inspection station investigator.

(B) Certificates of inspections shall be audited by the inspection station investigator or his supervisor and will be retained by the station owner.

(ii) An emission inspection may not be made at the new location until it has been investigated, an approved emission analyzer has been installed and calibrated by an approved emission analyzer manufacturer or other approved service representative, and a new certificate of appointment has been issued by the Bureau.

(iii) An inspection station investigator will pick up all current emission certificates of inspection and retain them until the new location is approved, if the new location is not approved at the time of investigation.

(4) Emission inspections shall be discontinued:

(i) If the owner vacates, abandons or discontinues the inspection business with or without notice to the Bureau

and the inspection station investigator and supervisor. The inspection station investigator or supervisor will pick up all certificates of emission appointment, records and all other emission inspection materials and return them to the Bureau.

(ii) If the owner is deceased and if a member of the family or a partner wishes to continue the business, a new application for appointment shall be submitted to the Department.

(iii) If a station owner does not pay for required services rendered by the vendor or other approved service provider, the vendor or other approved service representative may file a written complaint with the Department, and the Department, after providing the opportunity for a hearing, may suspend the certificate of appointment until payment has been made.

(5) The following events shall be reported at once to the inspection station investigator and the Bureau; however, it is not necessary to discontinue inspections:

(i) Whenever certificates of emission inspection are damaged, lost or stolen. Telephone communication to the Bureau within 5 days of event shall be required providing the serial number of each missing emission certificate.

(ii) Whenever a certified emission inspector or a person authorized to purchase certificates of inspection is dismissed or resigns.

(iii) Whenever changes in a post office address of an emission inspection station, not location, occur, they shall be reported in writing to the inspection station investigator and the Bureau on an Official Emission Inspection Station Update/Official Emission Inspection Station Application.

(iv) Whenever changes of the company name, not ownership, occur, they shall be reported on an Official Emission Inspection Station Update/Official Emission Inspection Station Application.

(v) Whenever a person who signs the Official Emission Inspection corporation is no longer in charge of the emission inspection station:

(A) A new Official Emission Inspection Station Update/Official Emission Inspection Station Application shall be submitted to the Bureau at once.

(B) A new letter of authority shall be required for the person signing the Official Emission Inspection Station Update/Official Emission Inspection Station Application.

(6) Whenever a person, whose name is on the Authorized Agents For Receiving Stickers form, resigns or is relieved of his emission inspection responsibilities, the owner shall complete a new Authorized Agents For Receiving Stickers form and submit the completed form to the Bureau immediately.

(7) Customer relations shall be governed by the following:

(i) The garage owner or certified emission inspector shall consult the vehicle owner for permission before emission adjustments are made.

(A) Permission may be established at the time the vehicle is brought to the station or after it is determined to what extent adjustments are needed.

(B) The vehicle owner is allowed to perform his own adjustments, or to select anyone he chooses to do the work for him.

(ii) Parts replaced as a result of inspection shall be retained until the vehicle is returned to the customer. The customer shall have the right to examine replaced parts.

(iii) Inspection station owners and inspectors should be courteous and patient in explaining to the motorist that the requirements of emission inspection are designed to promote clean air. Employees should clearly understand that the function of an official emission inspection station is to perform enhanced emission inspections consistent with this chapter.

(iv) The garage owner, authorized manager or certified emission inspection inspector shall provide notice to customers of the location of the nearest quality assurance officer or Vehicle Control Division.

**§ 177.422. Commonwealth enhanced emission inspection stations.**

(a) *Eligibility.* The designation, Commonwealth Enhanced Emission Inspection Station, will be issued to stations owned and operated by the following:

(1) The Federal Government.

(2) The Commonwealth.

(3) A political subdivision of the Commonwealth.

(b) *General requirements.* An applicant for a Commonwealth emission inspection station shall meet the requirements of this chapter, including the requirements for fleet stations.

(c) *Certified emission inspection inspector.* Each official Commonwealth emission inspection station shall have at least one certified emission inspection inspector.

(d) *Method of inspection.* A Commonwealth emission inspection station may, by mutual agreement with another governmental body, inspect and issue certificates of emission inspection to vehicles registered in the name of that governmental body. Inspection fees, as defined in this chapter, may be charged for the inspection. Charges may be collected for repairs.

**§ 177.423. Fleet emission inspection stations.**

(a) Eligibility requirements for fleet emission inspection stations are as follows:

(1) *Minimum number of vehicles.* A fleet emission inspection station owner shall own or lease at least 15 subject vehicles.

(2) *Authorized subject vehicles.* The certificate of appointment shall authorize emission inspection of subject vehicles registered or leased by the fleet emission inspection station owner. Privately owned or registered vehicles of company officers and employees may not be emission inspected at a fleet emission inspection station, even if they are used for business purposes.

(3) *Certificate cancellation.* The fleet emission inspection certificate shall be cancelled if the number of subject vehicles owned or leased falls below 15, except for a temporary delay in ordering or receiving additional vehicles to supplement the fleet.

(b) Each fleet emission inspection station shall have at least one certified enhanced emission inspection inspector.

(c) Requirements for fleet inspection stations shall include the following:

(1) Applicants for a fleet emission inspection station shall comply with this chapter unless specifically exempted.

(2) Inspection areas shall be large enough to accommodate the largest subject vehicle to be inspected at the fleet emission inspection facility, in addition to meeting the minimum inspection area requirements of § 177.405 (relating to emission inspection areas).

(d) Limited inspection periods and limitations on the length of service requirements are permitted if the station meets the following:

(1) Fleet vehicles subject to emission inspections are registered in the limited inspection periods, as defined in § 177.3 (relating to definitions).

(2) The station owner, in writing, requests the Department to permit a limited inspection period. This request shall specify the month in which emission inspections will be performed.

(3) The station owner submits a copy of the manufacturer/station agreement specifying regulation service commitments for the limited inspection period.

(4) The station owner is granted written Department approval after a station review and a fleet vehicle registration certification is completed. The approval will designate the months in which emission inspections shall be performed.

(5) The station owner performs emission inspections only during months designated by the Department.

(e) Limited inspection period emission analyzer service requirements with accompanying limitations as to the length of service requirements are as follows:

(1) Station owners shall ensure that required manufacturer/station service commitments are in force during this limited period.

(2) Station owners shall pay for costs to bring the approved analyzer into compliance and monthly or quarterly fees required by the manufacturer or other approved service representative during the limited inspection period.

(3) Station owners shall be responsible for notifying the quality assurance officer or the Vehicle Control Division of the starting and ending times for the limited inspection periods. Failure to notify the Department may result in cancellation of this privilege.

(4) Station owners may not permit emission inspections to be performed during the limited inspection period until the Department has been notified by the analyzer manufacturer or other approved service representative that the analyzer is in compliance with all requirements and the Department so notifies the station owner. Failure to comply with this paragraph may result in cancellation of limited inspection period privileges.

**§ 177.424. General emission inspection stations.**

(a) *Eligibility.* The designation, general emission inspection station, will be issued to stations that emission inspect all subject vehicles, if the station is so equipped.

(b) *General requirements.* An applicant for a general emission inspection station shall comply with this chapter unless specifically exempted.

(c) *Certified enhanced emission inspection inspector.* Each general emission inspection station shall have a certified enhanced emission inspection inspector present during normal business hours.

(d) *Method of inspection.* Subject vehicles shall be inspected consistent with this chapter by a certified emission inspection inspector.

**§ 177.425. Security.**

(a) *Unlawful possession.* No person may knowingly possess certificates of emission inspection which have been illegally purchased, stolen or counterfeited.

(b) *Not transferable.* Emission inspection stickers are not transferable. They shall only be affixed to the subject vehicle as recorded on the Exhaust Emission Analyzer and the Vehicle Emission Inspection Report sheet.

(c) *Removal.* No certificates of emission inspection may be removed from a vehicle for which the certificate was issued except to replace it with a new certificate of emission inspection issued under this chapter. This prohibition is not applicable to expired certificates of emission inspection on vehicles registered outside the designated areas. These expired certificates of emission inspection shall be removed only by a certified emission or safety inspection inspector.

(1) A person replacing a windshield or repairing a windshield in a manner which requires removal of a certificate of emission inspection shall, at the option of the registrant of the vehicle, cut out the portion of the windshield containing the emission certificate and deliver it to the registrant of the vehicle or destroy the emission certificate. The vehicle may be driven up to 5 days if it displays the portion of the old windshield containing the emission certificate. Within the 5-day period an appropriate official emission inspection station may affix to the vehicle another certificate of emission inspection for the same period without reinspecting the vehicle in exchange for the portion of the old windshield containing the certificate of emission inspection. A labor fee of no more than \$2 may be charged for the exchanged certificate of emission inspection. The replacement may be made at any time prior to the expiration of the certificate of emission inspection.

(i) The portion of the windshield containing the certificate of emission inspection may be retained for audit by the inspection station investigator.

(ii) The replacement certificate of emission inspection shall be recorded on the appropriate record showing all information except inspection items.

(iii) "Replacement" shall be marked on the reverse side of the replacement certificate of emission inspection.

(2) A certificate of emission inspection may not be removed from a vehicle until a complete inspection has been made.

(3) Only one current, valid certificate of emission inspection shall be visible on a vehicle. The old certificate of emission inspection shall be removed and completely destroyed before a new sticker can be affixed after an inspection and approval.

(d) *Lock and key.* Emission inspection stickers shall be kept under lock and key in a safe place. The station owner shall be solely responsible for their safety and shall account for all emission certificates of inspection issued to the station.

(e) *Unused.* Unused certificates of emission inspection for an expired period shall be retained by the emission inspection station until audited by the inspection station investigator. After an audit is completed, the inspection station investigator shall destroy them.

(f) *Issuance of emission certificates of inspection.* Certificates of emission inspection will not be issued by the

Bureau to anyone that has not been listed on an executed Authorized Agents for Receiving Stickers Form.

(g) *Authorized agents for receiving stickers.* The Authorized Agents for Receiving Stickers Form shall be completed upon receipt as instructed on the back side of the form and submitted within 1 day of receipt to the Vehicle Control Division whenever:

- (1) An employe, whose signature appears on the form, is no longer employed by the station.
- (2) The card is defaced, torn or illegible.
- (3) An authorized agent is to be added.

**§ 177.426. Ordering certificates of emission inspection.**

(a) *Requisitions.* A properly completed Requisition For Official Inspection Sticker Form for certificates of emission inspection and a Sticker Insert Requisition Form for emission inserts shall be submitted to the Department. If certificates of emission inspection or sticker inserts are to be delivered to a mailing address instead of the inspection station address, the mailing address shall be included on every requisition submitted to the Department.

(b) *Contents.* The following information shall be entered on the order form:

(1) The correct name, address and station number, as shown on the certificate of appointment, shall be entered on every requisition form.

(2) If special delivery is desired, either shipping costs shall be paid by the station to the delivery agent upon receipt of the stickers, or if a sticker requisition is accompanied by a check for special delivery, the check shall be made payable to the "Department of Transportation."

(3) The Requisition for Official Inspection Sticker Form and Sticker Insert Requisition for Official Inspection Sticker Form and Sticker Insert Requisition Form shall be completed and forwarded to the Department.

(4) A copy of the requisition or a Department receipt will be returned with the order of certificates of emission inspection shipped from the Department. Station copies of requisitions or Department receipts shall be kept on file at the station for 2 years and shall be made available for inspection upon request of the inspection station investigator or authorized representative of the Department.

(5) Certificates of emission inspection shall be ordered in multiples of 25, with a minimum order of 50 certificates, except that Commonwealth and fleet inspection stations shall order a minimum of 25 certificates.

(6) Incomplete or improper certificates of emission inspection requisitions shall be returned to the official emission inspection station for correction to avoid unnecessary inconvenience or delay. Information shall be rechecked very carefully.

(c) *Inventory.* Emission inspection stations should anticipate their need for additional certificates of emission inspection.

(d) (Reserved).

**§ 177.427. Violations of use of certificate of emission inspection.**

A person may not:

(1) Make, issue, transfer or possess any imitation or counterfeit of an official certificate of emission inspection.

(2) Display or cause to be displayed on a vehicle or have in possession a certificate of emission inspection knowing the same to be fictitious or stolen or issued for another vehicle or issued without an emission inspection having been made.

(3) Furnish, loan, give or sell certificates of emission inspection and approval to any official emission inspection station or other person except upon an emission inspection performed in accordance with this chapter.

**QUALITY ASSURANCE**

**§ 177.431. Quality assurance.**

*Performance audits.* The Department will conduct performance audits on a periodic basis to determine whether inspectors are correctly performing the tests and other required functions.

(1) Performance audits may be of two types:

(i) Overt performance audits which may include the following:

(A) A check for appropriate document security.

(B) A check to see that required recordkeeping practices are being followed.

(C) A check for licenses or certificates and other required display information.

(D) Observation and written evaluation of each inspector's ability to properly perform an inspection.

(ii) Covert performance audits which may include the following:

(A) Remote visual observation of inspector and inspection station personnel performance, which may include the use of binoculars or video cameras.

(B) Site visits using covert vehicles.

(C) Other activities deemed appropriate by the Department as necessary to maintain the level of quality assurance for the enhanced emission inspection program required by Federal law.

(2) The station owner and the employes of the station owner shall make available information requested by the Department and shall fully cooperate with Department personnel who conduct the audits and other authorized Commonwealth representatives or agents.

**Subchapter E. EQUIPMENT MANUFACTURERS' AND CONTRACTOR'S REQUIREMENTS AND OBLIGATIONS**

**EQUIPMENT MANUFACTURERS' REQUIREMENTS**

Sec.

177.501. Equipment approval procedures.

177.502. Service Commitment.

177.503. Performance Commitment.

177.504. Revocation of Approval.

**CONTRACTOR OBLIGATIONS**

177.521. Contractor obligations and responsibilities.

**EQUIPMENT MANUFACTURERS' REQUIREMENTS**

**§ 177.501. Equipment approval procedures.**

The manufacturer shall meet the following conditions for preliminary and final approval for participation in the enhanced emission inspection program.

(1) *Preliminary approval.* The following requirements shall be met for preliminary approval:

(i) The manufacturer shall provide a certified copy of BAR 90 approved certification of the analyzer to be used. If a BAR 90 approved certification is not possible, a certified document stating complete testing compliance with all BAR 90 test requirements shall be provided. Testing shall be completed by a reputable independent testing laboratory.

(ii) The manufacturer shall provide documentation that the automatic data collection system will meet the Pennsylvania Automatic Data Collection system requirements and provide flow descriptions and detailed operations with proposed screens for Automatic Data Collection requirements.

(iii) The manufacturer shall submit a description of the proposed methods the manufacturer or distributor will use to meet Department analyzer specifications, performance commitments, financial commitments, responsibilities and agreements as required by this chapter and the Department's procedures and policies.

(iv) The manufacturer shall provide a document that the dynamometer meets all Federal requirements for ASM test equipment as specified in 40 CFR, Part 85 (relating to control of air pollution from motor vehicles and motor vehicle engines), which is adopted by reference.

(2) *Final approval.* The following requirements shall be met for final approval:

(i) The manufacturer shall provide a certified copy of BAR 90 approved certification or a certified document stating complete testing compliance with BAR 90 test requirements by a reputable independent testing laboratory that completed the testing.

(ii) The manufacturer shall provide a certified document that the Automatic Data Collection system meets the Pennsylvania Automatic Data Collection system requirements and provide final flow descriptions and diagrams and final detailed operations with final screens.

(iii) The manufacturer shall provide test tapes and printed listing of the test information transmitted to include a minimum of 200 engine tests with a representative sample of all cut points. All cut points shall be tested.

(iv) The manufacturer shall provide a document that the dynamometer meets all Federal requirements for ASM test equipment as specified in 40 CFR, Part 85, which is adopted by reference.

(v) The manufacturer shall submit a certified signed statement that the description of the methods the manufacturer or distributor will use shall meet or surpass all Department analyzer and dynamometer specifications, performance commitments, financial commitments, responsibilities and agreements as required by this chapter and the Department's procedures and policies.

(3) *Certification.* A manufacturer shall cause a corporate officer with production management responsibility and a corporate officer with administration/operations management responsibility, if a corporation; the general partners, if a partnership; or the owner, if a sole proprietorship, to certify in writing and attest in affidavit form to the Department that the exhaust emission analyzer meets the specifications of this section and quality assurance and that the manufacturer meets or surpasses stated field requirements.

#### § 177.502. Service commitment.

(a) Manufacturers and distributors shall provide the following service commitments:

(1) Supply equipment for sale, lease or rent as specified by the purchase order delivery date.

(2) Train, at no cost, on the initial visit for installation of the emission analyzer or dynamometer, or both, all certified enhanced emission inspection inspectors employed at the time of installation regarding the proper use of the analyzer or the dynamometer, or both, and provide, within 45 days of the request by a station owner or operator, onsite training for additional inspectors for a service fee.

(3) Provide or permit test standards or procedures utilized by test equipment to be modified consistent with Federal requirements for emission inspection programs.

(4) Provide maintenance on purchased equipment within 5 business days of an oral or written request from the station. A fee may be charged for this service.

(5) Visit each station at least every 3 months, no less than 80 calendar days and no greater than 95 calendar days from the previous visit—or in the case of the initial visit, from the delivery date of the equipment—to calibrate the analyzer or other equipment in accordance with Bureau procedures.

(b) Manufacturers and distributors shall offer to equipment purchasers the ability to contract for the following services for additional fees:

(1) Provide replacement equipment while servicing faulty equipment.

(2) Provide inspections, calibrations, training or maintenance or any combination thereof on a more frequent basis than specified in subsection (a).

(c) Manufacturers or distributors shall permit equipment purchasers to contract with other Department approved service providers for the services specified in subsection (b).

(d) All other Department approved equipment service representatives shall provide the following service commitments:

(1) Maintenance on equipment within 5 business days or an oral or written request from the station. A fee may be charged for this service.

(2) Replacement equipment while servicing faulty equipment. A fee may be charged for this service.

#### § 177.503. Performance commitment.

(a) The manufacturer or distributor shall agree that, if it decides to discontinue participation in the program or if its name is removed from the list of approved manufacturers or distributors of emission analyzers by the Department, it will buy back all emission analyzers and dynamometers from the inspection stations which purchased them for an amount equal to the unamortized cost based on straight line amortization over the expected useful life of the analyzer.

(b) The manufacturer or distributor shall agree to provide a specific performance bond, irrevocable letter of credit, a certified check, or bank cashier's check drawn to the order of the Pennsylvania Department of Transportation, or other suitable financial instrument acceptable to

the Department in the amount of \$1 million initially, and in the amount of an additional \$400,000, for every 250 analyzers sold to Pennsylvania licensed emission inspection stations. This security will be used:

(1) To insure that money is available to reimburse licensed inspection stations for the reasonable value of existing emission analyzers and dynamometers in the event that the manufacturer or distributor goes out of business in this Commonwealth or is removed by the Department from the list of approved manufacturers or distributors for substantial failure to comply with the terms and conditions of the agreement or this chapter.

(2) To be used in part or in whole in the event of nonperformance or default of the manufacturer or distributor.

**§ 177.504. Revocation of approval.**

(a) The Department may, at any time, on the basis of manufacturer or distributor failure to comply with this chapter, Chapter 41 of the Vehicle Code (relating to equipment standards), or any contract or agreement between the manufacturer and the Department, revoke or suspend the manufacturer's or distributor's approval to provide new or replacement emission analyzers and dynamometers to Pennsylvania emission inspection stations, and may remove the manufacturer or distributor's name from the list of approved emission analyzers and dynamometers if the manufacturer or distributor has failed to make satisfactory progress toward correcting notice of failure within 30 calendar days after having received written notice by the Department.

(b) The following shall constitute, together or individually, a default under this subsection and may be cause for revocation of approval, termination of an agreement, or forfeiture of security provided in § 177.503(b) (relating to performance commitment):

(1) Failure of emission analyzer equipment or dynamometers, or both, provided by the manufacturer or distributor to licensed emission inspection stations to comply with the manufacturer's or distributor's approved application.

(2) Failure, on the initial visit for installation of the emission analyzer or dynamometer, or both, to train all certified enhanced emission inspection inspectors employed by the emission inspection applicant stations.

(3) Failure to provide optional contracted services to stations provided any of the listed optional contracted services are specified in the station/manufacturer contract.

(c) Other Department approved equipment service providers shall agree to provide a specific performance bond, irrevocable letter of credit, certified check or bank cashier's check drawn to the order of the Pennsylvania Department of Transportation, or other suitable financial instrument acceptable to the Department in the amount of \$200,000.

**CONTRACTOR OBLIGATIONS**

**§ 177.521. Contractor obligations and responsibilities.**

(a) *Services to be contracted.* The Department intends to contract with a vendor to perform services, including inspection station audits, inspection test data collection, on-road testing and other quality assurance efforts needed to comply with Federal law. The vendor shall be

responsible for providing all services as specified in contracts executed with the Department, which shall be available for public review.

(b) *Subcontracts.* The vendor may subcontract any of these services, with the approval of the Department, but the vendor shall be liable to the Department for the performance of the subcontractor.

(c) *Personal liability.* The contractor, or those acting as agents of the contractor, shall assume full responsibility for:

(1) Making records available to the Department quality assurance personnel and other authorized Commonwealth personnel during periodic audits.

(2) Providing to the Department, at no cost to the Department, the results of the emission tests conducted at enhanced emission inspection stations. The requirements for data collection and transmission shall be as specified in the contract between the Department and the contractor.

(3) Providing to the Department, at no cost to the Department, the results of inspection station audits and on-road testing. The requirements for data collection and transmission shall be as specified in the contract between the Department and the contractor.

(4) Maintaining copies of test results and other data in the event that there are problems with the online transmission. The copies may be discarded only after notification by the Department that data from the original transmission has been satisfactorily transferred for data processing.

(5) Using computer control of quality assurance checks and quality control charts whenever possible.

**Subchapter F. SCHEDULE OF PENALTIES AND HEARING PROCEDURE**

**SCHEDULE OF PENALTIES AND SUSPENSIONS**

- Sec.  
177.602. Schedule of penalties for emission inspection stations.  
177.603. Schedule of penalties for emission inspectors.  
177.604. Subsequent violations.  
177.605. Multiple violations.

**DEPARTMENTAL HEARING PROCEDURE**

- 177.651. Notice of alleged violation and opportunity for a Departmental hearing.  
177.652. Official documents.

**RESTORATION AFTER SUSPENSION**

- 177.671. Restoration of certification of an emission inspector after suspension.  
177.672. Restoration of certification of an emission inspection station after suspension.

**REGISTRATION RECALL PROCEDURE FOR VIOLATION OF §§ 177.301—177.305 (RELATING TO ON-ROAD TESTING)**

- 177.691. Registration Recall Committee

**SCHEDULE OF PENALTIES AND SUSPENSIONS**

**§ 177.602. Schedule of penalties for emission inspection stations.**

(a) The complete operation of an official emission inspection station shall be the responsibility of the owner. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. In addition, violators are also subject to criminal prosecution. Every general, fleet or Commonwealth emission inspection station shall be subject to the following schedule of penalties and suspension:

| Type of Violation  | Duration of Suspension   |  |   |
|--|--|--|---|
|  | 1st Offense  | 2nd Offense  | 3rd and Subsequent Offense  |
| <i>Category 1</i>  |  |  |   |
| Issuance or possession of altered, forged, stolen or counterfeit certificate of inspection                                   | 1 year & \$2,500 fine  | Permanent & \$5,000 fine   |   |
| Furnish, lend, give, sell or receive a certificate of inspection without inspection  | 1 year & \$2,500 fine  | Permanent & \$5,000 fine   |   |
| Fraudulent recordkeeping   | 1 year & \$2,500 fine  | Permanent & \$5,000 fine   |   |
| Faulty inspection  | 3 months & \$1,000 fine  | 1 year & \$2,500 fine  | 3 years & \$5,000 fine  |
| <i>Category 2</i>  |  |  |   |
| Inspecting more than 12 subject vehicles per hour per emission inspection inspector  | 3 months   | 6 months   | 3 years   |
| Failure to produce records upon demand by inspection station investigator  | 3 months   | 6 months   | 1 year  |
| Inspection by uncertified inspector  | 3 months   | 6 months & \$1,000 fine  | 1 year & \$2,500 fine   |
| Unnecessary repairs for purpose of inspection  | 3 months   | 6 months   | 1 year  |
| Misstatement of fact   | 1 month  | 3 months   | 1 year  |
| Improper assigning of certificate of inspection  | 1 month  | 3 months   | 1 year  |
| <i>Category 3</i>  |  |  |   |
| Improper security of certificate of inspection   | Warning  | 3 months   | 1 year  |
| Unclean inspection area  | Warning  | Warning  | 3 months  |
| Careless recordkeeping   | Warning  | Warning  | 3 months  |
| Required tools or equipment missing or broken  | Warning if tools are repaired or replaced; if not, suspension until tools are repaired or replaced.            | 1 month or until tools are repaired or replaced, whichever is greater. | 6 months or until tools are repaired or replaced, whichever is greater. |
| Bad Check  | Warning, if amount due is paid within 10 days from date notified. If not, suspension until amount due is paid. | 3 months or until amount due is paid, whichever is greater.            | 6 months or until amount due is paid, whichever is greater.             |
| <i>Category 4</i>  |  |  |   |
| Failure to report discontinuance of business   | 1 year   | 2 years  | Permanent   |
| Failure to notify the Department of changes of ownership, location or other changes affecting an official inspection station | 3 months   | 6 months   | 1 year  |

(b) *Assignment of points.* The Department will permit the station owner to consent to the acceptance of a point assessment for the station in lieu of suspension, if the station owner, manager, supervisor or other management level employe was without knowledge of the violation.

(1) The station owner bears the burden of proving that the station owner provided proper supervision of the employe who committed the violation, but that the owner's supervision could not have prevented the violation.

(2) By accepting the assessment of points the station owner waives the right to appeal the Department's determination in the case to a court of record. If the station owner refuses to accept the point assessment, the Department will issue the suspension provided in this chapter for the offense committed.

(c) *Point determination.* When offering a point assessment, in lieu of a suspension, the Department will calculate points in the following manner:

(1) One point will be assessed for every 2 months of suspension which the Department would otherwise impose.

(2) A point assessment will not exceed 8 points for a single violation.

(3) If an inspection station is currently serving a suspension for a violation of this chapter, no point assessment will be made. A subsequent violation which occurs while a current suspension is being served, will result in a suspension that will run consecutively with the current suspension.

(d) *Point suspension.* The Department will suspend the privileges of an official inspection station for an accumulation of points whenever the station accumulates 10 or more points.

(1) The first occurrence of an accumulation of 10 points or more shall result in a suspension for 2 months for each point over 9 points; the second occurrence of an accumulation of 10 points or more shall result in a suspension for 4 months for each point over 9 points; the third occurrence of an accumulation of 10 points or more shall result in a suspension for 6 months for each point over 9 points.

(2) The fourth occurrence for an accumulation of 10 or more points shall result in a permanent suspension.

(3) Only suspensions issued as the result of an accumulation of points shall be counted in determining whether a suspension for points accumulation's is a second, third or fourth suspension.

(4) If the point record of a station has been reduced to zero, a subsequent accumulation of points that will result in the suspension of the station will be considered first, second, third and fourth suspensions.

(e) *Warning.* The Department may permit the station to consent to the acceptance of a warning in lieu of a first violation suspension, if the station owner appointee and supervisors were without knowledge of the violation and reasonably could not have known of the violation. The consent warning will only be issued to stations which have had no suspendable violations for 3 years prior to the date of the violation which is being considered. The station bears the burden of proving that it provided proper supervision of the employe who committed the violation but that its supervision could not have prevented the violation. Consent warnings replace the first violations suspension, and a second violation will be

considered a second violation. Consent warnings will be issued only for the following types of violations:

- (1) Furnishing, lending, giving, selling or receiving a certificate of inspection without inspection.
- (2) Fraudulent recordkeeping.
- (3) Improper recordkeeping.
- (4) Faulty inspection.

(f) *Voluntary discontinuance.* A certificate of appointment will be cancelled by the Department whenever the owner voluntarily discontinues the operation of an emission inspection station. Remaining emission inspection materials shall be returned to the inspection station investigator upon request of the Department.

(g) *Abandonment.* A certificate of appointment will be cancelled by the Department, and inspection materials confiscated when the owner of record abandons the place of business and cannot be located.

(h) *Sale of business.* If an emission inspection station is sold or leased to a new owner, an application will not be considered while the station is suspended or restored pending an appeal of a suspension.

**§ 177.603. Schedule of penalties for emission inspectors.**

An emission inspector shall assume full responsibility for the inspector's acts as an emission inspector. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. A violator may also be subject to criminal prosecution. After providing the emission inspector with an opportunity for a hearing, the Department may impose suspensions or penalties upon the emission inspector according to the following schedule of offenses for violations:

| Type of Violation  | Duration of Suspension                |                       |                            |
|--|---------------------------------------|-----------------------|----------------------------|
|  | 1st Offense                           | 2nd Offense           | 3rd and Subsequent Offense |
| <i>(1) Category 1.</i>   |                                       |                       |                            |
| Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection                          | 1 year                                | Permanent             |                            |
| Furnish, lend, give, sell or receive a certificate of emission inspection without inspection                                 | 1 year                                | Permanent             |                            |
| Fraudulent recordkeeping   | 1 year                                | Permanent             |                            |
| Faulty inspection  | 2 months & \$100 fine                 | 1 year & \$500 Fine   | 3 years & \$1,000 Fine     |
| <i>(2) Category 2.</i>   |                                       |                       |                            |
| Failure to produce records upon demand by quality assurance officer or other authorized Commonwealth representative or agent | Suspension until records are produced |                       |                            |
| Inspection by uncertified inspector  | 4 months                              | 6 months              | 1 year                     |
| Improper recordkeeping   | Warning                               | 2 months              | 6 months                   |
| Improper inspection  | Warning & \$100 fine                  | 2 months & \$250 fine | 6 months & \$500 fine      |
| Improper assigning of certificate of emission inspection   | Warning                               | 2 months              | 6 months                   |
| Improper security of certificate of emission inspection  | Warning                               | 2 months              | 6 months                   |



| <i>Type of Violation</i>  | <i>1st Offense</i> | <i>2nd Offense</i> | <i>3rd and Subsequent Offense</i> |
|---|--------------------|--------------------|-----------------------------------|
| (3) <i>Category 3.</i>  |                    |                    |                                   |
| Unclean inspection area   | Warning            | 1 month            | 4 months                          |
| Careless recordkeeping  | Warning            | 1 month            | 4 months                          |
| Failure to give vehicle emission inspection test printout to customer | Warning            | 1 month            | 4 months                          |

**§ 177.604. Subsequent violations.**

Determination of second and subsequent violations will be made on the basis of previous violations in the same category within a 3-year period.

**§ 177.605. Multiple violations.**

If multiple violations are reviewed and considered at one Departmental hearing, the Department will impose separate penalties for each violation as required by the schedule of penalties. The Department may direct that a suspension be served concurrently or consecutively. Violations affecting more than one vehicle will be treated as separate violations.

**DEPARTMENTAL HEARING PROCEDURE**

**§ 177.651. Notice of alleged violation and opportunity for a Departmental hearing.**

Except for a penalty or sanction imposed under the contract between the Department and the contractor, a person charged by the Department's quality assurance officers or other authorized personnel to be in violation of this chapter or the Vehicle Code shall have the right to request a hearing regarding the charges. The hearing will be conducted in accordance with the following:

(1) The Department will provide written notice to a dealer, contractor, inspector or other employe of the contractor of the nature of the alleged violation and of the opportunity and procedure to request a Departmental hearing.

(2) The hearing, if requested, will take place within 14 days of the request.

(3) The hearing will be conducted by Department personnel at a site established by the Department.

**§ 177.652. Official documents.**

(a) Whenever an emission inspection station or inspector is suspended or cancelled, the Department may order the surrender, upon demand, to an inspection station investigator or authorized representative of the Department, of the following items:

- (1) Inspector certification card.
- (2) Other items pertaining to the certification of the emission inspector to conduct vehicle emission inspections.
- (3) Inspection records.
- (4) Certificate of appointment.
- (5) Signature cards.
- (6) Unused certificates of emission inspection
- (7) Unused I/M monthly inserts.

(b) Certificates of emission inspection and records confiscated as the result of an investigation will be retained by the inspection station investigator. Certificates of

emission inspection and records confiscated as the result of a suspension will be returned to the Department. They will be returned if inspection privileges are restored or the station is reappointed.

**RESTORATION AFTER SUSPENSION**

**§ 177.671. Restoration of certification of an emission inspector after suspension.**

An emission inspector who has had the privilege to conduct enhanced emission inspections suspended shall have the certification restored as follows:

(1) A certified emission inspector who has been suspended for a Category 1 violation or on two or more occasions for a violation of Category 2 or Category 3 under this chapter may not have the certification restored unless the emission inspector obtains classroom instruction and passes a written test and a tactile test according to procedures established by the Department.

(2) A certified emission inspection inspector who has not been previously suspended for a violation of Category 2 or Category 3 under this chapter will have the certification restored at the termination of the suspension.

**§ 177.672. Restoration of certification of an emission inspection station after suspension.**

(a) *Restoration after suspensions.* Stations that have had their privilege to inspect suspended shall be restored as follows:

(1) Stations that have been suspended as a result of a point accumulation will have their point total reduced to six points upon restoration.

(2) Additional points assessed against the station since the last violation resulting in a suspension will be added to the point record unless the station has served an additional suspension under § 177.602(c)(3) (relating to schedule of penalties for emission inspection stations).

(b) *Removal of points.* Points assessed against a station shall be removed at the rate of two points for each 12 consecutive months in which the station has not had any additional violations charged against it that could result in additional points. The 12-month period starts at the date of the last violation resulting in points or from the date of restoration of a suspension resulting from an accumulation of points, whichever occurred last.

(c) *Subsequent violations.* Determination of second and subsequent violations is made on the basis of previous violations in the same category within a 3-year period.

(d) *Multiple violations.* In the case of multiple violations, considered at one time, the Department will impose separate penalties for each violation as required by the schedule. The Department may direct that a suspension be served concurrently. If the Department permits a station to accept points in lieu of a suspension, the points will be assigned for the more serious violation affecting

each vehicle. Violations affecting more than one vehicle will be treated as separate violations.

(e) *Application process.* After a suspension has been served, inspection privileges will not be restored until an Official Emission Inspection Update/Official Emission Inspection Station Application has been received and processed by the Department. Upon receipt of an application for reappointment following a suspension of more than 3 months or more, a complete and thorough investigation by the inspection station investigator will be conducted to determine if the applicant qualifies for reappointment under the requirements of the Department. Other applications for reappointment are subject to investigation at the discretion of the Department.

**REGISTRATION RECALL PROCEDURE FOR VIOLATION OF §§ 177.301—177.305 (RELATING TO ON-ROAD RESTING)**

**§ 177.691. Registration Recall Committee.**

(a) *Composition.* The Registration Recall Committee (Committee) of the Department will consist of a Vehicle Registration Section manager, an Emission Inspection Section manager and the Director of the Bureau or a designee.

(b) *Frequency of meetings of Registration Recall Committee.* The Committee will meet on the first Monday of each month and as needed.

(c) *Basis of recalling registrations.* The Committee will recall the vehicle registration when the following conditions are met:

(1) The contractor forwards documentation to the Department that a subject vehicle has failed to pass an on-road emissions test.

(2) The vehicle owner or operator of the vehicle has failed to produce within 30 days of the failure of the on-road emission test evidence that the vehicle has passed a retest or evidence of an emission test waiver.

(d) *Determination of the Committee.* Upon a determination by the Committee that the subject vehicle had failed an on-road emission test and that the owner or operator of the subject vehicle had failed to produce evidence of a correction of the failure or a waiver, the Committee will issue a letter to the owner or operator of the subject vehicle recalling the vehicle registration until proof of passing an emission test or receiving a waiver has been submitted to the Department.

(e) *Appeal.* An appeal from the recall of vehicle registration under this section shall be commenced consistent with Chapter 491 (relating to administrative practice and procedure).

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