



AIR QUALITY CONTROL ADVISORY COUNCIL
AGENDA
June 14, 2021

WEBINAR ONLY

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9:00 a.m. Welcome and Introductions John Quinn, Advisory Council Chair
Tad Aburn, Air Director

9:15 a.m. Approval of Meeting Minutes John Quinn

Action Items:

9:25 a.m. VEIP amendments Tad Aburn / Daniel Newell
COMAR 11.14.08

10:30 a.m. Motor Vehicle Emission Control Devices Tad Aburn / Randy Mosier
COMAR 26.11.20.02

11:30 a.m. Adjourn

Next Meeting Dates:
September 13, 2021, December 13, 2021

Facts About...
Proposed Amendments to the Vehicle Emissions Inspection Program (VEIP)
under COMAR 11.14.08

A joint action proposed by the Maryland Department of Transportation Motor Vehicle Administration (MDOT MVA) and the Maryland Department of the Environment (MDE)

Background and Purpose

This proposal modernizes and enhances 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 emissions. Emissions control systems were simple and deteriorated quickly, resulting in increasing emissions 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, and computerized OBD testing is now possible on the vast majority of vehicles in Maryland. This type of testing is much more thorough, while much less complicated to perform than older test types.

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.

Proposed 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. 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.

Additionally, the proposed action concludes the outdated method of idle testing, allowing the State to streamline VEIP operations and minimize operating costs by implementing an OBD-only program. The phase-in of this enhancement began in 2018 with the exemption of older light duty vehicles without modern OBD systems; this action completes the phase-in by exempting the small number of remaining pre-OBD heavy duty vehicles, which are quickly being retired from Maryland's vehicle population.

The proposal also includes minor clarifications and technical corrections to the regulations. The amendments are expected to take effect on December 1, 2021.

Emissions

Approximately 1.5 million vehicles are inspected in the VEIP annually. In the first full year of implementation of this action, about 400,000 new vehicles would qualify for the additional three-year delay of the initial inspection. However, about 145,000 of these vehicles will be sold as used vehicles and subject to VEIP inspection when they are repurchased, resulting in a net reduction of about 255,000 vehicles. An estimated 20,000 pre-OBD vehicles will become exempt.

The Department 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 and the number of pre-OBD vehicles to be exempted is small and rapidly dwindling. The Motorist Assistance Centers will help improve testing outcomes for all vehicles subject to the program.

The U.S. Environmental Protection Agency is supportive of states' efforts to modernize vehicle emissions inspection programs.

Economic Impact

These proposed enhancements will provide on-going economic benefits to the public in reductions in VEIP fees paid, estimated at \$5,356,254 for the first full year, with a corresponding loss of revenue to MDOT MVA. Minimal economic impact is expected for businesses that are vehicle repair facilities due to potentially fewer vehicles requiring repairs. The proposed action is not expected to have significant economic impact on any other entity, including MDE.

11.14.08 (download February 9, 2021)

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 14 MOTOR VEHICLE ADMINISTRATION — VEHICLE INSPECTIONS

Chapter 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

.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 [(1)] *Registered* within the emissions inspection area;

[(b)] (2) — [(c)] (3) (text unchanged)

[(2)] Table 1. Test Procedure Applicability.

| | Gross Vehicle Weight (pounds) | Vehicle Model Year | Test Type |
|-----|-------------------------------|--------------------|---|
| (a) | 8,500 and under | | |
| | | 1996 and newer | On-board diagnostics test |
| (b) | 8,501—14,000 | 1977—2007 | Idle exhaust emissions test, catalytic converter check, and gas cap leak test |
| | | 2008 and newer | On-board diagnostics test |
| (c) | 14,001—26,000 | 1977 and newer | Idle exhaust emissions test, catalytic converter check, and gas cap leak test |

]

.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.

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) A fire or rescue apparatus or ambulance, owned or leased by a state or local government, by a rescue squad, or by a volunteer fire or ambulance company, registered as an emergency vehicle as defined in Transportation Article, §11-118, Annotated Code of Maryland;

[(4)] (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) (text unchanged)

[(16)] Of a model year earlier than 1977];

[(17)] (15) [Of a] *A vehicle with a gross vehicle weight of 8,500 pounds or less and [a] of model year earlier than 1996; [or]*

(16) A vehicle with a gross vehicle weight of 8,501 through 14,000 pounds and of model year earlier than 2008;

(17) A vehicle with a gross vehicle weight of 14,001 through 26,000 pounds and of model year earlier than 2013; or

(18) (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) — (b)] *(1) — (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 On-Board Diagnostics Test Standards.

[A. Idle Exhaust Emissions Test.

(1) A vehicle shall fail if sample dilution occurs.

(2) Hydrocarbon (HC) and carbon monoxide (CO) emissions may not exceed the following values:

(a) Table 2. Gross vehicle weight greater than 8,500 pounds but less than or equal to 10,000 pounds.

| | Vehicle Model Year | HC (parts per million) | CO (percent) |
|--------|--------------------|------------------------|--------------|
| (i) | 1977 | 580 | 7.00 |
| (ii) | 1978 | 550 | 6.70 |
| (iii) | 1979 | 470 | 5.00 |
| (iv) | 1980 | 350 | 5.00 |
| (v) | 1981 | 250 | 3.00 |
| (vi) | 1982 | 220 | 2.50 |
| (vii) | 1983 | 220 | 1.50 |
| (viii) | 1984—1990 | 220 | 1.20 |
| (ix) | 1991—1992 | 200 | 1.00 |
| (x) | 1993—1995 | 175 | 1.00 |
| (xi) | 1996—2000 | 125 | 1.00 |
| (xii) | 2001 and newer | 100 | 0.75 |

(b) Table 3. Gross vehicle weight greater than 10,000 pounds:

| | Vehicle Model Year | HC (parts per million) | CO (percent) |
|--------|--------------------|------------------------|--------------|
| (i) | 1977 | 650 | 7.00 |
| (ii) | 1978 | 650 | 7.00 |
| (iii) | 1979 | 650 | 6.50 |
| (iv) | 1980 | 500 | 6.00 |
| (v) | 1981 | 500 | 6.00 |
| (vi) | 1982 | 500 | 6.00 |
| (vii) | 1983 | 500 | 3.50 |
| (viii) | 1984—1985 | 440 | 3.00 |
| (ix) | 1986 | 280 | 2.50 |
| (x) | 1987—1992 | 220 | 1.20 |
| (xi) | 1993—1995 | 200 | 1.00 |
| (xii) | 1996—2000 | 125 | 1.00 |
| (xiii) | 2001 and newer | 100 | 0.75 |

B. Gas Cap Leak Test.

(1) A vehicle shall fail if the gas cap is missing, broken, or the wrong style for the vehicle.

(2) The gas cap leak rate may not exceed 60 cubic centimeters per minute at a pressure of 30 inches of water column.

C. On-Board Diagnostics Test.]

[(1)] A. — [(2)] B. (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)

[.11].12 On-Board Diagnostics Test Equipment and Test Procedures.

[A. Idle Exhaust Emissions Test.

(1) Test Equipment. Idle exhaust emission test equipment shall be approved by the Administration and the Department.

(2) Test Procedures.

(a) The inspector shall fail the vehicle if sample dilution occurs.

(b) Except as provided in §A(2)(a) of this regulation, the inspector shall conduct the idle exhaust emissions test in accordance with the procedures specified in 40 CFR Part 51, Subpart S.]

[B.] A. (text unchanged)

[C. Gas Cap Leak Test.

(1) Test Equipment. Gas cap leak test equipment shall be approved by the Administration and the Department.

(2) Test Procedures. The inspector shall remove the gas cap from the vehicle, attach the gas cap to the test equipment, perform the leak test, return the gas cap to the vehicle, and properly tighten the gas cap on the vehicle.

D. On-Board Diagnostics Test.]

[(1)] B. Test Equipment. On-board diagnostics test equipment shall:

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

[(2)] C. Test Procedures.

[(a)] (1) (text unchanged)

[(b)] (2) Except as provided in [§D(2)(a)] §C(1) of this regulation, the inspector shall conduct the on-board diagnostics test following the test procedure specified by the equipment manufacturer, and in accordance with the procedures specified in 40 CFR §85.2222.

[.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] *all testing equipment used under* this chapter, and shall implement the quality assurance plan after approval of the plan by the Administration and the Department.

[B. The contractor shall include the following information in the quality assurance plan:

- (1) Test assurance procedures to be conducted by the contractor for each test;
- (2) Periodic quality assurance check procedures and precision check procedures to be conducted by the contractor on the test equipment;
- (3) For each test assurance procedure, periodic quality assurance check, and precision check conducted by the contractor, the:
 - (a) Primary standard to which each instrument, device, or material used for a check is traceable,
 - (b) Acceptable tolerance for each check,
 - (c) Corrective action to be taken for a check result outside of the acceptable tolerance, and
 - (d) Recheck procedure to follow corrective action;

(4) Maintenance procedures to be conducted by the contractor on the test equipment, which follow the equipment manufacturers' specifications at a minimum; and

(5) Record-keeping practices to be conducted by the contractor.

C. If a test assurance procedure is failed, the contractor shall record the event and void the test.

D. If a periodic quality assurance check or precision check is failed, the contractor shall record the event, automatically prevent official testing, and take immediate corrective action.]

[E.] B. (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.] C. (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.]

[.15].16 Inspector Training and Performance Review.

A. — B. (text unchanged)

[.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) The expiration date of the individual's ASE Electrical Systems (A-6) certification;

[(c)] (b) — [(d)] (c) (text unchanged)

B. —D. (text unchanged)

[.18].19 Certified Emissions Repair Facility.

A. Initial Application and Certification.

[(1)] (text unchanged)

[(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)

[.19 On-Highway Emissions Test.

A. General Requirements.

(1) For on-highway emissions tests, the Contractor shall measure vehicle exhaust emissions of hydrocarbons, carbon dioxide, carbon monoxide, and oxides of nitrogen emissions.

(2) The contractor shall conduct testing in each jurisdiction in the inspection area at least once each year, or as directed by the Administration and the Department, and shall test at least 0.5 percent of the affected vehicles in each jurisdiction.

(3) The contractor shall submit the schedule of the test date, time, and location to the Administration and the Department not less than 5 days and not more than 15 days in advance of the test date.

B. Test Procedure. The contractor shall follow the test procedures specified by the equipment manufacturer, the Administration, and the Department.

C. Test Equipment. The contractor shall use remote sensing equipment which has been approved by the U.S. Environmental Protection Agency, the Administration, and the Department.

D. Quality Assurance and Maintenance. The contractor shall submit a quality assurance and maintenance plan for on-highway emissions testing equipment and procedures to the Administration and the Department for approval. The plan shall include test assurance procedures, periodic quality assurance checks, and, at a minimum, the maintenance procedures specified by the equipment manufacturer.

E. Data Collection and Reporting.

(1) The contractor shall submit a data collection and reporting plan for on-highway emissions testing to the Administration and the Department for approval. At a minimum, the contractor shall collect the following data:

(a) Vehicle exhaust emissions measurements specified in §A(1) of this regulation;

(b) The date, time, and location of the test; and

(c) The license plate number of the test vehicle.

(2) Within the time frame approved by the Administration and the Department in the data collection and reporting plan, the Contractor shall report the test data specified in §E(1) of this regulation to the Administration and the Department in a format approved by the Administration and the Department.

(3) Within 15 days after the end of the calendar year, the contractor shall submit a report of all on-highway emissions tests for the calendar year to the Administration and the Department, including, by jurisdiction, the number of vehicles tested and the dates, times, and locations of the tests.]

.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)

CHRISTINE NIZER

Administrator

Motor Vehicle Administration

5/25/2021

**Facts About... New Regulations under Chapter COMAR 26.11.20.02
Motor Vehicle Emission Control Devices**

Purpose

The purpose of this action is to repeal existing Sections A-C and propose new Sections A-G under COMAR 26.11.20.02 pertaining to Motor Vehicle Emission Control Devices. This action clarifies and expands Maryland's regulations prohibiting (1) the removal or alteration of a motor vehicle's air pollution control systems, and (2) the operation of motor vehicles with removed, altered, or inoperative air pollution control systems. The proposed Regulation prohibits the manufacture, sale, installation, and use of any device that prevents a motor vehicle's air pollution control system from operating as originally designed. The proposed Regulation also prohibits the offering for sale, sale, lease, auction or transfer of any motor vehicle with removed, altered, or inoperative air pollution control systems. The proposed Regulation requires a vehicle dealer or business that sells, auctions or transfers a motor vehicle to maintain records confirming all air pollution control systems are in operating conditions at the time of sale. The proposed regulation also codifies the Department's rights to conduct inspections and surveillance of new and used motor vehicles for the purposes of determining compliance with the requirements of this Regulation.

Motor vehicles contribute to nearly half of the air pollution in the United States. Tampering with the emission controls of a motor vehicle can allow a vehicle to emit hundreds to thousands of times more pollution than when properly controlled. By specifically targeting those vehicles which excessively and wantonly contribute pollution to our air, the Department believes significant emission reductions can be realized with efficient use of enforcement resources.

Submission to EPA as Revision to Maryland's State Implementation Plan (SIP)

The proposed regulations pertaining to motor vehicle emission control devices will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's SIP.

Background

Tampering with a vehicle's emissions control system is illegal under existing state regulations, COMAR 26.11.20.02, and the federal Clean Air Act (CAA), 42 U.S.C. § 7522. The CAA also prohibits manufacturing, selling, offering for sale and installing aftermarket devices which effectively defeat those controls. Tampering causes excess emissions of nitrogen oxides (NOx), particulate matter (PM), and other pollutants to the air we breathe.

Both existing Maryland and Federal law prohibit the removal, alteration or otherwise tampering with a vehicle's pollution control equipment. Maryland regulations also currently prohibit the operation of a motor vehicle that has had its air pollution control equipment tampered or removed.

Tampering can take two basic forms:

- Removing hardware, filters and catalysts in the stock emission control system. This hardware can be located in the engine (e.g. Exhaust Gas Recirculation (EGR)) or in the exhaust system (e.g. Diesel Particulate Filter (DPF) or Selective Catalytic Reduction (SCR)).
- Replacing or altering the software or calibrations that control engine operation, sometimes referred to as "tuning." Tuning may increase engine emissions, allow a vehicle or engine to operate without emissions controls, or prevent the onboard diagnostic system from recognizing that the vehicle or engine is functioning differently than originally designed and certified.

Violation of Maryland's anti-tampering laws may result in a civil penalty of up to \$25,000 per day per violation (Environment Article, Annotated Code of Maryland, §§ 2-610 and 2-610.1). In addition, a person who knowingly tampers with a vehicle may be found guilty of a misdemeanor, and subject to a fine not exceeding \$25,000, imprisonment of up to 1 year, or both for a first offense (Environment Article, Annotated Code of Maryland, § 2-609.1).

Federal Prohibitions

The CAA contains two relevant requirements – one related to tampering and the other to defeat devices. The following acts (and causing them to occur) are prohibited:

1. For anyone to remove or render inoperative any device or element of design that had previously been installed on a motor vehicle or engine in order to comply with CAA regulations. See CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A).
2. For any person to manufacture or sell, or offer to sell, or install, a part or component for a motor vehicle, where:
 - A principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design that had previously been installed on a motor vehicle or engine in order to comply with CAA regulations, and
 - The person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.

See CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).

The CAA states that it is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any monitoring device or method required under the CAA. See CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C). Vehicle Onboard Diagnostics (OBD) systems are a "monitoring device or method" required under the CAA.

Federal Enforcement

On November 23, 2020, EPA updated its *Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices*¹. Recent EPA enforcement activity is highlighted in the April 30, 2020 press

¹ <https://www.epa.gov/enforcement/epa-tampering-policy-epa-enforcement-policy-vehicle-and-engine-tampering-and-aftermarket>

release *EPA Highlights Enforcement Actions Against Those Who Violate The Defeat Device and Tampering Prohibitions under the Clean Air Act*².

Violations are widespread and financial penalties are significant. Those who sell or install devices to defeat emission controls can be fined over \$4,800 per defeat device, and dealers can be fined over \$48,000 per tampered vehicle. Over the past five years, EPA has closed over 60 civil tampering cases, and the Department of Justice has filed criminal charges in others.

Sources Affected

The proposed Regulation applies to:

- A person who services any emissions-related aspect of any vehicle, engine, or piece of equipment;
- A person who manufactures, distributes, or installs emissions-related parts;
- A person who offers for sale, leases, auctions, sells or transfers a motor vehicle; and
- A person who operates a motor vehicle.

Requirements

The proposed Regulation maintains Maryland's current prohibitions on the installation or use of defeat devices, and will expand Maryland's regulations to prohibit (1) the manufacture and sale of defeat devices, and (2) the sale, auction or transfer of vehicles that have had the air pollution control equipment tampered or removed. Specifically, the proposed Regulation will include the following prohibitions:

- A person may not tamper with any air pollution control system on a motor vehicle or on a motor vehicle engine.
- A person may not operate a motor vehicle originally equipped with an air pollution control system unless that system is in place and in operating condition.
- A person may not manufacture, offer for sale, sell, install or use a device that prevents any air pollution control system from functioning as designed by the original manufacturer.
- A person may not offer for sale, lease, sell, auction or transfer a motor vehicle with an air pollution control system that has been tampered with, removed, or is otherwise not functional as designed by the original manufacturer.

Exemptions

The proposed Regulation does not apply to the sale or transfer of a motor vehicle for the purpose of scrapping, dismantling, or destroying the motor vehicle if:

² <https://www.epa.gov/newsreleases/epa-highlights-enforcement-actions-against-those-who-violate-defeat-device-and>

- A certificate of salvage has been issued by the Maryland Motor Vehicle Administration that establishes a motor vehicle may not be operated on public roads; or
- Sufficient documentation and proof is provided to the Department's satisfaction that a motor vehicle has been scrapped, or will be scrapped within 30 days.

Furthermore, the proposed Regulation does not prevent the service or repair of any air pollution control system. Finally, the proposed Regulation does not apply to motorcycles.

Record Keeping Requirements

Records are to be maintained onsite for a period of 5 years by a vehicle dealer or business that sells, auctions or transfers motor vehicles. Records must be made available to the Department upon request.

A vehicle dealer or business that sells, auctions or transfers a motor vehicle must maintain records including:

- Date of sale or transfer of motor vehicle;
- Fuel type of motor vehicle;
- Motor vehicle description (i.e. make, model, year, GVWR);
- Vehicle Identification Number (VIN); and
- Statement that all air pollution control systems are in place and in operating condition.

Compliance Inspections

The Department or its agents have the right to conduct inspections and surveillance of new and used motor vehicles for the purposes of determining compliance with the requirements of this proposed Regulation.

The inspections may:

- Be conducted on any premises owned, operated, used, leased, or rented by any vehicle dealer;
- Extend to all emissions-related parts and their operation;
- Require the on-premises operation and testing of an engine or vehicle; and
- Require inspection of any related records, including records of emissions-related part repairs performed under warranty.

Refusal to allow, or interference with, the inspections shall be considered a violation of this Regulation. A person who violates any provision of this proposed Regulation is subject to the sanctions set forth in Environment Article, Title 2, Annotated Code of Maryland. Each non-compliant vehicle is a separate violation.

Projected Emission Reductions

Tampering can cause a vehicle to emit more pollution than it otherwise would. Recent EPA investigations³ indicate that controls on over 500,000 diesel pickup trucks, or about 13% of those registered that were originally certified with emissions controls, have been fully removed or deleted through tampering. The excess NOx emissions from these vehicles are the equivalent of adding 9 million trucks to our roads. Even

³ <https://www.epa.gov/sites/production/files/2021-01/documents/epaaedletterreportontampereddieselpickups.pdf>

more pickups could be tampered with, as well as heavy duty trucks and off-road equipment used in agriculture and construction.

The EPA estimates⁴ that in the next decade close to 100,000 excess tons of NOx and 890 tons of PM could be emitted in the Mid-Atlantic States due to aftermarket tampering of diesel mobile sources. While the Mid-Atlantic region is already susceptible to increased mobile source emissions due to a dense population and the I-95 corridor, the use of after-market defeat devices and tampering in diesel-powered vehicles significantly exacerbates the problem of excess NOx, which is also a precursor to ground-level ozone formation.

Each diesel-powered truck that does not have the proper emissions control system is estimated to emit more than one ton of excess NOx, which for Mid-Atlantic States could be the equivalent of 60,000 tons of excess NOx from 2009-2019⁴. EPA estimates that roughly 58,000 diesel vehicles in Mid-Atlantic States had their emissions controls completely removed in the preceding decade, or “deleted,” which would be 8.5% of diesel vehicles registered in Mid-Atlantic States in 2016⁴.

EPA estimates⁴ that from 2009-2019, Maryland had 5,900 diesel trucks operating with deleted devices. Excess NOx emissions from these vehicles amounted to 6,000 tons during this period (600 tons per year or 1.64 tons per day). Excess PM emissions from these vehicles amounted to 64 tons during this period (6.4 tons per year).

Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

Tampering with a vehicle's emissions control system and operating a tampered motor vehicle is illegal under existing state regulations and the federal CAA. The proposed regulations further prohibit the manufacture and sale of defeat devices, and the offering for sale, lease, sale, auction or transfer a motor vehicle with an air pollution control system that has been tampered with, removed, or is otherwise not functional as designed by the original manufacturer. The CAA already prohibits the manufacture, sale, offering for sale, and installation of aftermarket devices which effectively defeat a motor vehicle's pollution controls.

There will be an economic impact upon motor vehicle dealers that may need to restore the emission control equipment to normal operating conditions on all the tampered vehicles they may have in their possession. There will also be a minimal economic impact upon motor vehicle dealers that will need to maintain records and offer records and vehicles for inspection by the Department upon request. There will be an economic impact upon manufacturers and retailers of emission control defeat devices. There will be a minimal impact upon the Department as Compliance Inspectors will need to undergo training and inspect affected sources as needed. There will be a positive general public health benefit, especially to those with asthma, but a cost impact is undetermined.

⁴ Letter from EPA AED to MARAMA, *Aggregated Evidence of Tampered Diesel Pickup Trucks*, Nov. 18, 2019.

Economic Impact on Small Businesses

The proposed action has minimal impact on small businesses.

Comparison to Federal Standards

The proposed Regulation will clarify and expand Maryland's regulations to prohibit the manufacture, sale, use, or installation of aftermarket defeat devices, prohibit the sale, auction or transfer of vehicles that have had their air pollution control systems tampered or removed, and prohibit the operation of motor vehicles that have had their air pollution control systems tampered or removed.

Maryland's existing and proposed regulations largely mirror and compliment federal regulations pertaining to the tampering of motor vehicles. The existing Code of Maryland Regulations 26.11.20.02, prohibits the tampering of motor vehicle emission controls and operation of a motor vehicle that has had the air pollution control equipment tampered or removed. Under CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), federal law prohibits anyone from removing or rendering inoperative any device or element of design that had previously been installed on a motor vehicle or engine in order to comply with CAA regulations. Federal law also prohibits any person from manufacturing or selling, or offer for sale, or installing, a motor vehicle defeat device. 42 U.S.C. § 7522(a)(3)(B). Finally, CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C), provides that it is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any "monitoring device or method" required under the CAA.

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 20 Mobile Sources

Authority: Environment Article, §§2-102, 2-103, and 2-301, Annotated Code of Maryland

.01 (text unchanged)

.02 Motor Vehicle Emission Control Devices.

A. — C. (repeal)

A. Definitions.

(1) "Air pollution control system" means any device or element of design installed on or in a motor vehicle or motor vehicle engine in order to comply with pollutant emission restrictions established for the motor vehicle or motor vehicle engine by federal or state statute or regulation.

(2) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle.

(3) "Motor vehicle" means any self-propelled vehicle powered by an internal combustion engine and designed for use on public roads, such as automobiles, trucks, and buses.

(4) "Tamper" means to remove, alter or otherwise render inoperative an air pollution control system.

B. Applicability. The provisions of this Regulation apply to all motor vehicles, except as listed in §C of this Regulation.

C. Exemptions.

(1) This Regulation does not apply to the sale or transfer of a motor vehicle for the purpose of scrapping, dismantling, or destroying the motor vehicle if:

(a) A certificate of salvage has been issued by the Maryland Motor Vehicle Administration that establishes a motor vehicle may not be operated on public roads; or

(b) Sufficient documentation and proof is provided to the Department's satisfaction that a motor vehicle has been scrapped, or will be scrapped within 30 days.

(2) This Regulation does not prevent the service or repair of any air pollution control system.

(3) This Regulation does not apply to motorcycles.

D. Anti-Tampering Prohibitions.

(1) A person may not tamper with any air pollution control system on a motor vehicle or on a motor vehicle engine.

(2) A person may not operate a motor vehicle originally equipped with an air pollution control system unless that system is in place and in operating condition.

(3) A person may not manufacture, offer for sale, sell, install or use a device that prevents any air pollution control system from functioning as designed by the original manufacturer.

(4) A person may not offer for sale, lease, sell, auction or transfer a motor vehicle with an air pollution control system that has been tampered with, removed, or is otherwise not functional as designed by the original manufacturer.

E. Compliance Inspections.

(1) The Department or its agents have the right to conduct inspections and surveillance of new and used motor vehicles for the purposes of determining compliance with the requirements of this Regulation.

(2) The inspections authorized under §E(1) of this Regulation may:

(a) Be conducted on any premises owned, operated, used, leased, or rented by any vehicle dealer;

(b) Extend to all air pollution control systems and their operation;

(c) Require the on-premises operation and testing of an engine or vehicle; and

(d) Require inspection of any related records, including records of emissions-related part repairs performed under warranty.

(3) Refusal to allow, or interference with, the inspections under this section shall be considered a violation of this Regulation.

(4) A person who violates any provision of this Regulation is subject to the sanctions set forth in Environment Article, Title 2, Annotated Code of Maryland. Each non-compliant vehicle is a separate violation.

G. Record Keeping.

(1) A vehicle dealer or business that sells, auctions or transfers a motor vehicle must maintain records including:

(a) Date of sale or transfer of motor vehicle;

(b) Fuel type of motor vehicle;

(c) Motor vehicle description (i.e. make, model, year, GVWR);

(d) Vehicle Identification Number (VIN); and

(e) Statement that all air pollution control systems are in place and in operating condition.

(2) Records must be maintained onsite for 5 years and available to the Department upon request.

.03 — .06 (text unchanged)