

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51 AND 63]

General Provisions; Fishing

The Fish and Boat Commission (Commission) amends Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). This final-form rulemaking pertains to the release of Commission documents and records, the review of applications for permits to draw off impounded waters and fishing with long bows, spears and gigs.

A. Effective Date

This final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The amendments to § 51.9 (relating to release of documents and records) are published under the statutory authority of section 8(a) of the Right-to-Know Law (law) (65 P. S. § 66.8(a)) and section 506 of The Administrative Code of 1929 (71 P. S. § 186). The amendments to §§ 51.84 and 63.8 (relating to review of permit applications; and long bows, spears and gigs) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to administrative provisions and fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

E. Summary of Changes

(1) *Section 51.9.* On December 26, 2002, amendments to the law went into effect. The amended law provides that agencies shall establish written policies and may promulgate regulations necessary to implement the law. The amended law also provides that written policies shall include the name of the office to which requests for access shall be addressed and a list of applicable fees. Although the Commission already had a regulation pertaining to the release of documents and records, the Commission updated this regulation to read as set forth in the notice of proposed rulemaking.

(2) *Section 51.84.* A recent review of the Commission's regulations pertaining to permits to draw off impounded waters has revealed that a housekeeping change to this section is needed in that the Commission no longer has an environmental and technical liaison. Accordingly, the Commission amended this section to read as set forth in the notice of proposed rulemaking.

(3) *Section 63.8.* The Commission recently amended its Lake Erie regulations to prohibit spear fishing in or along Lake Erie tributary streams. To be consistent, the Commission amended this section to read as set forth in the notice of proposed rulemaking.

F. Paperwork

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will impose no new costs on the private sector or the general public with the exception of the amendments to § 51.9, which impose a charge for certified copies of \$1 per page up to \$5 per document. The impact of this charge will be nominal. All other charges remain unchanged.

H. Public Involvement

A notice of proposed rulemaking was published at 33 Pa.B. 3126 (July 5, 2003). The Commission did not receive any public comments regarding the proposed changes.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 51 and 63, are amended by amending §§ 51.9, 51.84 and 63.8 to read as set forth at 33 Pa.B. 3126.

(b) The Deputy Executive Director will submit this order and 33 Pa.B. 3126 to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order and 33 Pa.B. 3126 and deposit the same with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DENNIS T. GUISE,
Deputy Executive Director

Fiscal Note: Fiscal Note 48A-145 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 03-2227. Filed for public inspection November 21, 2003, 9:00 a.m.]

FISH AND BOAT COMMISSION**[58 PA. CODE CHS. 61 AND 65]****Fishing**

The Fish and Boat Commission (Commission) amends Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to the minimum size and daily limit for Delaware River and River Estuary striped bass and a miscellaneous special regulation for Raccoon Creek State Park Upper Pond in Beaver County.

A. Effective Date

This final-form rulemaking will go into effect on January 1, 2004.

B. Contact Person

For further information on this final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The amendment to § 61.2 (relating to Delaware River and River Estuary) is published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. Purpose and Background

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

E. Summary of Changes

(1) *Section 61.2.* The evolution of the Commission's Delaware River and Estuary striped bass regulations has been quite dynamic over the past 20 years. As a member of the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board, the Commission has worked in concert with other east coast states, in particular neighboring jurisdictions, regarding an agreed upon management plan for migratory striped bass. The Commission has amended its regulations to reflect changes to the ASMFC Interstate Fishery Management Plan for Atlantic Striped Bass. Currently, one striped bass between 24 and 28 inches and one striped bass 28 inches or longer may be taken per day.

Specific compliance criteria contained in Amendment 6 of the Atlantic Striped Bass Management Plan adopted in February 2003 includes a two-fish creel limit and a 28-inch minimum size limit for most recreational fisheries. Jurisdictions may implement other regulations provided conservation equivalency is maintained. Regulations differing from the two-fish per day at the 28-inch minimum size must be approved first by the ASMFC striped bass technical committee and then the management board. The implementation schedule to meet Amendment 6 deadlines and the uncertainty with regard to how "producer areas" will be handled regarding status quo have placed this Commonwealth in a dilemma with neighboring jurisdictions bordering the Delaware River

and Estuary. To date, New York, Delaware, New Jersey and the Commonwealth have attempted to maintain consistent regulations for Delaware River striped bass.

With the implementation of Amendment 6, New York and Delaware are going to implement the two at 28 inches package. It is uncertain, however, what course of action New Jersey will take. Under the circumstances, the Commission believes that it would be prudent for the Commonwealth to take the same approach as New York and Delaware until the "producer area" issue is resolved. Accordingly, the Commission amended § 61.2 to impose a two-fish creel limit and a 28-inch minimum size limit for striped bass taken during the current harvest seasons. The Commission amended this section to read as set forth in the notice of proposed rulemaking.

(2) *Section 65.24.* Raccoon Creek State Park Upper Pond is an 8-acre impoundment in Hanover Township, Beaver County, which is maintained by the Department of Conservation and Natural Resources. This impoundment was inventoried by the area fisheries manager in 2002. According to the inventory, the fish community is primarily a warm water one with a fairly abundant largemouth bass population with a favorable size structure. Bluegills were available in moderate numbers and smaller sizes during the May 2002 survey. Raccoon Creek State Park is one of the closest State parks to the Pittsburgh metropolitan area and is prone to heavy visitation. State park personnel expressed strong interest in maintaining, if not improving, the quality of the fishery at the Upper Pond and the educational experience of groups using this waterway. Trout stocking is not being considered due to the close proximity of trout stocked waters in nearby 101-acre Raccoon Lake and sections 2 and 3 of Traverse Creek. Also, the pond is located in somewhat of a remote setting requiring a minimum of a 1/2-mile hike on a gate access road.

Accordingly, the Commission adopted catch-and-release regulations for all species at Raccoon Creek State Park Upper Pond to optimize use of this waterway. The Commission amended § 65.24 to read as set forth in the notice of proposed rulemaking. Under § 51.5 (relating to correction of regulations), the Commission is making a corrective change to reflect that the correct name of the State park is Raccoon Creek State Park, not Raccoon State Park.

F. Paperwork

This final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will impose no new costs on the private sector or the general public.

H. Public Involvement

Notice of proposed rulemaking was published at 33 Pa.B. 4076 (August 16, 2003). Regarding the proposed amendments to § 61.2, the Commission received one public comment from the Upper Delaware Council requesting that the Commission consider a minimum size limit of 18 inches so that the size limit is consistent with producer areas, such as the Hudson River. Commission staff, however, believe that until the ASMFC designates the Delaware River as a producer area, the Commission should not consider a reduced minimum size limit. Copies of this public comment were provided to the Commission-

ers. The Commission did not receive any public comments concerning the other proposed amendment.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and the comments received were considered.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 65, are amended by amending § 61.2 to read as set forth at 33 Pa.B. 4076 and § 65.24 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Deputy Executive Director will submit this order, 33 Pa.B. 4076 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order, 33 Pa.B. 4076 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 4, 2004.

DENNIS T. GUISE, Deputy Executive Director

Fiscal Note: Fiscal Note 48A-148 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

Table with 3 columns: County, Name of Water, and Special Regulations. Row 1: Beaver, Raccoon Creek State Park Upper Pond, This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.

[Pa.B. Doc. No. 03-2228. Filed for public inspection November 21, 2003, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 177]

Emissions Inspection Program

The Department of Transportation (Department), Bureau of Motor Vehicles (Bureau) amends Chapter 177 (relating to emission inspection program) by adding provisions for vehicle emission inspection and maintenance (I/M) testing using the onboard diagnostic (OBD) systems in model year (MY) 1996 and newer vehicles.

The I/M program, implemented under 75 Pa.C.S. §§ 4103, 4531, 4701, 4706, 4707, 4710, 6103 and 9104, is required by the Federal Clean Air Act (Clean Air Act), as amended by Pub. L. No. 101-52, 104 Stat. 2399-2712 (42 U.S.C.A. §§ 7401—26718) and Pub. L. No. 104-59, 109 Stat. 568 (1995), known as the National Highway System Designation Act of 1995. Implementation of emission testing using vehicle OBD systems is required by the Clean Air Act and recent amendments to 40 CFR Parts 51 and 85 (relating to regulations for preparation, adoption and submittal of implementation plans; and control of air pollution from mobile sources).

Proposed rulemaking is omitted under 75 Pa.C.S. § 4706 (relating to prohibition on expenditures for emission inspection program), which exempts the regulations from the proposed rulemaking provisions of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and 75 Pa.C.S. § 4710 (relating to Vehicle Emission System Inspection Program Advisory Committee), which provides for initial submission of final regulations regarding the vehicle emission I/M program to the Office of Attorney General for review as to form and legality and thereafter to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees in accordance with the Regulatory Review Act.

Purpose of Chapter 177

Chapter 177 implements an emission I/M program as required by the Clean Air Act and regulations promulgated thereunder, 40 CFR Parts 51 and 85.

Purpose of the Final-Omitted Rulemaking

The final-omitted rulemaking incorporates OBD-I/M testing of MY 1996 or newer vehicles into the I/M program in this Commonwealth, in compliance with the Clean Air Act and amendments to 40 CFR Parts 51 and 85 (relating to requirements for preparation, adoption and submittal of implementation plans; and control of air pollution from mobile sources) which require states to implement OBD testing. The final-omitted rulemaking also implements gas cap testing and visual antitampering inspection in selected counties.

The engines in vehicles MY 1996 and newer are largely electronically controlled. Sensors and actuators sense the operation of specific components (for example, oxygen sensors) and actuate others (for example, fuel injectors) to maintain optimal engine performance and control. An onboard computer controls all of these systems. With proper software, the onboard computer is capable of monitoring all of the sensors and actuators to determine whether they are working as intended. It can detect a malfunction or deterioration of the various sensors and actuators, usually well before the driver becomes aware of the problem through a loss in vehicle performance or

drivability. The sensors and actuators, along with the diagnostic software in the onboard computer, make up what is called the OBD system.

Many component failures that impact emissions can be electrical or even chemical in nature. The OBD system is intended to detect problems that may not be noticeable upon visual inspection. When the OBD system determines that a problem exists, a corresponding "diagnostic trouble code" is stored in the computer's memory. When the vehicle is taken to a service center or repair shop, a service technician can retrieve the stored diagnostic trouble codes from the computer memory of the vehicle using newly developed diagnostic tools. Since the diagnostic trouble codes will specifically identify the problem, the service technician can more quickly and accurately make the proper repair.

The Clean Air Act (42 U.S.C.A. §§ 7401—7671q) as amended in 1990 required the Environmental Protection Agency (EPA) to set requirements for states to follow in designing and operating vehicle I/M programs. In addition to distinguishing between basic and enhanced I/M programs, the requirements also clarify how states can meet other minimum design requirements set by the Clean Air Act. One requirement applicable to both basic and enhanced I/M programs includes OBD system checks as part of the required periodic inspection.

On November 5, 1992, the EPA published regulations meeting most of the requirements of the Clean Air Act. At the time the regulations were promulgated, however, Federal OBD certification standards had not yet been developed and published. To address the Clean Air Act's OBD-I/M requirement, the EPA reserved sections in the regulations with the understanding that the reserved sections would be amended on a future date. Although the Federal requirement to incorporate OBD into new vehicles began with MY 1994, manufacturers were allowed to request waivers on vehicles for MY 1994-95. Full compliance was not required on all light-duty cars and trucks sold in the United States until MY 1996. On August 6, 1996, the EPA published amendments to the 1992 I/M regulations establishing OBD-I/M performance standards. The 1996 amendments also established data collection, analysis and summary reporting requirements for the OBD-I/M testing element; established OBD test equipment requirements and the OBD test result reporting format; and identified those conditions that would result in an OBD-I/M pass, failure or rejection. Lastly, the August 6, 1996, amendments revised 40 CFR Part 85, Subpart W (relating to emission control systems performance warranty short test) to establish OBD-I/M as an official performance warranty short test under section 207(b) of the Clean Air Act (42 U.S.C.A. § 7541(b)).

At the time the original OBD-I/M requirements were established, it was not practical to evaluate the real world, in-use performance of OBD because the vehicles in question were still too new and the number of vehicles in need of repair was too few to make pilot testing worthwhile. In 1998, the EPA further amended its OBD-I/M requirements to provide that state I/M programs begin OBD testing by January 1, 2001. In April 2001, the EPA amended its OBD-I/M regulations to: (1) provide states several options for extending the current deadline for mandatory implementation of OBD-I/M inspection beyond January 1, 2001; (2) clarify states' options regarding the integration of OBD-I/M checks into existing I/M programs; (3) revise and simplify the current list of diagnostic trouble codes that constitute the OBD-I/M failure criteria to include any code that leads the dashboard

malfunction indicator light to illuminate; and (4) provide for exemptions from specific readiness code rejection criteria on OBD-equipped vehicles based upon vehicle MY.

In addition to the inclusion of OBD-I/M testing in the I/M program, these amendments correct some organizational and typographical deficiencies in the existing regulations.

Significant Provisions of the Final-Omitted Rulemaking

§ 177.3. Definitions. Since 1999, the Commonwealth has not conducted a basic emissions inspection program, conducting only enhanced programs in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties (Philadelphia region) and in Allegheny, Beaver, Washington and Westmoreland Counties (Pittsburgh region). Going forward, the inclusion of OBD-I/M testing will be incorporated into the enhanced program and expanded to other counties and regions in this Commonwealth. Consequently, the basic/enhanced distinction has no significance for the emission I/M program in this Commonwealth and the definitions have been eliminated. References to the basic program and use of the word "enhanced" as a modifier throughout the regulation have been eliminated in the final-omitted rulemaking.

In addition, since air quality attainment status is determined on a regional basis, it is more appropriate to discuss elements of the program in terms of regions. The definition of "I/M area" has been replaced with "I/M region." Insofar as air quality considerations may require, the Secretary may initiate emission inspections in a single county as well. Counties and regions in which an I/M program is currently being administered or envisioned are included in the definition of "I/M region."

Also included are definitions for new terms and acronyms related to OBD technology. Definitions are provided for "DTC—diagnostic trouble code," "MIL—malfunction indicator light," "OBD—onboard diagnostics," "OBD data link connector (DLC)," "readiness code" and "scanner or scan tool."

§ 177.22. Commencement of inspections. The Department plans to begin the implementation of OBD-I/M testing on or before the close of the 2003 calendar year, as testing and recording equipment compatible with the Department's vehicle inspection information database is developed and marketed to inspection stations. This section provides that the Secretary will give notice by publication in the *Pennsylvania Bulletin* of effective dates for the transition of the existing emission I/M inspection programs in the Philadelphia and Pittsburgh regions to programs which include OBD-I/M testing and to initiate OBD-I/M testing programs in other counties and regions as appropriate. The notice will provide motorists in those counties or regions with 60 days notice of the transition or initiation of the program.

This section also recognizes that, over time, the number of pre-1996 vehicles (which, generally, were not manufactured with the OBD technology) required to receive actual tailpipe testing and analysis of emitted gasses under the final-omitted rulemaking will gradually decrease and their contribution to air pollution in the region in which they are registered will diminish. Consistent with EPA guidelines, therefore, this section provides that the Secretary can reduce the test cycle or eliminate the emission testing of these vehicles altogether, provided that emissions in the region are at or below State implementation plan levels and the I/M performance standards for the region are being met. Notably, this section also makes clear, however, that the requirements for annual safety

inspections of all vehicles are not affected by any change in the emission I/M program.

§ 177.51. Program requirements. This section is amended to include the provisions for OBD-I/M testing of vehicles of MY 1996 and newer once an effective date for implementation of the program in a given county or region is established by the Secretary. Consistent with EPA regulations and guidelines, MY 1996 and newer vehicles will receive both an OBD-I/M check and the existing fuel filler cap (gas cap) test. This section is amended to provide that as a vehicle MY becomes 25 years of age and fewer vehicles of that MY are driven, vehicles of that MY will be required to undergo only the gas cap test and a visual inspection.

In regions of this Commonwealth where the I/M program has already been established and some vehicles are subject to acceleration simulation mode or dynamometer testing, the capability to perform the OBD-I/M check will be required for existing participating emission inspection stations. New inspection stations capable of performing only the OBD-I/M check will not be certified in these regions for 2 years following the promulgation of this rulemaking to ensure that motorists in those regions will be able to receive an emission inspection at any certified station, regardless of the kind of test that is required for their vehicle. It may reasonably be anticipated that after the OBD-I/M check has been in place for 2 years, the population of pre-MY 1996 vehicles will have diminished in those regions and motorist awareness of the differences in the emission inspection tests will have increased so that certification of OBD-I/M check only stations will not result in significant motorist confusion or dissatisfaction.

§ 177.106 (now § 177.275). Repair technician training and certification. This section is amended to include language requiring training in OBD technology and the OBD testing requirements being implemented. It incorporates, but relocates to § 177.275, the existing language requiring completion of a course relating to the Commonwealth's emission I/M program and adds a requirement of completion of additional training specifically related to OBD-I/M technology and repair.

§ 177.202a. OBD-I/M check equipment. This new section describes the performance features required of equipment used to perform the OBD-I/M check. Reference is made to specifications developed by the Department and its consultants ensuring that the data retrieved in the performance of the OBD-I/M check can be communicated to the Department's vehicle inspection information database.

§ 177.203. Test procedures. This section is amended to delete provisions relating to a "basic" I/M program and eliminate the use of "enhanced" as a modifier. Procedures for establishing a vehicle's "readiness" for the OBD-I/M check as well as for conducting the test are added to this section. Procedures currently found only in Appendix B for performance of the gas cap test and procedures for performance of the visual inspection in § 177.204 (relating to basis for failure) have been moved to this section, a more appropriate location.

§ 177.204. Basis for failure. This section includes criteria for failure of all the I/M program tests, not simply standards for permissible levels of emitted gasses. Criteria for failure of the OBD-I/M check are also included and track the requirements and recommendation of the EPA.

§ 177.252. Emission inspection report. The amendments to this section eliminate provisions regarding the "basic" I/M program no longer conducted in this Common-

wealth. Requirements for the report to be given the vehicle owner or operator under § 177.252 under the existing program are retained. Requirements of the report to be given to vehicle owners or operators on which the OBD-I/M check is performed have been added. The OBD-I/M check report details the readiness results and diagnostic trouble codes revealed in the test, as well as providing information on any applicable recall for the vehicle and the availability of warranty coverage.

§ 177.406. Equipment. The amendments to this section include OBD scanners or scan tools in the list of equipment required at an official emission inspection station. The amendments also delete reference to specifications for equipment at "basic" I/M stations.

§ 177.408. Certified emission inspectors. This section is amended to delete references to a "basic" and "enhanced" I/M program. The amendments also include the training required for certification as an emission inspector for the OBD-I/M check.

§ 177.501. Equipment approval procedures. This section is amended to delete references to a "basic" and "enhanced" I/M program and to remove provisions specific to the "basic" program no longer conducted in this Commonwealth. The amendments also delete the provisions for "interim" approval relevant only during the start-up period of the I/M program. The amendments also include new requirements to be met for approval of equipment to be used in the OBD-I/M check.

Persons and Entities Affected by the Final-Omitted Rulemaking

The final-omitted rulemaking will affect the owners and operators of vehicles registered in this Commonwealth as well as individuals in the business of vehicle inspection and vehicle repair in the affected counties.

Fiscal Impact

The final-omitted rulemaking will require the purchase of new equipment by existing emission inspection stations and by new stations in the areas in which an I/M program is being initiated. The cost will be recouped through the fees charged to vehicle owners for inspections. In some regions, the final-omitted rulemaking may nevertheless result in savings to vehicle owners in the form of lower cost of emission inspection with introduction of the simpler OBD-I/M check. In counties in which the final-omitted rulemaking initiates an I/M program, vehicle owners will experience increased costs for the emission inspection. These costs or savings to the general motoring public are not, however, readily measurable. Costs of the I/M tests are market driven and are not regulated by the Department. Station owners vary in the fee charged for I/M testing and vehicle owners have the opportunity to choose a station with a fee acceptable to them. The Department cannot, however, measure with any precision what costs and savings may result in the marketplace.

Regulatory Review

Under 75 Pa.C.S. § 4710(e), the Department submitted a copy of the final-omitted rulemaking to the Office of Attorney General on August 12, 2003. The final-omitted rulemaking was approved as to form and legality by the Office of Attorney General on September 10, 2003. The Department submitted a copy of this final-omitted rulemaking on September 11, 2003, to IRRC and to the Chairpersons of the House and Senate Transportation Committees for review consistent with section 5 of the Regulatory Review Act (71 P.S. § 745.5). On October 10,

2003, the final-omitted rulemaking was tolled and resubmitted to IRRC and the Committees. In accordance with section 5(c) of the Regulatory Review Act, this final-omitted rulemaking was deemed approved by the Committees on October 30, 2003, and was approved by IRRC on November 6, 2003.

In addition to the final-omitted rulemaking, the Committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

In preparing the final-omitted rulemaking, the Department has considered the comments received from the EPA, the public and individuals in the business of vehicle inspection and repair.

Sunset Provisions

The Department is not establishing a sunset date for this final-omitted rulemaking since the final-omitted rulemaking is necessary to comply with requirements of Federal laws regarding control of vehicle emissions.

Contact Person

The contact person for this final-omitted rulemaking is Peter Gertz, Vehicle Inspection Division, 4th Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, pgertz@state.pa.us.

Authority

The final-omitted rulemaking is adopted under the authority in 75 Pa.C.S. §§ 4103, 4531, 4701, 4706, 4707, 4710, 6103 and 9104.

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 177, are amended by amending §§ 177.3, 177.22—177.24, 177.51—177.53, 177.101, 177.105, 177.201—177.204, 177.252, 177.253, 177.271—177.274, 177.281, 177.282, 177.291, 177.292, 177.304, 177.401, 177.404, 177.405—177.408, 177.421, 177.422—177.425, 177.431, 177.501—177.503, 177.521, 177.602, 77.603, 177.651 and Appendices A and B, by deleting §§ 177.21 and 177.106 and by adding §§ 177.202a, 177.202b, 177.275 and 177.601 to read as set forth in Annex A, with ellipses referring to the existing text to the regulations.

(b) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ALLEN D. BIEHLER, P. E.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 5791 (November 22, 2003).)

Fiscal Note: 18-384. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VII. VEHICLE CHARACTERISTICS

CHAPTER 177. EMISSION INSPECTION PROGRAM

Subchapter A. GENERAL PROVISIONS

GENERAL

§ 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 one mode “loaded” mode emission test (ASM 5015), 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 equipment).

BAR97—The acronym used for the California Bureau of Automotive Repair’s Exhaust Gas Analyzer system Specifications provided in 1996, for the testing and documentation of technical specifications required for the approval of analyzer and dynamometer 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 shall be met or surpassed for an exhaust gas analyzer and dynamometer to be considered equivalent to the BAR97 exhaust gas analyzer system. Copies of the BAR97 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.

BAR80—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.

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.

CO₂—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. The certificate is also referred to in this chapter as a sticker.

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).

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 emission inspections on subject vehicles in an appointed emission inspection station.

Certified repair technician—A person who has provided proof to the Department of completion of Department or Nationally recognized emission component repair training and has received a valid emissions repair technician certificate issued by the Department.

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.

Collectible motor vehicle—A reconstructed motor vehicle, but not a reproduction thereof, substantially modified from the manufacturer's original specifications and appearance and maintained in a collectible condition as determined by the Department.

Commonwealth emission inspection station—An inspection station appointed by the Commonwealth to conduct 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 this 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.

DTC—Diagnostic Trouble Code—An alphanumeric code which is set in a vehicle's onboard computer when a monitor detects a condition likely to lead to (or which has already produced) a component or system failure.

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

Department—The Department of Transportation of the Commonwealth.

EPA—The United States Environmental Protection Agency.

Emission inspection—The testing of the exhaust emissions control systems of a subject vehicle as required by this chapter. The term includes an inspection performed utilizing an I/M emission test, an OBD-I/M check, an evaporative function test, gas cap test, visual inspection or any combination of these tests.

Emission inspection program—A vehicle emission inspection program as defined by the EPA designed to meet an I/M performance standard.

Emission inspection report—A document automatically generated by an emission inspection device once the testing cycle is completed.

Federal standard—A minimum standard of vehicle or vehicle equipment performance issued under the National Highway Traffic Safety Administration Act of 1991 (49 U.S.C.A. §§ 30101—30169), the act of July 5, 1994 (Pub. L. No. 103-272) (108 stat. 745), Chapter 323—Consumer Information, known as the Motor Vehicle Infor-

mation, Standards and Requirements Act (49 U.S.C.A. §§ 32301—32309) or the Clean Air Act (42 U.S.C.A. § 7401—7671q).

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 by the Commonwealth 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.

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

Gas cap test—A fuel filler gas cap test, as specified in § 177.204(2)(iii) (relating to basis for failure), that determines whether or not the vehicle's gas cap is functioning as designed.

General emission inspection station—An inspection station appointed by the Department to conduct emission inspections on all subject vehicles, including fleet, government and private vehicles.

HC—Hydrocarbon—An organic compound containing carbon and hydrogen and often occurring in petroleum, natural gas, coal and bitumens.

I/M—Inspection/Maintenance.

I/M emission test—The testing of exhaust emissions of a subject vehicle, while the vehicle is running, for CO, HC, NO or other emitted gasses.

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 region—The designation and grouping of counties in the Commonwealth certified under § 177.51(d) (relating to program requirements for purposes of administration of emission inspection requirements) under this chapter. Currently, in accordance with § 177.51(d), Chester, Delaware, Bucks, Montgomery and Philadelphia Counties constitute the Philadelphia Region; Allegheny, Beaver, Washington and Westmoreland Counties constitute the Pittsburgh Region. Pending certification in accordance with § 177.51(d), Berks, Dauphin, Cumberland, Lancaster, Lebanon, Lehigh, Northampton and York Counties shall constitute the South Central Region; Blair, Cambria, Centre, Erie, Lackawanna, Luzerne, Lycoming and Mercer Counties shall constitute the Northern Region.

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

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.

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

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

Light duty trucks—Trucks weighing less than 9,000 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.

MIL—Malfunction Indicator Light—Dashboard light illuminated when a vehicle's onboard computer detects conditions likely to result in emissions exceeding standards by 1 1/2 times or greater. The MIL may display "Check Engine," "Service Engine Soon," or other similar message, or a symbol or picture representing an automobile engine.

MY—Model Year—The calendar year so designated by the manufacturer of a vehicle as the model year for a particular vehicle design.

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

NO—Oxides of nitrogen—A mobile source or exhaust pollutant for which the EPA has set allowable standards.

OBD—Onboard Diagnostics—A system of vehicle component and condition monitors controlled by a central, onboard computer designed and programmed, among other things, to signal the motorist when conditions exist which could lead to (or which has already produced) a component or system failure.

OBD Data Link Connector (DLC)—The interface which allows connection of the vehicle's OBD computer to an OBD scanner. Connecting an OBD scanner to the DLC allows I/M inspectors and vehicle repair technicians to read the readiness status of the vehicle's various onboard monitors and to read any diagnostic trouble codes recorded by the OBD computer.

OBD-I/M Check—An inspection and evaluation of a vehicle's emission control systems utilizing the vehicle's OBD system as provided in § 177.203 (relating to test procedures) and § 177.204.

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

PA97—The emission inspection analyzer designed to meet the requirements and specifications for idle testing of this Commonwealth's emission inspection program as defined in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

PA97 with dynamometer—The emission inspection analyzer and dynamometer designed to meet the requirements and specifications for ASM testing of this Commonwealth's emission inspection program as defined in Appendix A.

Ppb—Part per billion.

Ppm—Part per million.

Qualified Commonwealth employee—An individual, police officer or qualified Department employee, 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).

Quality assurance officer—A person designated by the Department to investigate, inspect and supervise the operations of emission inspection stations.

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.

Rpm—Revolutions per minute.

Readiness code—A status flag stored by a vehicle's onboard computer which is different from a DTC in that it does not indicate a vehicle component or system failure, but rather indicates whether or not the component or system in question has been recently checked by the OBD system to determine if it is functioning properly.

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.

Registration recall—A formal action of the Department to withdraw 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.

Scanner or scan tool—A PC-based or handheld device used to interface with a vehicle's onboard computer through its DLC for the purpose of determining readiness status and reading DTCs.

Secretary—The Secretary of the Department.

Special mobile equipment—

(i) Vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to: 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.

(ii) 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.

VIID—Vehicle Inspection Information Database—The vehicle database established to collect inspection test data and to provide emission inspection test standards to emission inspection stations for the purpose of conducting the appropriate emission inspection.

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 purposes.

Vehicle Code—75 Pa.C.S.

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.

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

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 EMISSION INSPECTION PROGRAM

§ 177.21. (Reserved).

§ 177.22. Commencement of inspections.

Prior to implementation of the OBD-I/M check and related inspection provisions of this chapter, the Department will provide affected vehicle owners with at least 60 days notice. The notice will be published in the *Pennsyl-*

vania Bulletin, as provided for in 75 Pa.C.S. § 4706(b.1) (relating to prohibition on expenditures for emission inspection program).

§ 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 emission inspection.

§ 177.24. Program evaluation.

A program evaluation of the vehicle inspection and maintenance (I/M) program that meets EPA requirements will be performed with date submitted to EPA on a biennial basis.

I/M PROGRAM

§ 177.51. Program requirements.

* * * * *

(c) *Inspection*. Subject vehicles shall be emission inspected annually in coordination with a safety inspection according to procedures established by the Bureau, subject to paragraphs (1)—(3). A safety inspection certificate for a vehicle subject to an emission inspection may not be affixed to the vehicle until the subject vehicle has passed an emission inspection or received an exemption or a waiver as provided in § 177.281 (relating to issuance of waiver). The term “safety inspection certificate” as used in this subsection does not include temporary inspection approval indicators as defined in § 175.2 (relating to definitions). Safety inspection stations are not required to conduct emission inspections to maintain certification as safety inspection stations.

(1) When the Secretary certifies, by publication of a notice in the *Pennsylvania Bulletin*, that the number of subject pre-MY 1996 vehicles constitutes less than 40% of the total subject vehicles registered in an I/M county or region, subject pre-MY 1996 vehicles in that I/M county or region shall be inspected biennially in coordination with an annual safety inspection, provided that emissions in that I/M county or region are at or below levels which are in compliance with the State Implementation Plan, conformity requirements under the Clean Air Act, and the I/M performance standard.

(2) At such time as the Secretary certifies, by publication of a notice in the *Pennsylvania Bulletin*, that the number of subject pre-MY 1996 vehicles constitutes less than 20% of the total subject vehicles registered in an I/M county or region, pre-MY 1996 vehicles shall no longer be subject to the I/M program, provided that emissions in that I/M county or region are at or below levels which are in compliance with the State Implementation Plan, conformity requirements under the Clean Air Act, and the I/M performance standard.

(3) Nothing in this section relieves any vehicle from the requirements for annual safety inspections under Chapter 175 (relating to vehicle equipment and inspection).

(d) *I/M counties or regions covered*. The Department will establish counties or regions within 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 counties or regions.

(e) *Model year coverage*. Subject gasoline-powered motor vehicles with a model year of 1975 and newer with a GVWR of 9,000 pounds or less and registered in an I/M county or region are subject to an emission inspection.

Current model year vehicles and vehicles driven less than 5,000 miles per year are exempt from this requirement.

(f) *Exhaust emission test types.* The following types of tests will be administered to the appropriate model years and fuel types, subject to subsection (c)(2):

(1) Prior to the date established in accordance with § 177.22 (relating to commencement of inspections, subject vehicles registered in counties in the Philadelphia Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1975-1980 vehicles and 1975-1983 light duty trucks.	One-speed idle test; gas cap test; visual inspection.
1981 and newer vehicles and 1984 and newer light duty trucks.	ASM 1 (ASM5015); evaporative system function tests (pressure, purge and gas cap test); visual inspection.

<i>Model Year</i>	<i>Test Type</i>
1981 and newer full time all wheel drive vehicles.	Two speed idle test, visual inspection, pressure and gas cap test.

(2) On and after the date established in accordance with § 177.22 (relating to commencement of inspections) subject vehicles MY 1996 and newer registered in counties in the Philadelphia Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles 8,500 GVWR and under.	OBD-IM check; gas cap test.
1996 and newer vehicles between 8,501 and 9,000 GVWR.	Two speed idle test, visual inspection and gas cap test.

All subject vehicles MY 1975-1995 registered in counties in the Philadelphia Region shall be tested in accordance with the following table:

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
2003	1975-1977 vehicles and light duty trucks. 1978-1980 vehicles and 1978-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks. 1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure and gas cap test.
2004	1975-1978 vehicles and light duty trucks. 1979-1980 vehicles and 1979-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks. 1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2005	1975-1979 vehicles and light duty trucks. 1980 vehicles and 1980-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks. 1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2006	1975-1980 vehicles and light duty trucks. 1981-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks. 1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2007	1975-1981 vehicles, light duty trucks and full time all wheel drive vehicles. 1982-1983 light duty trucks.	Gas cap test; visual inspection. One speed idle test; gas cap test; visual inspection.

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<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
	1982-1995 vehicles and 1984-1995 light duty trucks. 1982-1995 full time all wheel drive vehicles.	ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2008	1975-1982 vehicles, light duty trucks and full time all wheel drive vehicles. 1983 light duty trucks. 1983-1995 vehicles and 1984-1995 light duty trucks. 1983-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2009	1975-1983 vehicles, light duty trucks and full time all wheel drive vehicles. 1984-1995 vehicles and light duty trucks. 1984-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2010	1975-1984 vehicles, light duty trucks and full time all wheel drive vehicles. 1985-1995 vehicles and light duty trucks. 1985-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2011	1975-1985 vehicles, light duty trucks and full time all wheel drive vehicles. 1986-1995 vehicles and light duty trucks. 1986-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2012	1975-1986 vehicles, light duty trucks and full time all wheel drive vehicles. 1987-1995 vehicles and light duty trucks. 1987-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2013	1975-1987 vehicles, light duty trucks and full time all wheel drive vehicles. 1988-1995 vehicles and light duty trucks. 1988-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2014	1975-1988 vehicles, light duty trucks and full time all wheel drive vehicles. 1989-1995 vehicles and light duty trucks. 1989-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2015	1975-1989 vehicles, light duty trucks and full time all wheel drive vehicles.	Gas cap test; visual inspection.

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
	1990-1995 vehicles and light duty trucks. 1990-1995 full time all wheel drive vehicles.	ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2016	1975-1990 vehicles, light duty trucks and full time all wheel drive vehicles. 1991-1995 vehicles and light duty trucks. 1991-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2017	1975-1991 vehicles, light duty trucks and full time all wheel drive vehicles. 1992-1995 vehicles and light duty trucks. 1992-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2018	1975-1992 vehicles, light duty trucks and full time all wheel drive vehicles. 1993-1995 vehicles and light duty trucks. 1993-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2019	1975-1993 vehicles, light duty trucks and full time all wheel drive vehicles. 1994-1995 vehicles and light duty trucks. 1994-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2020	1975-1994 vehicles, light duty trucks and full time all wheel drive vehicles. 1995 vehicles and light duty trucks. 1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2021 and thereafter.	1975-1995 vehicles, light duty trucks and full time all wheel drive vehicles.	Gas cap test; visual inspection.

(3) Prior to the date established in accordance with § 177.22, subject vehicles registered in counties in the Pittsburgh Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1975-1980	One-speed idle test; gas cap test; visual inspection.
1981 and newer	Two-speed idle test, gas cap test; visual inspection.

(4) On and after the date established in accordance with § 177.22, subject vehicles MY 1996 and newer registered in counties in the Pittsburgh Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles 8,500 GVWR and under.	OBD-I/M check; gas cap test.
1996 and newer vehicles between 8,501 and 9,000 GVWR.	Two speed idle test, visual inspection and gas cap test.

All subject vehicles MY 1975-1995 registered in counties in the Pittsburgh Region shall be tested in accordance with the following table:

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<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
2003	1975-1977 vehicles. 1978-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two-speed idle test; gas cap test; visual inspection.
2004	1975-1978 vehicles. 1979-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2005	1975-1979 vehicles. 1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2006	1975-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2007	1975-1981 vehicles. 1982-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2008	1975-1982 vehicles. 1983-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2009	1975-1983 vehicles. 1984-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2010	1975-1984 vehicles. 1985-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2011	1975-1985 vehicles. 1986-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2012	1975-1986 vehicles. 1987-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2013	1975-1987 vehicles. 1988-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2014	1975-1988 vehicles. 1989-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2015	1975-1989 vehicles. 1990-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2016	1975-1990 vehicles. 1991-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2017	1975-1991 vehicles. 1992-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2018	1975-1992 vehicles. 1993-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2019	1975-1993 vehicles. 1994-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2020	1975-1994 vehicles. 1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2021 and thereafter.	1975-1995 vehicles.	Gas cap test; visual inspection.

(5) Following publication of notice of an effective date in the *Pennsylvania Bulletin* in accordance with § 177.22, subject vehicles registered in the South Central Region will be required to undergo the following:

<i>Model Year</i>	<i>Test Type</i>
1975-1995	Gas cap test; visual inspection
1996 and newer vehicles 8,500 GVWR and under	OBD-I/M check; gas cap test

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles between 8,501 and 9,000 GVWR	Gas cap test; visual inspection

(6) Following publication of notice of an effective date in the *Pennsylvania Bulletin* in accordance with § 177.22, subject vehicles registered in the Northern Region will be required to undergo the following:

<i>Model Year</i>	<i>Test Type</i>
1975 and newer vehicles	Gas cap test; visual inspection

(7) One-speed and two-speed idle testing shall be as described in 40 CFR Part 51, Subpart S, Appendix B (I and II) (relating to one and two-speed idle tests), which is adopted by reference.

* * * * *

(k) *Recall.* The owner of a vehicle for which a voluntary or mandatory manufacturer's emission-related recall notice was issued 6 months after the commencement of an 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.

* * * * *

§ 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) When the EPA National Recall Database with the necessary recall notice information is available to the Department, the inspection station shall check with the VIID when applicable to determine whether an applicable emission-related manufacturer recall notice was issued for the subject vehicle.

(3) When the EPA National Recall Database with the necessary recall notice information is available to the Department, and 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 emission inspection begins.

§ 177.53. Vehicle inspection process.

The vehicle inspection process shall be as follows:

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

(2) If a subject vehicle fails any phase of the emission inspection, the emission inspection station shall provide the vehicle owner or operator with a software generated interpretive diagnostic information form based on the particular portions of the inspection that the vehicle failed.

(3) If a subject vehicle fails any phase of the 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 for emission inspection) 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

§ 177.101. Subject vehicles.

(a) *Subject vehicles.* Subject vehicles in an I/M county or region include gasoline powered 1975 and newer model year vehicles, excluding the current model year, with a GVWR of 9,000 pounds or less which are:

(1) Registered in or required to be registered in a certified I/M county or region.

(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 county or region.

(3) Operated on Federal installations located within an I/M county or region, regardless of where the vehicles are registered. This requirement applies to employee-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, employee or military personnel vehicles as long as the visits do not exceed 60 calendar days per calendar year.

(4) School buses 9,000 pounds or less GVWR and other buses with a seating capacity of 15 seats or less with a GVWR of 9,000 pounds or less.

(b) *Other exempted vehicles.* Other exempted vehicles 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, antique or collectible 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.
- (9) Buses with a seating capacity of 16 or more.
- (10) Motor vehicles being driven, or towed by an official inspection station owner or employee for the purpose of inspection.

(11) New vehicles while they are in the process of manufacture, including testing, and not in transit from the manufacturer to a purchaser or dealer.

(12) Vehicles driven less than 5,000 miles in the previous 12 months as indicated by the mileage noted on their safety inspection certificate or by the mileage recorded on the vehicle inspection data base and which were owned by one individual for at least 1 year.

(13) Current model year vehicles which are subject vehicles never before registered in this Commonwealth or any other jurisdiction and which have less than 5,000 miles on their odometers.

(14) Specially constructed vehicles.

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

Subject vehicles required to participate in the I/M Program because of vehicle registration change of address shall be phased into the emission inspection program at the time of the expiration of the current certificate of safety inspection when the vehicle is next inspected.

§ 177.106. (Reserved).

Subchapter C. EMISSION TEST PROCEDURES AND EMISSION STANDARDS

GENERAL

§ 177.201. General requirements.

I/M emission tests, OBD-I/M checks, evaporative system function tests, gas cap tests and visual inspections 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, or as specified in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

(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 emission measurement on subject vehicles. The test equipment shall be certified to meet as applicable EPA requirements, including those contained in 40 CFR Part 51, Subpart S, Appendix D (relating to steady-state short test equipment), which is adopted by reference, or the performance standards of California BAR 97 as they apply to the PA97 analyzer and Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements). 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 real time 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 equipment for acceleration simulation mode (ASM) emission testing.* Test equipment for ASM emission testing shall be as specified in Appendix A and quality control regulations of this chapter.

(d) *One-speed idle test equipment.* One speed idle test equipment requirements for model years 1975—1980 shall be as specified in 40 CFR Part 51, Subpart S, Appendix (D)(I) which is adopted by reference.

(e) *Two-speed idle test equipment.* Two-speed idle test equipment for model years 1981 and newer shall be as specified in 40 CFR Part 51, Subpart S, Appendix D which is adopted by reference or Appendix A, as applicable.

§ 177.202a. OBD-I/M check equipment.

(a) *Performance features of OBD-I/M check equipment.* The design and operation of any scanner or scan tool used in the performance of an OBD-I/M check shall meet all Federal requirements (contained in 40 CFR 85.2207-2231) and recommended Society of Automotive Engineers (SAE) practices (J1962, J1978 and J1979) for OBD system inspections.

(1) The equipment shall be automated and require no inspector intervention to collect and record OBD data retrieved by means of the diagnostic link.

(2) The equipment shall automatically retrieve an RPM signal, OBD readiness monitors, failure codes, MIL status, powertrain identification, powertrain control module identification and OBD vehicle identification number (where available) through a standard interface with the vehicle DLC.

(b) The equipment shall function in accordance with the specifications issued by the Department. Copies of the specifications are available from the Department.

§ 177.202b. Equipment for gas cap test and visual inspection.

The design and operation of equipment used in the performance of the gas cap test and visual inspection shall meet the specifications issued by the Department. Copies of the specifications are available from the Department.

§ 177.203. Test procedures.

(a) *I/M emission test procedures.*

(1) *Idle testing.* Idle tests of all model year subject vehicles shall be performed in accordance with the procedures in 40 CFR Part 51, Subpart S, Appendix B(I) and (II) (relating to test procedures-idle tests) which is adopted by reference, and Appendix A (relating to simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements). The following steps shall be taken when testing subject vehicles:

(i) Emission test data shall be entered into the analyzer by a certified emission inspection inspector using

the bar coded vehicle registration card or the alphanumeric keyboard in the sequence specified.

(ii) Idle tests shall be either one-speed or two speed as specified in § 177.51(f) (relating to program requirements).

(2) *ASM test.* The ASM test of 1981 and newer model year subject vehicles shall be performed in accordance with the ASM test procedure and specifications and quality assurance requirements contained in Appendix A. 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.

(3) *Evaporative system function tests.* Evaporative system functions tests, including an evaporative system pressure test and an evaporative system purge test on 1981 and newer model year subject vehicles, shall be administered on subject vehicles registered in Bucks, Chester, Delaware, Montgomery and Philadelphia counties upon notification to the Department of EPA approved procedures and will be conducted based on the procedures approved by the Department.

(b) *OBD-I/M check.*

(1) *Readiness requirement for a valid OBD-I/M check.* An initial scan of the OBD system should determine the status of all readiness codes.

(i) A status indication of “not ready,” “not supported” or similar message for one or more of the continuous monitors (that is, misfire, fuel trim or comprehensive components), may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(ii) For model year 1996—2000 vehicles, a status indication of “not ready,” “not supported” or similar message for two or fewer other readiness codes may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(iii) For model year 2001 and newer vehicles, a status indication of “not ready” or “not supported” for no more than one other readiness code may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(iv) The readiness requirement may also be waived or otherwise accommodated for specific makes, models, and model years of vehicles with known readiness design problems, in accordance with applicable technical service bulletins or EPA guidance, or both. The Bureau will advise all participating stations by station bulletin whether the readiness requirements can be waived or otherwise accommodated for specific makes, models and model years of vehicles.

(2) *Performing the OBD-I/M check.* Following a determination of readiness, the seven step procedure delineated below shall be used when performing an OBD-I/M check:

(i) Initiate the official test by scanning or manually inputting the required vehicle and owner information.

(ii) Visually examine the vehicle instrument panel to determine if the MIL illuminates briefly when the ignition key is turned to the “key on, engine off” (KOEO) position. A brief period of illumination of the MIL at start-up is normal and helps confirm the MIL bulb is in proper operating condition. This portion of the test proce-

ture is also known as the "bulb check." Enter the results of the bulb check for downloading into the VIID.

(iii) Locate the vehicle's data link connector (DLC) and plug the scan tool into the connector. While it is recommended that this step be performed with the ignition in the "off" position, this step can also be performed with the vehicle running.

(iv) Start the vehicle's engine so that the vehicle is in the "key on, engine running" (KOER) condition. The MIL may illuminate and then extinguish during this phase. Continued illumination of the MIL (MIL commanded on) while the engine is running is cause for failure of the OBD-I/M check under § 177.204(2) (relating to basis for failure).

(v) With the scan tool in the "generic OBD" mode, follow the scan tool manufacturer's instructions to determine vehicle readiness status, MIL status (whether commanded on or off), and diagnostic trouble codes (DTCs) for those vehicles with the MIL commanded on.

(vi) The results of the OBD-I/M check will be transferred automatically to the VIID.

(vii) Without clearing DTCs or readiness codes, turn off the vehicle ignition and then disconnect the scan tool. Procedure for clearing codes as necessary is included in § 177.271 (relating to procedure).

(c) *Gas cap test procedures.* The gas cap test will be conducted using test equipment approved by the Department, in accordance with the manufacturer's instructions.

(d) *Visual inspection procedures.*

(1) A visual inspection of the vehicle emission control system shall look for the presence of the following emission control devices:

- (i) Catalytic converter.
- (ii) Exhaust gas recirculation (EGR) valve.
- (iii) Positive crankcase ventilation (PCV) valve.
- (iv) Fuel inlet restrictor.
- (v) Air pump.
- (vi) Evaporative control system components.

(2) Visual inspections shall be performed through direct observation or through indirect observation, using a mirror or other visual aid.

(3) Inspections shall include a determination as to whether each subject device is present and appears to be properly connected and to be the correct type for the certified configuration.

(e) *Subsequent test procedures approved by the EPA.* If the EPA develops or approves 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. Basis for failure.

The basis for failure of the tests and procedures under this chapter shall be as follows:

(1) *I/M emission test.* A vehicle fails the I/M emission test if emissions exceed the following standards:

(i) *Idle test standards.*

(A) Passenger cars and trucks less than 6,000 pounds GVWR.

MODEL YEAR	CO%	HC (PPM)
1975-1979	4.0	400
1980	3.0	300
1981-1992	1.2	220
1993 and newer	1.0	130

(B) 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
1981-1992	1.2	220
1993 and newer	1.0	180

(C) Maximum exhaust dilution shall be measured as at least 6% CO plus CO₂ 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.

(ii) *ASM test emission standards.* Model years 1981 and newer vehicles required to receive an ASM emission inspection shall be subject to standards specified in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

(2) *OBD-I/M check.*

(i) Unless otherwise noted, a vehicle fails the OBD-I/M check for any of the following:

(A) The MIL does not illuminate at all when the ignition key is turned to the KOEO position.

(B) The DLC is missing, has been tampered with, is otherwise inoperable or is inaccessible.

(C) The vehicle displays more than the requisite number of readiness codes as "not ready," "not supported" or similar message under § 177.203(b)(1)(i)–(iii) (relating to test procedures), and there is no justification under § 177.203(b)(1)(iv) for disregard of the readiness requirement.

(D) The MIL illuminates continuously or flashes while the engine is running, even if no DTCs are present. If this condition is present, the vehicle shall fail under this paragraph, not subparagraph (ii), even if the MIL did not illuminate in the KOEO position.

(E) Any DTCs are present and the MIL status, as indicated by the scan tool, is commanded on, regardless of whether or not the MIL is actually illuminated.

(ii) During the first test cycle of emission inspection utilizing the OBD-I/M check in an I/M county or region, the inability to locate or access a vehicle's DLC shall not be a basis for failure, provided that the MIL illuminates when the ignition key is in the KOEO position and does not illuminate continuously or flash while the engine is running.

(3) *Evaporative emission system function test (gas cap test) standards.* A vehicle shall fail the gas cap test if at any time during the gas cap test the pressure drops from the starting pressure by more than 6 inches of water, causing the test to be terminated. If the pressure does not drop more than 6 inches during the test, the vehicle shall pass the gas cap test.

(4) *Visual inspection of vehicle emission control system.* A vehicle shall fail the visual inspection if applicable required emission control equipment specified in § 177.203(d) is not present, is not properly connected or is not the correct type for the certified configuration.

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

EMISSION INSPECTION REPORT

§ 177.252. Emission inspection report.

(a) The emission inspection report shall be as shown on the sample emission inspection report form contained in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements) and shall include:

(1) A vehicle description, including license plate number, VIN, vehicle make, model, odometer reading, GVWR and estimated test weight, engine size, and inspection type.

(2) The date and time of the test.

(3) The name, identification number and signature of the individuals performing the tests and the name, address and station number of the test station.

(4) The type of tests performed.

(5) The applicable test standards.

(6) The I/M emission test results, if applicable, including exhaust concentrations, pass/fail results for each mode measured and the results of visual inspection.

(7) The OBD-I/M check results, if applicable, including the status of the MIL illumination command, the alphanumeric DTC(s) as specified per SAE J2012 and J1930, unset readiness codes if the number of unset readiness codes exceeds the limit for which an exemption is allowed, that is, if the outcome of the test is unacceptable for testing based upon the presence of too many unset readiness codes. If, during the initial emission inspection cycle in an I/M county or region, a vehicle subject to the OBD-I/M check with a DLC which cannot be accessed nevertheless satisfies the MIL elements of the OBD-I/M check, that result shall be specifically noted in the report.

(8) The results of the gas cap test.

(9) The results of the visual inspection, if applicable.

(10) A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act (42 U.S.C.A. § 7525).

(11) The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed.

(12) A certification that tests were performed in accordance with this chapter and EPA regulations.

§ 177.253. Responsibility of the station owner for vehicles which fail the emission inspection.

(a) Owners or operators of vehicles that fail the emission inspection shall be provided with an emission inspection report as described in § 177.252 (relating to emission inspection report) as well as the consumer complaint procedure, including the telephone number of the quality assurance officer or the Vehicle Inspection Division.

(b) Owners or operators of vehicles that fail the emission inspection may challenge the results.

(1) A challenge regarding the performance or results of the test shall be made within 10 days of the failure of the emission inspection.

(2) A quality assurance officer or Department representative will function as a referee and will arrange to meet with the owner or operator of a vehicle that fails if requested.

(3) The referee will first determine whether test equipment functioned properly. If the test equipment is functioning correctly, the referee will determine whether proper test procedures were followed. If the equipment and procedures were correct and the vehicle still fails the inspection, the vehicle shall be brought into compliance prior to a retest. If the vehicle passes, a certificate of inspection will be affixed to the vehicle.

(4) If the referee determines that the test equipment malfunctioned, the equipment shall be brought into compliance prior to a referee test. If the equipment cannot be brought into compliance at this meeting, the owner or operator of the vehicle may request that the referee test be conducted at an alternate test location.

RETEST

§ 177.271. Procedure.

(a) *I/M emission test.* Vehicles that fail the initial I/M emission test or a retest shall be retested after repair.

(b) *OBD-I/M check.* Vehicles that fail the OBD-I/M check shall be retested after repair and clearing of the DTCs appearing in the initial check and compliance of the vehicle with the readiness requirements of § 177.203(b)(1) (relating to test procedures).

(c) *Gas cap test and visual inspection.* Vehicles that fail the gas cap test or visual inspection shall be retested after repair.

§ 177.272. Prerequisites.

For a retest, the vehicle owner or driver shall present to the inspection station the emission inspection report and the diagnostic information repair data form as described in § 177.273 (relating to content of repair data form).

§ 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 or identified on the emission inspection report that were not performed.

(5) The name, address and telephone number of the repair facility, and station number, if the repair facility is also a department-certified safety or emission inspection station.

§ 177.274. Retest fees.

(a) If the vehicle owner or driver presents the emission inspection report and the completed repair form to the emission inspection station that performed the initial inspection 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 required fee to the emission inspection station.

(b) If a referee test is requested after the vehicle has failed the free retest and the vehicle passes the referee test, a certificate of inspection shall be affixed to the vehicle and the vehicle owner or operator need not pay for this test.

(c) If a referee test is requested after the vehicle has failed the free retest and the vehicle fails the referee test, the vehicle owner or operator shall pay for this test and any subsequent retests. If expenditures for repairs meet or exceed the requirements for a waiver stated in § 177.281 (relating to issuance of waiver), a certificate of inspection with a waiver indicator may be issued. If the requirements for a waiver have not been met, the vehicle shall then be repaired to meet the requirements for passing the emission inspection or for issuance of a waiver.

§ 177.275. Repair technician training and certification.

(a) *General rule.* Personnel who perform diagnosis and repair of automotive engines and related systems required to meet the emission standards of this chapter may be certified by the Department as certified repair technicians. Only certified repair technicians with a valid drivers license will be authorized to process requests for and deliver waivers.

(b) *Certified repair technician requirements.* A repair technician desiring to be certified shall:

- (1) Be 18 years of age or older.
- (2) Have a valid driver's license.
- (3) Have done one of the following:
 - (i) Completed a course pertaining to the Commonwealth's emission inspection program and regulations, including training specifically pertaining to evaluation of OBD systems, and passed a written test administered by the Department or its agents with a minimum of 80% correct test responses and obtained certification from an automotive manufacturer or from the National Institute for Automotive Service Excellence or other training identified by the Department as being equivalent and that certifies that the repair technician is proficient in evaluating and repairing emission control systems.
 - (ii) Completed a course pertaining to the Commonwealth's emission inspection program and regulations, including training specifically pertaining to evaluation of OBD systems, passed a written test administered by the Department or its agents with a minimum of 80% correct test responses and completed and passed a repair technician test, approved by the Department, that included testing pertaining to the Commonwealth's emission inspection program and regulations, and, at a minimum, also included:
 - (A) The diagnosis and repair of malfunctions in computer controlled close-loop vehicles.
 - (B) The application of emission control theory and diagnostic data to the diagnosis and repair of failures of the emission test and the evaporative system function tests.
 - (C) The utilization of diagnostic information on systematic or repeated failures observed in the emission test and the evaporative system function tests.

(D) Generalized testing on the various subsystems related to emission control.

(E) Additional testing specifically pertaining to evaluation and repair of OBD systems.

(c) *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 certified repair technician.

(d) *Supplemental training.* By notice published in the *Pennsylvania Bulletin*, the Department may authorize periodic supplemental training as a requirement for a person to maintain the status of a certified repair technician.

ISSUANCE OF WAIVER

§ 177.281. Issuance of waiver.

The Department or a single contractor shall electronically 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 in this section and Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements.)

(3) The procedure as described in Appendix A has been followed and the amount spent on qualifying repairs:

(i) Was an amount as determined in § 177.282 (relating to annual adjustment of minimum waiver expenditure for emission inspection).

(ii) Includes charges for electronic diagnostic inspection, 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 or certified repair technician. For qualifying emission repair services performed by someone other than a recognized or certified 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 converter; thermal reactor; EGR valve; fuel filler or gas cap; evaporative canister; PCV valve; air pump; distributor; ignition wires; coil; spark plugs; and power train management system. 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) Is appropriate to the cause of the test failure.

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

- (A) Found to be tampered with.
- (B) Rendered inoperative.
- (C) Rendered inaccessible.

(D) Not installed.

(v) Excludes 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) Excludes the fee for emission inspection.

(vii) Excludes charges for giving a written estimate of needed repairs, except that the fee for an electronic diagnostic inspection may be included.

(viii) Excludes 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 established under paragraph (3). 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 an 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 basis for failure) 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 for emission inspection.

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.

PROCEDURES RELATING TO CERTIFICATES OF EMISSION INSPECTION

§ 177.291. Procedures relating to certificates of emission inspection.

(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 both 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 October 1, 1997, 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.

(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) 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, certificate of emission inspection may not 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) *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.

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

(e) *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 certificate which is valid for no more than 15 months, or no more than 27 months if § 177.51(c)(1) (relating to program requirements) becomes applicable and no less than 6 months, based on the vehicle's registration month and charts supplied by the Department

(f) *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 the 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, if 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 the windshield.

(2) It is 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.

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

(h) *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 (relating to other required equipment and inspection of vehicles) and this chapter.

(i) *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.

(j) *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 for loading into the VIID 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.* The electronic waiver process shall be completed by the VIID. A waiver insert, as supplied by the Department, shall be placed on each emission certificate of inspection issued through the waiver process. The certificate of waiver form may be collected or the results of the electronic waiver process may be reviewed by the Department or its designee on an unannounced periodic basis.

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

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

ON-ROAD TESTING

§ 177.304. Failure of on-road emission test.

The owner or operator of a subject vehicle that was required to have an 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 emission inspection or to produce evidence that the subject vehicle has a valid emissions inspection waiver.

Subchapter D. OFFICIAL EMISSION INSPECTION STATION REQUIREMENTS

GENERAL

§ 177.401. Appointment.

(a) *Authority.* For the purpose of establishing a system of official 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 emission inspection stations are authorized to conduct emission inspections and issue official certificates of emission inspection.

(b) *Scope of certification.* Until January 1, 2006, emission inspection station will not be issued a certificate of appointment unless it is capable of performing every type of emission inspection required for vehicles registered in the region in which the station is located.

(c) *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 emission inspectors, as applicable, to perform emission inspections required of vehicles registered in the region in which the station is located. 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 of the Vehicle Code (relating to certificate of appointment).

(d) *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.

(e) *Valid certificate required.* A person may not represent any place as an official emission inspection station unless the station is operating under a valid certificate of appointment issued by the Bureau.

(f) *Inspection stations with common access.* An emission inspection 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 stations have separate internal accesses, though sharing a common external access.

(g) *Suspended inspection stations.* An emission inspection 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.

(h) *Indefinite suspension of appointment.* A certificate of appointment issued to an official emission station may be suspended indefinitely if the station no longer fulfills the requirements for appointment provided in this subchapter. Once the deficiency which prompted the suspension is cured, a station which has had its certificate of appointment indefinitely suspended may apply for re-appointment in accordance with the procedures in this subchapter.

§ 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 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 and Commonwealth emission inspection stations are exempt from this paragraph.
- (5) An approved sign indicating whether the emission inspection station is able to deliver waivers.
- (6) A sign clearly providing the location and telephone number of the quality assurance officer or the Vehicle Inspection Division.

§ 177.405. Emission inspection areas.

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

- (1) 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.
- (2) 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.

(b) Anticipated alterations or changes affecting the condition, size or safety of inspection areas shall be reported to the Quality Assurance Officer within 5 days of the anticipated alteration or change.

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

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

(e) Emission inspection stations shall be at least 12 feet by 22 feet.

§ 177.406. 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. Equipment required shall include the following:

- (1) Wheel chocks.
- (2) Approved emission inspection and maintenance textbooks/workbooks or electronic or computerized medium with supplements and current changes and approved handbooks and manuals.
- (3) Exhaust emission analyzer approved by the Bureau and certified by the manufacturer as meeting or surpassing specifications set forth in subsection (b), where applicable.
- (4) Approved dynamometer, where applicable.
- (5) Where applicable, OBD-I/M equipment as specified in § 177.501(a)(2) (relating to equipment approval procedures), approved by the Bureau.
- (6) Where applicable, equipment for performing the gas cap test and visual inspection.

(b) *Analyzer specifications.* Exhaust emission analyzers approved by the Bureau shall meet the following requirements:

- (1) Meet PA 97 equipment specifications, where applicable, as provided in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standard, equipment specifications and quality control requirements) 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 specifications:
 - (i) Upon the activation of the emission test, the Automatic data collection unit or VIID, as applicable, shall automatically set the standard required for comparison as defined in § 177.204 (relating to basis for failure). Standards shall be field programmed by the manufacturer or provided by the vehicle inspection information database, as applicable.
 - (ii) Approved exhaust emission analyzers shall be powered by alternating current.
 - (iii) The sample probe shall meet or surpass PA 97 sample probe requirements and be capable of being placed in the tailpipe a minimum of 10 inches with a device, if necessary, to preclude sample dilution.

(3) *Field calibration gases.* Field calibration gases shall be as specified in Appendix A (relating to acceleration

simulation mode: Pennsylvania procedures, standard, equipment specifications and quality control requirements).

§ 177.407. Hours of operation.

Emission inspection stations shall be open for business a minimum of 5 days per week, 40 hours, Monday through Friday between 7 a.m. and 8 p.m. This section may be waived by the Bureau upon written request of the inspection station owner and prior approval of the quality assurance officer. To qualify for a waiver from the provisions of this section, the station shall be open for business at least 10 business hours during the normal work week (Monday through Friday) between 7 a.m. and 8 p.m. This section does not apply to:

- (1) Commonwealth or fleet emission inspection stations.
- (2) Emission inspection stations owned and operated by more than one owner to do test-only inspections.

§ 177.408. Certified emission inspectors.

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

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

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

- (1) Be 18 years of age or older.
- (2) Possess a valid Pennsylvania driver license.
- (3) Have done the following:
 - (i) Completed an emission inspection training course, approved by the Department, that included, where applicable, 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 computer-based training/testing (CBT) or other Department approved procedure under supervision of a certified educational instructor or other qualified Commonwealth employee or agent, the ability to perform a complete emission inspection, to properly utilize test equipment and to follow other required test procedures as prescribed in §§ 177.202,

177.202a, 177.202b, 177.203, 177.271 and 177.272, as applicable. The inability to properly conduct the test procedures shall constitute grounds for refusal of certification.

(4) Complete a refresher training course, under procedures established by the Department and pass the required test every 2 years.

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

(e) *Names of inspectors.* The names of certified 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 emission inspection station.

(f) *Number of inspections.* The number of inspections performed by a certified emission inspector may not exceed more than 12 subject vehicles per hour for the one or two-speed idle emission inspection, 6 inspections per hour utilizing ASM test equipment and procedures, or 12 OBD-I/M checks 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 emission inspection station to:

- (1) Conduct the business of the official 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 upon request all vehicles which the station is equipped to inspect.
- (2) Make official emission inspection regulations and supplements available for the use of all certified emission inspectors and other employees involved.
- (3) Notify within 5 days the quality assurance officer and the Vehicle Inspection Division when a certified emission inspector is hired, resigns or is dismissed.
- (4) Provide the emission inspection report to motorists after testing and to have the possible repair requirements stated on a form provided to the vehicle owner or operator.
- (5) Keep, at the station, as applicable, for 2 years, duplicate copies of completed Certificate of Emission Requisition Forms, repair order forms related to waivers and the original Certificate of Waiver Forms, and other required forms.
- (6) Assume full responsibility, with or without actual knowledge, for:
 - (i) Every emission inspection conducted at the emission inspection station.
 - (ii) Every emission inspection waiver delivered by a certified repair technician 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.

(v) Maintaining an adequate supply of current certificates of emission inspection and inserts for issuance.

(7) Perform, as applicable, 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.

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

(9) Ensure that instrument calibration test results are entered into the VIID by the analyzer manufacturer or other approved service representative as directed by the Department.

(i) For basic emission inspection stations, 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.

(ii) For enhanced emission inspection stations, the information required in this paragraph shall be entered into the VIID by the analyzer manufacturer or other approved service representative as directed by the Department.

(10) 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.

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§ 177.422. Commonwealth emission inspection stations.

(a) *Eligibility.* The designation, Commonwealth 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 this 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 inspector.* Each official Commonwealth emission inspection station shall have at least one certified emission 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 emission 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 Inspection 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 Commonwealth agent or 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 emission inspector.* Each general emission inspection station shall have a certified emission inspector present during normal business hours.

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

§ 177.425. Security.

(a) *Unlawful possession.* A person may not 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 or other approved recording medium.

(c) *Removal.* Certificates of emission inspection may not 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 inspector.

(1) A person replacing 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 re-inspecting 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 and the cost of the dial-up to the VIID 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 quality assurance officer.

(ii) The replacement certificate of emission inspection shall be recorded on the appropriate record, either hard copy or VIID, 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 quality assurance officer. After an audit is completed, the quality assurance officer 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 Inspection Division whenever:

(1) An employee, 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.

QUALITY ASSURANCE

§ 177.431. Quality assurance.

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, as required by § 177.425(d) (relating to 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 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 emission inspection program required by Federal law.

(2) The station owner and the employees 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.

(3) Each quality assurance officer shall be audited on an annual basis.

Subchapter E. EQUIPMENT MANUFACTURERS' AND CONTRACTORS' REQUIREMENTS AND OBLIGATIONS

EQUIPMENT MANUFACTURERS' REQUIREMENTS

§ 177.501. Equipment approval procedures.

(a) The manufacturer shall meet the following conditions for approval for participation in the emission inspection program.

(1) *Emission inspection equipment.* The following requirements shall be met for equipment approval in the emission inspection program:

(i) The manufacturer shall provide a certified copy of BAR 97 approved certification or a certified document stating complete testing compliance with BAR 97 test requirements by a reputable independent testing laboratory that completed the testing, or certify that the gas analyzer meets all performance standards of California BAR 97 as they apply to the PA gas analyzer.

(ii) The manufacturer shall certify that the approved test equipment will comply with the data collection requirements of this chapter.

(iii) The manufacturer shall provide a document that the dynamometer meets all State and California BAR requirements for ASM test equipment as specified in Appendix A and California BAR 97 specifications or certify that the dynamometer meets all performance standards of California BAR 97 as they apply to the PA dynamometer and ASM test equipment.

(iv) The manufacturer shall provide certification 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.

(v) The manufacturer shall offer as an option an equipment lease arrangement of at least 10 years to prospective equipment purchasers.

(vi) The manufacturer shall offer as an option a "fee per test" equipment financing opportunity to prospective equipment purchasers.

(vii) The manufacturer shall offer as an option a provision for installation of emission inspection test equipment, at the request of prospective equipment purchasers.

(viii) The manufacturer shall clearly identify equipment features which are listed as options but which are essential to comply with the program and equipment specifications of this chapter.

(ix) Equipment manufacturers and providers shall receive prior approval from the Department for any costs associated with program software updates or revisions.

(2) *OBD-I/M check equipment approval.* The following requirements shall be met for approval of the OBD-I/M check equipment:

(i) The manufacturer or distributor of an OBD scanner or scan tool must certify that the scan tool used for OBD-I/M checks complies with applicable versions of the following SAE standards:

(A) SAE J 1962 (Standardized Connector).

(B) SAE J 1978—OBDII (Scan Tool Functionality).

(C) SAE J 1979 (Diagnostic Test Modes (1-7)).

(D) SAE J 1850, ISO9141-2 & 14230-4 (Communication Protocols).

(E) SAE J 2012 (Standardized DTC usage).

(ii) The manufacturer or distributor shall certify that the OBD hand-held scan tool or OBD PC-based scan tool meets PA Equipment Specifications for OBD-I/M Checks, copies of which are available by contacting the Bureau.

(iii) The manufacturer or distributor shall certify that the emission-related parameters and emission-related engine parameters displayed must be able to be automatically transmitted to the VIID.

(b) *Certification.* A manufacturer shall cause 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 and dynamometer, OBD scan tool and equipment for the gas cap test and visual inspection, as applicable, 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.

(2) Train, at no cost, on the initial visit for installation of the emission analyzer or dynamometer, or both, all certified emission inspection inspectors employed at the time of installation regarding the proper use of the analyzer or the dynamometer, or both, and provide, within 7 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 or leased equipment within 1 business day of oral or written request from the station. A fee may be charged for this service.

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

(1) Provide service for faulty equipment.

(2) Provide replacement parts and equipment while servicing faulty equipment.

(3) 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) Replacement parts or equipment provided shall be the same as or equivalent to the parts or equipment provided by the original equipment manufacturers.

(e) Department approved equipment service representatives shall provide the following service commitments:

(1) Maintenance on equipment within 1 business day of 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, OBD-I/M check equipment or equipment for the gas cap test and visual inspection by the Department, it will buy back all emission analyzers, dynamometers, OBD-I/M check equipment or gas cap/visual inspection equipment 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, dynamometer, OBD-I/M check equipment or gas cap/visual inspection equipment.

(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:

(1) For analyzer and dynamometer manufacturers or distributors, in the amount of \$1 million initially, and in the amount of an additional \$400,000, for every 250 analyzers sold to Pennsylvania certified emission inspection stations.

(2) For OBD-I/M check equipment manufacturers or distributors, in the amount of \$500,000.

(3) For gas cap/visual inspection equipment, in the amount of \$200,000.

(c) This security will be used:

(1) To insure that money is available to reimburse certified emission inspection stations for the reasonable value of existing emission analyzers, dynamometers or OBD-I/M check equipment 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) In part or in whole in the event of nonperformance or default of the manufacturer or distributor.

(d) Other Department-approved equipment service providers 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 \$200,000. These funds may be used in part or in whole in the event of nonperformance or default of the service provider.

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

but not limited to, inspection station audits, inspection test data collection, on-road testing and other quality assurance efforts needed to comply with Federal law. The vendor is 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 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

§ 177.601. Definitions

As used in this subchapter, the following words and terms have the following meanings unless the context clearly indicates otherwise:

Careless recordkeeping—Failure to sign the emission inspection test report, missing or omitting required documentation supporting the issuance of a waiver as required by § 177.281 (relating to issuance of waiver) or data entry errors proven to have no influence on the outcome of the inspection.

Faulty inspection—Failure to perform an emission inspection as required by this chapter or any other deviation in the testing procedure, provided that it can be demonstrated that the outcome of the inspection would have been different if the inspection had been performed properly.

Fraudulent recordkeeping—A recordkeeping entry not in accordance with fact, truth or required procedure that falsifies or conceals one or more of the following:

(i) That a certificate of inspection was issued without compliance with the required inspection procedure.

(ii) The number of inspections performed.

(iii) The individuals or station that performed the inspection.

Improper inspection—Failure to perform an emission inspection as required by this chapter or any other deviation in the testing procedure provided that it can be demonstrated that the outcome of the inspection would have been the same if the inspection had been performed properly.

Improper recordkeeping—A recordkeeping entry that is not in accordance with fact, truth or required procedure.

§ 177.602. Schedule of penalties for emission inspection stations.

(a) *Schedule of penalties.* 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 Offenses
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year & \$2,500 fine	Permanent and \$5,000 fine	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year & \$2,500 fine	Permanent and \$5,000 fine	
(iii) Fraudulent recordkeeping	1 year & \$2,500 fine	Permanent and \$5,000 fine	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months & \$1,000 fine	1 year and \$2,500 fine	3 years and \$5,000 fine
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	1 year
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced, whichever is greater	6 months or until produced, whichever is greater	1 year or until produced, whichever is greater
(vii) Inspection by uncertified inspector	3 months	6 months and \$1,000 fine	1 year and \$2,500 fine
(viii) Improper recordkeeping	2 months	6 months	1 year
(ix) Improper inspection	Warning	2 months and \$250 fine	6 months and \$500 fine
(x) Requiring or indicating unnecessary repairs for purpose of inspection	3 months	6 months	1 year
(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	1 month	3 months	1 year
(xiii) Failure to verify registration or emission inspecting a vehicle with an expired registration	2 months	4 months	6 months
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xv) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvi) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xvii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xviii) Improper security of certificate of inspection	Warning	3 months	1 year

<i>Type of Violation</i>	<i>Duration of Suspension</i>		
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd and Subsequent Offenses</i>
(xix) Unclean inspection area	Warning	Warning	3 months
(xx) Careless recordkeeping	Warning	Warning	3 months
(xxi) Missing or broken tools	Warning, if 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
(xxii) Bad Check	Warning, if amount due is paid within 10 days from date notified. If not, suspension until amount 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 (Negligent)</i>			
(xxiii) Failure to report discontinuance of business	1 year	2 years	Permanent
(xxiv) Failure to notify the Department of changes of ownership, location or other changes affecting an official inspection station	3 months	6 months	1 year
(xxv) Failure to make emission inspection test printout available to customer	Warning	Warning and \$100 fine	1 month

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§ 177.603. Schedule of penalties for emission inspectors.

Emission inspectors shall assume full responsibility for their acts as emission inspectors. 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:

<i>Type of Violation</i>	<i>Duration of Suspension</i>		
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd and Subsequent Offenses</i>
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year	Permanent	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year	Permanent	
(iii) Fraudulent recordkeeping	1 year	Permanent	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months	1 year	3 years
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	3 years
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced	6 months or until produced	1 year or until produced
(vii) Inspection by uncertified inspector	3 months and \$100 fine	6 months and \$500 fine	1 year and \$1,000 fine
(viii) Improper recordkeeping	Warning	2 months	6 months
(ix) Improper inspection	Warning	2 months & \$250 fine	6 months and \$500 fine
(x) Requiring or indicating repairs unnecessary for purpose of passing inspection	3 months	6 months	1 year

Type of Violation	Duration of Suspension		
	1st Offense	2nd Offense	3rd and Subsequent Offenses
(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	Warning	2 months	6 months
(xiii) Failure to verify registration or emission inspecting a vehicle with an expired registration	2 months	4 months	6 months
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
(xv) Improper security of certificate of emission inspection	Warning	2 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xvi) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvii) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xviii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xix) Improper security of certificate of emission inspection	Warning	2 months	4 months
(xx) Unclean inspection area	Warning	1 month	4 months
(xxi) Careless record keeping	Warning	1 month	4 months
(xxii) Failure to make vehicle emission inspection test printout available to customer	Warning	1 month	4 months

ADDITIONAL VIOLATIONS

§ 177.605. Subsequent violations.

* * * * *

DEPARTMENTAL HEARING PROCEDURE

§ 177.651. Notice of alleged violation and opportunity to be heard prior to immediate suspension.

Prior to the immediate suspension of any official emission inspection station, certificate of appointment, emission inspector certification or certified repair technician, the Department shall, within 3 days, provide written notice of the alleged violation and the opportunity to be heard.

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

§ 177.691. Registration Recall Committee.

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Appendix A

Acceleration Simulation Mode: Pennsylvania Procedures, Standards, Equipment Specifications and Quality Control Requirements

§ 1. ASM Exhaust Emission Standards and Calculations.

(a) *ASM Emissions Standards*

(1) *ASM Start-Up Standards.* The following standards shall be used for ASM tests performed until notice by the Department that the standards in subsection (2)(i) or (2)(ii) shall apply. The exhaust emission standards for the following model years are cross referenced by the number in the column in (a)(3) below:

* * * * *

(2) *ASM final standards.*

(i) *ASM equivalent test weight methodology.* Upon notice by the Department in the *Pennsylvania Bulletin*, the following exhaust emission standards will be used for ASM tests performed. The exhaust emissions standards for the following model years are cross-referenced by the number in the column in (a)(3) below:

(A) Light Duty Vehicles.

* * * * *

(B) Light Duty Trucks 1 (less than 6000 pounds GVWR).

* * * * *

(C) Light Duty Trucks 2 (greater than 6000 pounds GVWR).

* * * * *

(ii) *ASM vehicle engine displacement methodology.* Upon notice by the Department in the *Pennsylvania Bulletin*, the exhaust emission standards used for ASM tests performed shall be in accordance with the following tables:

LDV Exhaust Emission Standards for the ASM 5015 test

	HC	CO	NOx
5015 LDV MY 1980 and newer	275 liters* ppm		
5015 LDV MY 1980 to 1982		1.3 liters*%	
5015 LDV MY 1983 and newer		1.1 liters*%	
5015 LDV MY 1980 only			8,500 liters* ppm
5015 LDV MY 1981 and newer			3,600 liters* ppm

LDT Exhaust Emission Standards for the ASM 5015 test

	HC	CO	NOx
5015 LDT MY 1980 to 1983	1,140 liters* ppm		
5015 LDT MY 1984 to 1995	537 liters* ppm		
5015 LDT MY 1996 and newer	275 liters* ppm		
5015 LDT MY 1980 to 1983		9.7 liters*%	
5015 LDT MY 1984 to 1995		5.4 liters*%	
5015 LDT MY 1996 and newer		1.1 liters*%	
5015 LDT MY 1980 to 1987			14,145 liters* ppm
5015 LDT MY 1988 to 1995			7,380 liters* ppm
5015 LDT MY 1996 and newer			6,150 liters* ppm

All 5015 cut points are applied by the following method: The vehicle's engine displacement in liters multiplied by the exhaust constituent (HC, CO, or NOx) levels in concentration (HC and NOx in ppm; CO in % ten second average values). This liter*concentration value is compared to the appropriate cut point and if the value is above the cut point the vehicle is considered having failed the test.

(3) ASM 2525 and 5015 concentration tables follow (although both 2525 and 5015 standards are shown, the Pennsylvania test consists only of the 5015 mode):

* * * * *

(b) *ASM Test Score Calculation*

* * * * *

§ 8. Software specifications and emission inspection waiver procedure.

(a) *Software specifications.*

* * * * *

(3) Emission inspection equipment software for the Pennsylvania emission inspection program shall be approved by the Department or its designee prior to installation and use in emission inspection equipment installed at certified emission inspection stations.

* * * * *

(b) *Emission inspection waiver procedure.*

* * * * *

(2) When repairs are completed, vehicle shall be returned to a certified emission inspection station.

(3) When retest is begun, repairs made and cost of repairs will be entered into the inspection equipment.

* * * * *

(iii) If yes, inspector will be presented with waiver screen.

* * * * *

Appendix B

Department Procedures and Specifications

§ 1. Evaporative System Function Test.

The evaporative system pressure test procedure shall be as follows:

* * * * *

(3) Vehicles shall fail the evaporative system pressure test if the system cannot maintain a system pressure above 8 inches of water for 2 minutes after being pressurized to 14 +/- 0.5 inch of water or if no pressure drop is detected when the gas cap is loosened as described in this section. Additionally, vehicles shall fail the evaporative test if the canister is missing or obviously damaged, if hoses are missing or obviously disconnected, or if the gas cap is missing.

(Editors Note: As part of this rulemaking, the Department is also deleting in their entirety the table entitled: PA Enhanced Emissions Inspector Certification (E.E.I.C.), and the flow chart entitled: PA Enhanced Emissions Inspector Training, Certification, and Recertification, which appear in 67 Pa. Code, pages 177-143 through 177-146, serial page numbers (235383) through (235386).)

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