

(3) [The] *If a written request was submitted under §E(1)(c) of this regulation, a payor may orally address the Commission before a determination is made by the Commission as to whether or not to issue or withdraw a waiver [after a request for review of denial of waiver by the Executive Director].*

(4) *After reviewing and considering a payor’s written request for review of the denial or withdrawal decision and any oral argument, if applicable, the full Commission shall issue a written decision affirming, reversing, or modifying the decision reviewed.*

[E.] F. (text unchanged)

RANDOLPH S. SERGENT, ESQ.
Chair

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 14 MOTOR VEHICLE ADMINISTRATION—VEHICLE INSPECTIONS

11.14.08 Vehicle Emissions Inspection Program

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, and 2-301—2-303; Transportation Article, §§12-104(b), 23-202(a), 23-206.2, 23-206.4, and 23-207; Annotated Code of Maryland

Notice of Proposed Action

[22-171-P]

The Secretary of the Environment and the Administrator of the Motor Vehicle Administration jointly propose to amend Regulations **.01— .06** and **.20**, adopt new Regulation **.07**, amend and recodify existing Regulations **.07 —.14** and **.16— .18** to be Regulations **.08— .15** and **.17— .19** respectively, recodify existing Regulation **.15** to be Regulation **.16**, and repeal existing Regulation **.19** under **COMAR 11.14.08 Vehicle Emissions Inspection Program**.

Statement of Purpose

The purpose of this action is to modernize and enhance the Vehicle Emissions Inspection Program (VEIP) to improve motorist convenience while continuing to maintain the significant air quality progress that has been achieved since the program’s inception.

Several key programs and advancements in technology have resulted in much cleaner air in Maryland since VEIP began in 1984. In the past, vehicles produced much higher levels of pollution. Vehicle emissions control systems were simple and deteriorated quickly, resulting in increasing emissions of pollutants over a relatively short vehicle age. Since that time, there have been remarkable advancements in emissions control technology. Today’s vehicles are dramatically cleaner and equipped with emissions systems that are significantly more capable of maintaining the lower emissions levels over a longer period. VEIP testing methods have also grown more advanced.

Maryland has also implemented aggressive pollution controls on power plants, cars and trucks, and many other sources of air pollution. These controls have been very effective towards attaining and maintaining air quality standards. Maryland currently complies with the fine particulate air quality standard Statewide and is extremely close to meeting the ozone standard. Emerging opportunities to further clean the air include electric vehicles and

other “Zero Emission Vehicles”, as well as technological advances on emissions controls for many other mobile sources.

Submission to the U.S. Environmental Protection Agency (EPA) as a revision to Maryland’s State Implementation Plan (SIP)

This action will be submitted to the EPA as an SIP Revision.

Regulation Amendments.

These enhancements are the second phase of a modernization effort that began in 2018 with the goals of improving customer service and reducing financial and regulatory burden for Maryland motorists so they may benefit from the vehicle technology advancements and air quality progress described above.

Other states around the country have also taken similar steps to modernize their VEIP programs.

The proposed amendments extend the initial VEIP inspection date for new vehicles for an additional three years over current requirements established in 2018, when the first test for new, not previously titled vehicles was delayed from two years to three years of age. This next step delays the initial testing of new vehicles to six years of age. Test data shows that these vehicles are very unlikely to fail VEIP testing or require emissions repairs. Extending the initial testing requirement is a practical program update that will yield significant motorist convenience benefits.

This action also establishes VEIP Motorist Assistance Centers to support motorists in acquiring effective emissions repairs so their vehicles will pass VEIP testing and maintain the improved emissions performance into the future. The Centers will provide motorists with access to an emissions repair specialist to help ensure that vehicles are repaired correctly and in a timely manner, enhancing both customer service and air quality benefits.

The proposal also includes minor clarifications and technical corrections to the regulations.

Emissions.

Approximately 1.65 million vehicles are inspected in the VEIP annually. In fiscal year 2023 (December 26, 2022 effective date), it is expected that 202,797 new vehicles will qualify for the additional three-year delay of the initial inspection. Used vehicles will continue to be subject to VEIP inspection upon transfer of ownership regardless of vehicle age, and it is estimated that 78,916 used vehicles in this age range will be sold and inspected, resulting in a net reduction of 123,881 in the number of vehicles tested.

The Maryland Department of the Environment has assessed the air quality effect from the proposed action and has found the impact to be negligible. The vehicles qualifying for the delay in initial testing have very low VEIP failure rates. The Motorist Assistance Centers will help improve testing outcomes for all vehicles subject to the program.

Comparison to Federal Standards

There is a corresponding federal standard to the proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action will provide on-going economic benefits to the public by reducing the amount of inspection fees paid. Based on the assumptions and information contained in this fiscal impact statement, the estimated economic impacts for fiscal year 2023 (December 26, 2023 effective date) are: to the public, an estimated \$ 2,323,998 cost savings; and to the Maryland Department of Transportation Motor Vehicle Administration (MDOT MVA), an estimated \$ 2,249,670 net loss. (See Section III. for assumptions used in the fiscal impact calculations.) The proposed action is not expected to have significant economic impact on any other entity.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1)	(R-)	\$2,323,998 (FY 2023)
(2)	(E-)	\$74,328 (FY 2023)
B. On other State agencies:	(E-)	Minimal
C. On local governments:	(E-)	Minimal
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
CERFs and other repair facilities	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Minimal

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A(1). Based on an analysis of current statistical data, it is estimated that in fiscal year 2023 (December 26, 2022 effective date), 202,797 new vehicles will qualify for the additional three-year delay of the initial inspection. Used vehicles will continue to be subject to VEIP inspection upon transfer of ownership independently of vehicle age, and it is estimated that 78,916 vehicles in this age range will be sold and inspected, yielding a net change of 123,881 vehicles. The inspection fees are \$14 at the VEIP inspection station and \$10 at the VEIP self-service kiosk. Only the OBD test is available at the kiosk. Current data shows that 85% of OBD tests are conducted at the VEIP stations, and 15% are conducted at the kiosks. Additionally, late fee revenue is equivalent to approximately 40% of inspection fee revenue. The estimated revenue impact (loss) to MDOT MVA from the reduction in inspection/late fees is calculated as follows:

a. VEIP station inspection fee revenue loss: (123,881 vehicle tests x 85% x \$14 = \$ 1,474,178

b. VEIP kiosk inspection fee revenue loss: (123,881 vehicle tests x 15%) x \$10 = \$ 185,821

Subtotal of a + b = \$ 1,659,999 c. Late fee revenue loss: (\$ 1,659,999 x 40%) = \$ 663,999

d. Total fiscal year 2022 revenue loss from this action: (\$ 1,659,999 + 663,999) = \$ 2,323,998.

A similar effect on MDOT MVA revenues is expected in future years.

A(2). This proposal will have a small impact on MDOT MVA expenditures in postage costs for fiscal year 2023. MDOT MVA currently incurs postage charges of \$0.60 for each inspection notice mailed. The reduced number of VEIP inspections resulting from this action will reduce the number of notices mailed. In FY2023, based on an estimated 123,881 vehicles, the reduction in postage charges is (123,881 x \$0.60) = \$ 74,328 (savings).

NOTE: Modest cost savings associated with supplies/materials will also result from this proposal. However, these cost savings are minimal in nature.

B. Other State agencies and local governments will experience minimal reductions in costs due to the reduced number of vehicles they must have inspected.

C. Other State agencies and local governments will experience minimal reductions in costs due to the reduced number of vehicles they must have inspected.

D. There will be minimal impact on automotive repair facilities that are Certified Emissions Repair Facilities (CERFs) due to lost income from potentially fewer vehicles requiring repairs.

F. Based on the assumptions and calculations included in part A, above, the public will realize estimated cost savings of \$ 2,323,998 in fiscal year 2023 through reductions in VEIP inspection/late fees paid.

Savings to the public are expected to continue at a similar rate into future years.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Marcia Ways, Mobile Sources Control Program Manager, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230-1720, or call (410) 537- 3270, or email to marcia.ways@maryland.gov, or fax to (410) 537- 4435. Comments will be accepted through October 11, 2022. The Maryland Department of the Environment and the Maryland Department of Transportation Motor Vehicle Administration will hold a virtual public hearing on the proposed action on October 11, 2022 at 10:00 a.m. See the Maryland Department of the Environment’s website for virtual hearing information, <https://mde.maryland.gov/programs/Regulations/air/Pages/reqcomments.aspx>. Interested persons are invited to attend and express their views. Comments must be received by 5:00 pm on November 7, 2022 or submitted at the hearing. For more information or to submit comments, contact Marcia Ways, Mobile Sources Control Program Manager, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230-1720; telephone (410) 537- 3270; email marcia.ways@maryland.gov; fax (410) 537- 4435.

Copies of the proposed action and supporting documents are available for review at the Maryland Department of the Environment’s website at <http://www.mde.state.md.us/programs/regulations/air/Pages/reqcomment.s.aspx>.

Persons needing special accommodations at the public hearing should contact the Department’s Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

.01 Scope and Applicability.

A. Scope. The Vehicle Emissions Inspection Program requires all subject vehicles to be inspected biennially as scheduled by the [Motor Vehicle] Administration.

B. Applicability.

(1) Unless exempt under Regulation .04 of this chapter, a vehicle is subject to the provisions of this chapter if it is:

(a) [Titled and registered] *Registered* within the emissions inspection area;

(b)—(c) (text unchanged)

(2) (text unchanged)

.02 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

- A. Clean Air Act, 42 U.S.C §7521, §7541, and §7545, [January 3, 2006,] as amended;
- B. 40 CFR §85.1902(d), [July 1, 2005,] as amended;
- C. 40 CFR §85.2207, [July 1, 2007,] as amended;
- D. 40 CFR §85.2222, [July 1, 2007,] as amended;
- E. 40 CFR §85.2231, [July 1, 2007,] as amended; [and]
- F. 40 CFR Part 51, Subpart S, [July 1, 2007,] as amended; *and*
- G. 42 U.S.C. §9902(2), *as amended.*

.03 Definitions.

- A. (text unchanged)
- B. Terms Defined.

(1) "Administration" means the *Maryland Department of Transportation Motor Vehicle Administration* [of the Maryland Department of Transportation].

(2) (text unchanged)

(3) "Audit" means a periodic quality assurance check, performed by the Administration or the Department, on equipment, records, and personnel regulated under this chapter.

(4) "Auditor" means an employee *or designee* of the Administration or the Department who performs audits.

(5) "Certificate" means a vehicle inspection report issued *electronically or on paper* by the [contractor, a fleet inspection station, or the] Administration *or a designee of the Administration*, which certifies that[:

- (a) A] *a* vehicle has undergone an emissions inspection[; or
- (b) Emissions inspection standards have been waived for a vehicle.]

(6) "Certified emissions repair facility" means a business certified by the Department which:

- (a) (text unchanged)
- (b) Meets the requirements of [Regulation .18] *Regulation .19* of this chapter.

(7) "Contractor" means a business under contract with the State to operate and manage the vehicle emissions inspection [stations] *program.*

(8)—(14) (text unchanged)

(15) "Emissions standard" means a requirement that [limits the quantity, quality, rate, or concentration of emissions from a vehicle] *relates to the operation or maintenance of a motor vehicle to ensure continuous emissions reduction.*

(16) (text unchanged)

(17) "Fleet inspection station" means an establishment licensed by the Department to perform certain emissions inspections [and that is either:

- (a) An establishment that owns or operates at least 25 vehicles subject to this chapter; or
- (b) A dealer with annual sales of at least 25 vehicles subject to this chapter.

(18) "Gross vehicle weight rating (GVWR)" means the total vehicle weight, including load, as designated by the vehicle manufacturer.

(19) "Highway" has the meaning stated in Transportation Article, §11-127, Annotated Code of Maryland].

[(20)] (18)—[(21)] (19) (text unchanged)

[(22)] (20) "Inspector" means [an employee of the contractor who performs emissions inspections at a vehicle emissions inspection station, or a master certified emissions technician who performs emissions inspections at a fleet inspection station] *a person authorized to perform official vehicle emissions inspections under this chapter.*

[(23)] (21) "Master certified emissions technician" means an individual who meets the provisions of [Regulation .17] *Regulation .18* of this chapter.

[(24)] (22)—[(26)] (24) (text unchanged)

(25) "Motorist assistance center" means a resource center operated by the contractor that provides technical emissions-related repair guidance to motorists and vehicle repair technicians.

[(27)] (26) — [(28)] (27) (text unchanged)

(29) "Period of permitted operation" means the period beginning with the Wednesday on or before an initial inspection failure and ending 17 weeks after the Wednesday on or before the initial inspection failure.

(30) "Qualified hybrid vehicle" has the meaning stated in Transportation Article, §23-202(b)(3)(i), Annotated Code of Maryland.]

[(31)] (28) "Recognized repair technician" means a person who:

(a) Performs vehicle repairs as a profession, or is certified as a *master* certified emissions technician under this chapter; and

(b) (text unchanged)

(32) "Referee inspection" means an emissions inspection conducted by the Administration or the Department for the purpose of resolving disputes or gathering data.]

[(33)] (29) (text unchanged)

(34) "Remote sensing equipment" means equipment capable of measuring vehicle exhaust emissions as the vehicle is driven past the equipment.

(35) "Sample dilution" means an inspection result where an exhaust sample contains less than 6 percent carbon monoxide plus carbon dioxide, preventing a valid idle exhaust emissions test, as described in 40 CFR Part 51, Subpart S.]

[(36)] (30) (text unchanged)

(37) (31) "Vehicle emissions inspection station" means a facility [operated by the contractor and] approved by the Administration to conduct emissions inspections pursuant to this chapter.

(38) "Vehicle emissions inspection program customer service representative" means an employee of the Administration or the contractor who is assigned to a vehicle emissions inspection station and who is responsible for processing waiver applications, issuing waivers, and resolving technical issues and differences.]

[(39)] (32) "Waiver [certificate]" means a [certificate which indicates] *determination made by the Administration or a designee of the Administration* that [a vehicle has met] the [waiver] provisions set forth in [Regulation .06] *Regulation .07* of this chapter *have been met.*

[(40)] (33) (text unchanged)

.04 Exemptions.

A. (text unchanged)

B. Exempt vehicles include the following vehicles:

(1) [Before October 1, 2012, a qualified hybrid vehicle;]

[(2)] A zero-emission vehicle;

[(3)] (2) (text unchanged)

[(4)] A motorcycle registered]

(3) *A vehicle registered* as a Class D motorcycle;

[(5)] (4) [Registered] *A vehicle registered* as a Class E truck with a registered gross vehicle weight greater than 26,000 pounds;

[(6)] (5) [Registered] *A vehicle registered* as a Class E farm truck;

[(7)] (6) [Registered] *A vehicle registered* as a Class F truck tractor;

[(8)] (7) [Registered] *A vehicle registered* as a Class F farm truck tractor;

- [(9)] (8) [Registered] A vehicle registered as a Class H school vehicle;
- [(10)] (9) [Registered] A vehicle registered as a Class K farm area vehicle;
- [(11)] (10) [Registered] A vehicle registered as a Class L historic vehicle;
- [(12)] (11) [Registered] A vehicle registered as a Class N street rod vehicle;
- [(13)] (12) [Registered] A vehicle registered as a Class P passenger bus;
- [(14)] Not self-propelled
- [(13)] A vehicle registered as a Class R low speed vehicle;
- [(15)] (14) [Powered] A vehicle powered solely by electricity or diesel fuel;
- [(16)] Of a model year earlier than 1977;
- [(17)] (15) [Of] A vehicle with a gross vehicle weight of 8,500 pounds or less and [a] of model year earlier than 1996; or
- [(18)] (16) (text unchanged)

.05 Schedule of the Program.

- A. (text unchanged).
- B. Schedule for Vehicle Inspection.

(1) The Administration shall assign each vehicle required to be inspected a date of scheduled inspection for each inspection cycle, and shall send a notice to the vehicle owner [approximately 8 weeks] before the assigned date.

(2) A vehicle owner shall present the vehicle for a scheduled inspection after receipt of notification, but not later than the date of scheduled inspection. [Presenting the vehicle for inspection at any other time does not alter the date of a future scheduled inspection.]

(3) **Unscheduled Inspection.**

[(a)] A used vehicle owned by a dealer for which a date of scheduled inspection has not been established by the Administration may be inspected without notification, and the date the vehicle is initially inspected becomes the date of scheduled inspection.]

[(b)] (a)—[(c)] (b) (text unchanged)

[(d)] (c) The Administration shall have sole discretion in granting a request under [§B(3)(c)] §B(3)(b) of this regulation.

[(e)] (d) (text unchanged)

(4) **New Vehicles.**

[(a)] **Qualified Hybrid Vehicles.** On or after October 1, 2012, for a qualified hybrid vehicle of the current or preceding model year that has not been previously titled or registered in any jurisdiction and for which the ownership document is a manufacturer's certificate of origin, the Administration shall assign a date of scheduled inspection which is at least 36 months after the model year of the vehicle.

(b) Except as required in §B(4)(a) of this regulation, for] For a vehicle [of the current or preceding model year] that has not been previously titled or registered in any jurisdiction and for which the ownership document is a manufacturer's certificate of origin, the Administration shall assign a date of scheduled inspection which is at least [36 months] 72 months after the model year of the vehicle.

(5)—(7) (text unchanged)

[(8)] **Vehicles Owned or Leased by the Federal Government.** A department, agency, or instrumentality of the federal government with jurisdiction over any property or facility within the emissions inspection area shall provide to the Administration, in a format approved by the Administration:

- (a) A list of all vehicles at each property or facility which are required to be inspected under this chapter;
- (b) Information on any additions or deletions to the list by the end of the calendar quarter in which the additions or deletions occurred; and
- (c) An updated list biennially.

C. On-Highway Emissions Test.

(1) The owner of a vehicle which fails to meet on-highway emissions test standards, as specified in Regulation .09F of this chapter, upon two occasions in a 2-year period, shall present the vehicle for an out-of-cycle inspection at a vehicle emissions inspection station as scheduled by the Administration, unless the vehicle:

- (a) Is scheduled for inspection under §§A and B of this regulation within 6 months from the date of the second on-highway emissions test failure;
- (b) Has failed an inspection and is operating during the period of permitted operation; or
- (c) Has been issued a waiver certificate for the assigned inspection cycle.

(2) An out-of-cycle inspection required under §C(1) of this regulation does not alter the schedule for vehicle inspection specified in §§A and B of this regulation.]

[D.] C. (text unchanged)

[E.] D. Reinspection.

(1) The owner of a vehicle which has failed an inspection shall present the vehicle for reinspection on or before the [end of the period of permitted operation] date of scheduled inspection or, if applicable, the extension expiration date and after emissions-related repairs have been performed on the vehicle.

(2) The vehicle owner shall provide documentation, in a form prescribed by the Administration, indicating all of the following information for the vehicle:

- (a) The emissions-related repairs which were performed;
- (b) By whom the emissions-related repairs were performed; and
- (c) (text unchanged)

(3) A vehicle presented for reinspection without the documentation required in [§E(2)] §D(2) of this regulation shall be rejected from reinspection.

[F.] E. (text unchanged)

.06 Certificates.

A. General Requirements.

[(1)] During each inspection cycle, a vehicle inspected under this chapter shall be issued a certificate that indicates the inspection status of the vehicle [for the inspection cycle] in a manner prescribed by the Administration.

[(2)] Except for a waiver certificate, which may only be issued by the contractor or the Administration, a certificate may be issued by the contractor, a fleet inspection station, or the Administration.

(3) For a vehicle inspected at a vehicle emissions inspection station, the Contractor shall issue a certificate which contains the following information:

- (a) The inspection station number, test lane number, and inspector identification number;
- (b) The date of inspection;
- (c) The inspection start time and end time;
- (d) The vehicle identification number (VIN);
- (e) The license plate number, if applicable;
- (f) The gross vehicle weight rating, for a vehicle other than a passenger vehicle;
- (g) The vehicle model year and vehicle make;
- (h) The odometer reading;
- (i) The category of inspection performed (initial inspection, first reinspection, or subsequent reinspection);
- (j) The fuel type of the vehicle;
- (k) The overall pass/fail status for the inspection;
- (l) The idle exhaust emissions test pass/fail status for hydrocarbons, carbon monoxide, and sample dilution, if applicable;

(m) The exhaust emissions measurements and the applicable standards for hydrocarbons and carbon monoxide, if applicable;

(n) The pass/fail status for the catalytic converter check, if applicable;

(o) The pass/fail status for the gas cap leak test, if applicable;

(p) The pass/fail status for the on-board diagnostics test and stored on-board diagnostics fault codes, if applicable;

(q) The valid through date; and

(r) Other information the Administration or the Department may specify.

(4) For a vehicle inspected at a fleet inspection station, the fleet inspection station shall issue a certificate in a form and content established by the Administration and the Department.

(5) A vehicle owner shall ensure that the most recent certificate is carried at all times in the vehicle for which it was issued.]

B. Pass Certificate. If a vehicle [inspected at a vehicle emissions inspection station] meets all applicable standards [specified in Regulation .09 of this chapter] during an inspection, the vehicle is considered to be in compliance for the assigned inspection cycle, and [the contractor] shall [issue] *be issued* a pass certificate which includes a statement certifying that the inspection was performed in accordance with the provisions of this chapter.

C. Fail Certificate.

[(1)] If a vehicle [inspected at a vehicle emissions inspection station] does not meet all applicable standards [specified in Regulation .09 of this chapter] during an inspection, the vehicle is considered not to be in compliance and [the contractor] shall [issue] *be issued* a fail certificate which includes the following information:

[(a)] (1)—[(b)](2) (text unchanged)

[(2)] A vehicle issued a fail certificate may be operated through the period of permitted operation.

(3) A person may not operate a vehicle after the end of the period of permitted operation unless a pass certificate or a waiver certificate has been issued for the vehicle or the vehicle owner has been granted a time extension.

D. Waiver Certificate.

(1) The owner of a vehicle for which a fail certificate has been issued may apply to the Administration for a waiver from inspection standards for the assigned inspection cycle if all of the following requirements are met:

(a) All applicable warranty coverage has been used, or the vehicle manufacturer or a dealer has issued written denial of the warranty coverage provided for vehicles by the Clean Air Act, 42 U.S.C. §7541;

(b) The vehicle has received emissions-related repairs appropriate to the cause of inspection failure, and the repairs have been performed by a recognized repair technician;

(c) Emissions control devices have not been tampered with or removed, and the vehicle has not been misfueled; and

(d) The owner satisfies the requirements of State law, except for provisions which are superseded by federal law.

(2) The vehicle owner shall submit proof of expenditures for repairs with the waiver application in a form and content acceptable to the Administration. Repair costs, including parts and labor, are limited to only those repairs necessary to bring the vehicle into compliance with applicable emissions standards, and do not include costs:

(a) Determined to be necessary to correct tampering with or the removal of an emissions control device, or to repair damage resulting from misfueling; or

(b) Associated with the repair or replacement of the exhaust system or any of its components.

(3) The Administration or the contractor shall evaluate each waiver application, examine the vehicle for verification of repairs and

the presence of required emissions control devices, and may issue a waiver certificate if the owner has acted in good faith to bring the vehicles into compliance with the provisions of this chapter.

(4) The Administration may grant a time extension to a waiver applicant so that additional repairs may be obtained, or to adequately evaluate and verify the contents of the waiver application.

(5) A waiver certificate is valid until the next date of scheduled inspection.

(6) Senior Citizens.

(a) A waiver certificate may be granted to a vehicle owner who is 70 years old or older at the time of the scheduled inspection for a vehicle that is driven 5,000 miles or less per year.

(b) In the case of more than one owner of a vehicle, all owners listed on the vehicle title must meet the age requirement.

(c) All information provided by the vehicle owner is subject to verification by the Administration.

(7) Disabled Persons.

(a) A waiver certificate may be granted to the owner of a vehicle for which special registration plates have been issued under Transportation Article, §13-616, Annotated Code of Maryland, and which is driven 5,000 miles or less per year.

(b) In the case of more than one owner of a vehicle, all owners listed on the vehicle title must meet the disability requirements.

(c) All information provided by the vehicle owner is subject to verification by the Administration.]

.07 Waivers.

A. General Requirements. A waiver is valid until the next date of scheduled inspection.

B. Repair Waiver.

(1) The owner of a vehicle for which a fail certificate has been issued may apply to the Administration for a waiver from inspection standards for the assigned inspection cycle if all of the following requirements are met:

(a) All applicable warranty coverage has been used, or the vehicle manufacturer or a dealer has issued written denial of the warranty coverage provided for vehicles by the Clean Air Act, 42 U.S.C. §7541;

(b) The vehicle has received emissions-related repairs appropriate to the cause of inspection failure, and the repairs have been performed by a recognized repair technician;

(c) Emissions control devices have not been tampered with or removed, and the vehicle has not been misfueled; and

(d) The owner satisfies the requirements of State law, except for provisions which are superseded by federal law.

(2) The vehicle owner shall submit proof of expenditures for repairs with the waiver application in a form and content acceptable to the Administration. Repair costs, including parts and labor, are limited to only those repairs necessary to bring the vehicle into compliance with applicable emissions standards, and do not include costs:

(a) Determined to be necessary to correct tampering with or the removal of an emissions control device, or to repair damage resulting from misfueling; or

(b) Associated with the repair or replacement of the exhaust system or any of its components.

(3) The Administration or the contractor shall evaluate each waiver application, examine the vehicle for verification of repairs and the presence of required emissions control devices, and may issue a waiver if the provisions of this chapter are met.

(4) The Administration or the contractor may require approval by the motorist assistance center prior to issuing a waiver.

(5) *The Administration may grant a time extension to a waiver applicant so that additional repairs may be obtained, or to adequately evaluate and verify the contents of the waiver application.*

C. Senior Citizens.

(1) *A waiver may be granted to a vehicle owner who is 70 years of age or older at the time of the scheduled inspection for a vehicle that is driven 5,000 miles or less per year.*

(2) *In the case of more than one owner of a vehicle, all owners listed on the vehicle title must meet the age requirement.*

(3) *All information provided by the vehicle owner is subject to verification by the Administration.*

D. Disabled Persons.

(1) *A waiver may be granted to the owner of a vehicle for which special registration plates have been issued under Transportation Article, §13-616, Annotated Code of Maryland, and which is driven 5,000 miles or less per year.*

(2) *In the case of more than one owner of a vehicle, all owners listed on the vehicle title must meet the disability requirements.*

(3) *All information provided by the vehicle owner is subject to verification by the Administration.*

E. Deployed Military Personnel.

(1) *A waiver may be granted to a vehicle owner who is an active duty member of the armed services of the United States if the following requirements are met:*

(a) *The vehicle owner has received military orders:*

(i) *For deployment outside the United States; or*

(ii) *To a duty station in a jurisdiction that is not subject to a vehicle emissions control inspection and maintenance program.*

(b) *All owners listed on the vehicle title have certified that at least one owner of the vehicle has met the criteria of §E(1)(a) of this regulation.*

(2) *All information provided by the vehicle owner is subject to verification by the Administration.*

[.07].08 Extensions.

A. The Administration may grant a time extension for a vehicle owner to comply with the requirements of this chapter. An extension may be granted only if the Administration determines that the vehicle owner has made [good faith] efforts to have the vehicle inspected or repaired and circumstances have developed which are beyond the reasonable control of the vehicle owner. An extension shall be of the shortest duration possible, as determined by the Administration.

B. (text unchanged)

C. **Economic Hardship.** The Administration may grant a time extension, not to exceed the period of the inspection cycle, to a motorist to obtain needed repairs on a vehicle in the case of economic hardship. *The vehicle owner shall submit documentation, subject to verification by the Administration, that all vehicle owners listed on the vehicle title meet the Federal Poverty Level Guidelines as updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. §9902(2).*

[.08].09 Enforcement.

A. (text unchanged)

B. If the vehicle is not issued a pass certificate, a waiver [certificate], or an extension on or before the date of scheduled inspection or, if applicable, the [end of the period of permitted operation] *extension expiration date*, a notice of suspension of registration shall be forwarded to the vehicle owner of record by the Administration. The notice shall:

(1)—(2) (text unchanged)

C. **Suspension.**

(1)—(2) (text unchanged)

(3) If the vehicle registration is suspended and a pass certificate, a waiver [certificate], or an extension has not been issued, the vehicle registration remains suspended and subsequent renewal of

registration shall be denied until the vehicle is in compliance with the requirements of this chapter.

[.09].10 Test Standards.

A.—C. (text unchanged)

[D. **On-Highway Emissions Test.** On-highway emissions test standards shall be specified by the Administration and the Department.]

[.10].11 General Requirements for Inspection and Preparation for Inspection.

A. **Emissions Related Recall.** An inspector shall reject from inspection a vehicle which has not had repairs performed as required by an emissions-related recall notice, as specified in [Regulation .05D] *Regulation .05C* of this chapter.

B. (text unchanged)

[.12].13 Failed Vehicle and Reinspection Procedures.

A. **Failed Vehicle.** The [inspector] *contractor* shall [refer] *provide information as to the reason for the vehicle failure* to the operator of a failed vehicle [to the vehicle emissions inspection program customer service representative for further information].

B. *The contractor or the Administration may refer the vehicle operator to the motorist assistance center.*

[B.] C. **Reinspection.**

(1) The inspector shall reject from reinspection a vehicle:

(a) For which the documentation required in [Regulation .05E(2)] *Regulation .05D(2)* of this chapter is not provided; or

(b) (text unchanged)

(2) The inspector shall collect the documentation required in [Regulation .05E(2)] *Regulation .05D(2)* of this chapter from the operator of each vehicle which is reinspected.

(3) For reinspection, the inspector shall perform the same inspection procedures as the initial inspection and apply the same inspection [standards, including the idle exhaust emissions test, catalytic converter check, and gas cap leak test, or the on-board diagnostics test, as applicable, regardless of the reason for initial failure].

[.13].14 Quality Assurance and Maintenance.

A. The Contractor shall develop, maintain, and modify as required by the Administration and the Department a comprehensive quality assurance and maintenance plan for vehicle emissions inspection stations [and fleet inspection stations] complying with the provisions of this chapter, and shall implement the quality assurance plan after approval of the plan by the Administration and the Department.

B.—E. (text unchanged)

[F. **Blind Sample Program Participation.** The contractor shall participate in a nationally recognized blind gas sample program which has been approved by the Department, and shall:

(1) Analyze four samples each year;

(2) Analyze a sample once each year in each test lane; and

(3) Ensure that the blind sample vendor makes the results directly available to the Department.]

[G.] F. (text unchanged)

[.14].15 Vehicle Emissions Inspection Station.

A. **General Requirements.**

(1) [The contractor shall operate each vehicle emissions inspection station with contractor personnel, with overall supervision by the Administration and the Department.

(2) The contractor shall make available to the Administration or the Department, as required, vehicle emissions inspection station equipment and personnel to perform quality assurance checks[,] *and program evaluation functions[, and referee inspections].*

[(3)] (2) (text unchanged)

[(4) The contractor, or a person employed by the contractor for inspection station operation, may not:

- (a) Engage in, or have an interest in, the operation of automotive repair facilities located within the State;
- (b) Perform emissions-related repairs for compensation;
- (c) Recommend specific repairs or repair facilities to owners or operators of vehicles being inspected; or
- (d) Promote the sale of vehicle diagnostic or repair equipment through the vehicle emissions inspection program.]

B. Fees.

(1) The [contractor shall collect the] fee established in COMAR 11.11.05 [from the vehicle owner for] *shall be paid during or before* an initial inspection or a second or subsequent reinspection.

(2) The [contractor shall collect the] late fee established in COMAR 11.11.05 [from a vehicle owner for] *shall be paid during or before* an initial inspection *or reinspection* [which is] performed after the date of scheduled inspection, or *if applicable*, [for a reinspection which is performed] after the [period of permitted operation] *extension expiration date*.

(3) The [contractor shall collect the] fee established in COMAR 11.11.05 [from the vehicle owner for] *shall be paid during or before* an inspection performed but not required under this chapter.

(4) (text unchanged)

[(5) If a certificate is lost or damaged, a vehicle owner may obtain certification from the Administration as to whether the vehicle is in compliance with emissions inspection requirements. The vehicle owner shall pay the fee established in COMAR 11.11.05.]

[.16] .17 Vehicle Data for Vehicle Repair Assistance.

A. — B. (text unchanged)

C. The contractor shall include [the] information specified [in Regulation .06A(3) of this chapter] *by the Administration and the Department* in the report.

[.17] .18 Master Certified Emissions Technician.

A. Initial Application and Certification.

(1) To qualify for certification, an individual shall:

- (a) (text unchanged)
- (b) Demonstrate 5 years of full-time employment experience as an automotive technician performing emissions-related repairs on on-road vehicles [not powered by diesel fuel or electricity], except that an individual with 2 full years of full-time education related to the repair of on-road vehicles [not powered by diesel fuel or electricity] need only demonstrate 4 years of the required employment; and

(c) (text unchanged)

(2) An individual qualifying for certification may submit an application to the Department. Upon approval of the application, the Department shall provide documentation of certification. Certification is valid through the earliest of the following dates:

[(a) 3 years from the date the certification is issued;]

[(b)](a) — [(d)](c) (text unchanged)

B. —D. (text unchanged)

[.18] .19 Certified Emissions Repair Facility.

A. Initial Application and Certification.

[(1)] To qualify for certification, a person shall:

[(a)] (1) — [(b)] (2) (text unchanged)

[(c)] (3) Possess all required equipment as listed in [§D] §C of this regulation;

[(d)] (4) Pass an audit as defined in [§G] §F of this regulation; and

[(e)] (5) Employ all required personnel as listed in [§E] §D of this regulation.

[(2) Certification under this section is valid for 3 years.]

[B. Certification Renewal.

(1) At least 60 days before expiration of certification, a person may apply for certification renewal. Upon approval of the completed application, the Department may extend the certification for an additional 3-year period.

(2) A certification which expires before receipt of the application by the Department may not be renewed. If a certification expires, a person may reapply according to the procedures of §A of this regulation.]

[C.] B. Suspension, Revocation, and Denial of [Renewal of] Certification.

(1) The Department may suspend, revoke, or deny [renewal of] a certification under any of the following conditions:

(a) — (b) (text unchanged)

(c) An audit under [§G] §F of this regulation is failed; or

(d) (text unchanged)

(2) — (4) (text unchanged)

[D.] C. Equipment and Tool Requirements.

[(1) An on-board diagnostics] A certified emissions repair facility shall possess and update as required [all of the following] *diagnostic* equipment and tools *as specified by the Department, including but not limited to:*

(a) — (g) (text unchanged)

[(2) In addition to the equipment specified in §D(1) of this regulation, an on-board diagnostics and idle test certified emissions repair facility shall possess an exhaust emissions analyzer approved by the Department.

(3) The list of approved exhaust emissions analyzers shall be available from the Department upon request.]

[E.] D. Personnel Requirements.

(1) (text unchanged)

(2) A certified emissions repair facility shall employ at least one full-time master certified emissions technician at each certified emissions repair facility location and ensure that a master certified emissions technician:

(a) (text unchanged)

(b) [Fills out completely the vehicle repair form] *Provides documentation, in a form prescribed by the Administration and the Department, on the vehicle repairs performed* and certifies [by signature on the vehicle repair form] that the repairs have been performed or supervised by a *master* certified emissions technician.

[F.] E. (text unchanged)

[G.] F. Audits.

(1) (text unchanged)

(2) An audit shall include:

(a) (text unchanged)

(b) Checks of record-keeping, equipment, [calibration gas,] and compliance with personnel requirements.

(3) Audit failure is cause for suspension, revocation, or denial of [renewal of] facility certification.

[(4) Uncooperative or abusive behavior by an employee, representative, or individual at a certified emissions repair facility is cause for audit failure.

(5) A certified emissions repair facility may not use any piece of equipment which fails an audit until a subsequent audit is passed.

(6) A certified emissions technician shall be present for the audit. An audit is failed if a certified emissions technician who is present at the facility fails to begin the audit within 30 minutes of the arrival of an auditor.

(7) The certified emissions repair facility shall allow further monitoring at the discretion of the Department to ensure quality control or to determine compliance with this chapter.]

[H.] G. Record Keeping.

(1) A certified emissions repair facility shall maintain the following records, separately and in chronological order, for a period

of 3 years, at the facility or at an alternative location approved by the Department:

- (a) Records of quality assurance procedures in compliance with the provisions of this chapter; *and*
- (b) [Records of audits conducted by the Department; and
- (c)] Vehicle repair records.
- (2) (text unchanged)

.20 Fleet Inspection Station.

A. Initial Application and Licensure.

- (1) — (2) (text unchanged)
- (3) To qualify for licensure, an establishment shall comply with the following requirements:
 - (a) (text unchanged)
 - (b) Possess [the following] *and update as required* diagnostic equipment and tools *as specified by the Department, including but not limited to:*
 - (i)—(vi) (text unchanged)
 - (c)—(f) (text unchanged)

B. (text unchanged)

C. Audits.

- (1)—(2) (text unchanged).
- (3) The Department may:
 - (a) Monitor the emissions inspections conducted by a fleet inspection station; [and]
 - (b) Require re-inspection of a vehicle as a quality control or compliance measure; *and*
 - (c) *Evaluate the ability of a master certified emissions technician to correctly perform an inspection.*

D. (text unchanged)

E. Inspection Fees.

(1) A fleet inspection station shall pay to the contractor the fee established in [COMAR 11.11.05] *COMAR. 11.11.05.06* for each official test conducted by the fleet inspection station.

(2) A fleet inspection station shall pay to the contractor the fee specified in [Regulation .14B] *Regulation .15* of this chapter for an inspection or a reinspection conducted at a vehicle emissions inspection station.

(3) (text unchanged)

F. Test Equipment and Test Procedures. A fleet inspection station shall:

(1) Own or lease test equipment provided by the contractor that meets the requirements of [Regulation .11] *Regulation .12* of this chapter;

(2)—(5) (text unchanged)

G. (text unchanged)

HORACIO A. TABLADA
Secretary of the Environment
CHRISTINE NIZER
Administrator
Motor Vehicle Administration

Title 14

INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

Notice of Proposed Action

[22-172-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend:

- (1) Regulations **.02, .07, and .09** under **COMAR 14.22.01 General Regulations**; and
- (2) Regulation **.02** under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories**.

This action was considered at an open meeting held on July 12, 2022, notice of which was published in the Maryland Register pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to modify Regulations .02 and .07 under COMAR 14.22.01 General Regulations to limit the collection of sentencing guidelines worksheets for three-judge panel reviews to those involving a crime of violence and to clarify the definition of “reconsiderations.” Additionally, the purpose of this action is to modify Regulation .09 under COMAR 14.22.01 General Regulations to clarify the definition of “explosive” as it pertains to the assignment of weapon presence points in part C of the offense score. Lastly, the purpose of this action is to modify the table of seriousness categories (guidelines offense table) in Regulation .02 under COMAR 14.22.02 Criminal Offenses and Seriousness Categories. The modifications include the addition of new offenses from the 2022 Legislative Session and minor edits to the table.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Rd, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to dsoule@umd.edu. Comments will be accepted through October 11, 2022. A public hearing has not been scheduled.

14.22.01 General Regulations

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(8) (text unchanged)
 - (9) Guidelines Offense.
 - (a) (text unchanged)