

Proposed State Implementation Plan Revision  
Vehicle Emissions Inspection/Maintenance Program  
Program Changes

Comment and Response Document

November 26, 2003

Bureau of Air Quality  
Department of Environmental Protection

# ***Proposed State Implementation Plan Revision to Incorporate Program Changes for the Vehicle Emissions Inspection/Maintenance (I/M) Program***

## ***Comment and Response Document***

The Department of Environmental Protection published a notice of a public comment period on October 18, 2003 in the Pennsylvania Bulletin (33 *Pennsylvania Bulletin* 5255). The public comment period closed on November 21, 2003.

This document contains the comments received during the public comment period on the Commonwealth's revised I/M program in the 16 counties (Berks, Blair, Cambria, Centre, Cumberland, Dauphin, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Northampton, Mercer and York) and changes to the annual motor vehicle safety inspection in the 42 remaining non-I/M counties.

Comments have been summarized and consolidated. A response to each comment is provided. Please note the number in parenthesis after each comment refers to the number of the commentator.

As indicated in the Public Hearing Record on the last page of this document, no comments were received during the public hearings.

**List of Commentators**

<b>Number</b>	<b>Commentator</b>
1	Charles McPhedran Senior Attorney PennFuture 117 S. 17 <sup>th</sup> St., Suite 1801 Philadelphia, PA 19103
2	Mr. Jim Lewis Jim Lewis Auto Service 152 Bingaman Road Reading, PA. 19606
3	Mr. Bruce A. Ginther Sr. Instructor Automotive Research Center, Inc. (A.R.C.) 847 Fern Ave. Reading, PA 19607
4	Mr. Thomas G. Krupp Address Not Provided
5	Mr. Kevin M. Gerhard 246 Vesper Ave. Reading, PA 19606
6	Mr. Jeffrey J. Morgan, P.E. 3446 Eton Rd. Allentown, PA 18104
7	Ms. Judith Katz Director, Air Protection Division U.S. Environmental Protection Agency Region III 1650 Arch St. Philadelphia, PA 19103-2029

## ***Response to Comments***

1. **Comment:** The current changes along with additional testing that may need to be implemented in the future to achieve federally mandated air quality standards are favorable. (3,4,5)

**Response:** The Department acknowledges these comments.

2. **Comment:** Finding information regarding the requirements of this program, the reason for its existence, and the results of testing has been difficult. (2)

**Response:** The Department disagrees. The Department of Transportation (PENNDOT) and the Department of Environmental Protection (DEP) maintain the Drive Clean Pennsylvania website, which includes a comprehensive history of the I/M program in Pennsylvania. This history includes the Commonwealth's requirements under federal law for implementing the program. The website also lists a toll-free telephone number that citizens can call to ask questions regarding the Commonwealth's I/M program. The proposed amendments to Chapters 177 and 175 relevant to this proposed revision to the State Implementation Plan (SIP) were available from both PENNDOT and DEP upon request and were posted for the duration of this public comment period on DEP's Clean Air Plans website as indicated in the Pennsylvania Bulletin announcement. The EPA-required I/M annual reports, which include summary fleet testing results, are available from PENNDOT upon request.

Given the implementation deadlines of the settlement agreements described in the proposed SIP revision, the Commonwealth was under an expedited schedule to implement the program. Upon settlement of the lawsuits in May of 2003, described in the SIP, PENNDOT and DEP provided considerable outreach to the public, including station owners, onboard diagnostic (OBD) equipment manufacturers, and motorists. PENNDOT and DEP jointly briefed members of the Pennsylvania Legislature and held a number of well-attended public sessions for station owners throughout the Commonwealth. PENNDOT and DEP provided media kits and held media events for the public, in addition to publishing a brochure for station customers to inform them about the changes. Information about the program has been or will be mailed directly to each Pennsylvania motorist with registered vehicles in the newly subject areas as part of their vehicle registration renewal. This information describes the program and explains how it will affect them when their first vehicle inspection is due under the revised I/M program

3. **Comment:** The requirements for emissions testing are not based on actual air quality. The requirements are based solely on geographical location and population concentration. (2)

**Response:** The federal Clean Air Act Amendments of 1990 require those areas designated as in moderate, serious, severe or extreme non-attainment of the National Ambient Air Quality Standard for Ozone or Carbon Monoxide to implement I/M testing. In addition, those areas that lie within the Ozone Transport Region (OTR) established under Section 184 of the Clean Air Act and have a population of 100,000 or more within a Metropolitan Statistical Area (MSA) are required to implement I/M testing. An exception is provided for counties with a population density less than 200 persons per square mile. The OTR requirement is due to the multi-regional nature of ozone formation and transport and was established by operation of law to help the Northeastern states and the District of Columbia address the regional transport of air pollution by adopting additional emission reduction strategies.

4. **Comment:** The test equipment cost, training requirements for inspectors, the dedicated phone line requirements and costs, and the use of MCI as the contracted I/M program manager are unreasonable. (2)

**Response:** The Commonwealth did not set equipment costs to be paid by the station owners who wish to participate as emissions inspection stations. PENNDOT has provided equipment manufacturers with equipment specifications to ensure that the approved equipment meets the federal requirements for an I/M electronic network and are compatible with PENNDOT's existing I/M Vehicle Inspection Information Database (VIID) currently employed in the Philadelphia and Pittsburgh areas. The individual equipment manufacturers then set the price for the equipment.

The U.S. Environmental Protection Agency (EPA) specifies a training requirement for I/M inspectors. Having inspectors with sufficient certified training on properly conducting the tests and effecting repairs reduces the chance for improper testing or repairs and increases the benefit to the motorist having their vehicle inspected.

Security and real-time data transmission are both elements of the federal requirements and the existing I/M SIP and a dedicated phone line helps allow the Commonwealth to meet those requirements. A dedicated phone line is required so that the program manager (MCI) can quickly and efficiently monitor the inspection network and provide timely electronic updates and informational bulletins to station owners. MCI charges each station a connection fee in order to operate and manage the network as well as provide program audit and customer hotline services.

In 1997, MCI was chosen as the I/M program manager following a competitive bidding process in accordance with Commonwealth rules, regulation, and policy governing contract awards. MCI's contract has been extended in accordance with Commonwealth procurement policies.

5. **Comment:** The program will result in a significant cost increase to the customer. (2)

**Response:** The motorist will incur an additional annual charge to have the emissions inspection performed. By allowing the market to dictate a price for the inspection, a balance can be found between the lowest possible cost to the motorist, who can choose to have the inspection done at any official emissions inspection station, and a price sufficient for stations to recover their expenses for performing an inspection.

6. **Comment:** We need to know how much pollution is actually being eliminated from the air by vehicle emissions testing in order to determine whether or not this program is a viable tool for making air quality improvements. (2)

**Response:** The proposed SIP revision includes air quality emissions modeling showing estimated emission reductions. By implementing this I/M program, the Commonwealth expects to be credited by EPA with air quality benefits for its plans to demonstrate that all areas of the Commonwealth with ozone concentrations that exceed the National Ambient Air Quality Standard will meet the standard by the federal deadlines for attainment.

7. **Comment:** A working "check engine light" check on 1996 and newer vehicles and a visual inspection on 1975 to 1995 vehicles should be included in the safety inspection at no cost to the consumer. (2)

**Response:** A visual check of an engine light alone does not meet EPA requirements for OBD testing. If the tests as the commentator describes were included in the safety inspection in the 16 I/M counties, the Commonwealth would not be able to meet its federal obligations for an I/M program in those 16 counties. In addition, to do so would breach the terms of the settlement agreements described in the proposed revision.

8. **Comment:** We should slowly, incrementally, and sensibly adjust the CAFE standards. (2)

**Response:** Federal law prohibits the Commonwealth from passing any law or regulation that establishes Pennsylvania fuel efficiency standards for motor vehicles.

9. **Comment:** Provisions in the regulation providing for a switch to biennial testing and phase out of testing are in derogation of key programs under the settlement

agreement, because the “IM program” provided for could include the gas cap and anti-tampering program in the 16 counties covered by the settlement agreement. This provision could be read to affect the anti-tampering program in the non-emission counties, which is also included in the settlement agreement. (1)

**Response:** This comment is not applicable to this proposed SIP revision since the regulatory language referred to is not included in this revision. These provisions are included in a separate proposed SIP revision for Philadelphia and Pittsburgh, for which the Department is currently seeking comment by December 12, 2003.

Additionally, “I/M Program” is an undefined term. In the context of 67 Pa. Code Chapter 177.51(c)(1) and (2), the Commonwealth construes it as applying only to the tailpipe portion of the vehicle emission inspection program. Vehicles that could be exempted under Sections 177.51(c)(1) and (2) would continue to require a gas cap test and a visual inspection. Tailpipe testing occurs only in the nine counties of the Philadelphia and Pittsburgh Regions. In the proposed SIP revision for Philadelphia and Pittsburgh, the Commonwealth specifically states that the provisions for biennial testing and phase-out in Chapters 177.51(c)(1) and (2) only apply to tailpipe testing on subject pre-1996 model year vehicles. Any broader application would be in conflict with the SIP and settlement agreements.

It has not been the intention of the Commonwealth to institute biennial testing and/or phase-out of pre-1996 vehicle programs in the 16 counties covered by the settlement agreement. The Commonwealth intends to pursue a regulatory revision as soon as practicable to explicitly limit the applicability of the provisions to tailpipe (exhaust emission) testing only. Since a tailpipe test is required only in the Pittsburgh and Philadelphia regions, the provisions will not affect the I/M program being implemented in the 16 counties according to the terms of the settlement agreements. The Chapter 175 provisions are for the safety inspection program and are not affected by the Chapter 177 I/M program provisions, in accordance with Commonwealth law.

10. **Comment:** There appears to be an inconsistency of definitions between the regulations and the settlement agreement with regard to the names of the new I/M areas. (1)

**Response:** The definitions of the new areas contained in the posted proposed revisions to Chapter 177 and in the settlement agreement were inconsistent. PENNDOT has changed the regulatory definitions to make them consistent with the settlement agreement. These changes are contained in the final Chapter 177 regulation.

11. **Comment:** It is unfair to the residents of the Lehigh Valley to be forced to pay for the implementation of recommendations, testing requirements or limitations which are intended to achieve compliance based on insufficient data and makes use of several “safety factors” to compensate for uncertainties. (6)

**Response:** The requirements for vehicle emissions inspections are prescribed by federal law. Failure to implement the revised program expeditiously could subject residents in I/M mandated areas to more costly tailpipe emissions testing.

12. **Comment:** The commenter asks if the Department has reviewed any data on the success or failure of the emissions testing program which expired in the Lehigh Valley in 1999. (6)

**Response:** The basic I/M program conducted in the Lehigh Valley prior to 1999 complied with the applicable requirements of the federal Clean Air Act at that time and therefore allowed the Commonwealth to meet its clean air obligations under federal law.

13. **Comment:** Over time as older vehicles are retired from service and newer, cleaner vehicles are purchased, auto emissions have been and will continue to be reduced through attrition. (6)

**Response:** The Department agrees with the commenter that as older vehicles are retired, they are replaced with cleaner emitting vehicles. In the future, though, overall emissions from all vehicles will still comprise a significant portion of the Commonwealth's total emissions that contribute to air pollution. While emissions from individual cars and light-duty trucks have been reduced over the years, there has been a dramatic increase in the overall number of these vehicles and the amount of miles they traveled. These increases offset some of the air quality benefits realized by these cleaner cars and light-duty trucks. The program described in the proposed SIP revision will help maintain the clean air benefits of individual cars and light-duty trucks for a longer period of time, thus helping the Commonwealth achieve its clean air goals.

14. **Comment:** Recommendations or changes to the current air quality regulations should be minimized until the ongoing issues / challenges associated with certain utilities located in Southern and Midwestern states regarding interstate transport of air pollution are settled. (6)

**Response:** The Commonwealth endeavors to balance the impact of revised air quality regulations on Pennsylvanians with the benefits Pennsylvanians receive from breathing cleaner air. The Department agrees that Pennsylvania should do its fair share regionally with regard to the issues surrounding interstate transport of air pollution. The Commonwealth was instrumental in recent federal court challenges and petitions to EPA to force large emitting industries in upwind states to do their fair share as well.

15. **Comment:** We are concerned about the waiver provisions of the proposed SIP revision. PA should clarify the language by redacting the portion of section 177.282

that provides for a waiver cost limit of less than the full stringency waiver cost limit.  
(7)

**Response:** The Department does not share the commenter's concern, but will redact the relevant language as requested so that the express provision is in harmony with the full stringency waiver cost limits.

16. **Comment:** Pennsylvania should submit all sections of 67 Pa. Code Chapter 175 that relate to the "42 county non I/M program". The submission of only the test method and record keeping regulatory changes in the proposed SIP package does not fulfill federal requirements for SIP preparation, adoption, and submittal. (7)

**Response:** The proposed SIP revision submitted to EPA will include all relevant sections of 67 Pa. Code Chapter 175.

**Public Hearing Record**

Date and Time of Hearing	Location
November 19, 2003 1:00 PM	PA Dept. of Environmental Protection Southeast Regional Office Hearing Room Lee Park 555 North Lane Suite 6010 Conshohocken, PA
November 20, 2003 1:00 PM	PA Dept. of Environmental Protection Rachel Carson State Office Building 12 <sup>th</sup> Fl. Conference Room 400 Market Street Harrisburg, PA
November 20, 2003 1:00 PM	PA Dept. of Environmental Protection Southwest Regional Office Waterfront Rooms A and B 500 Waterfront Drive Pittsburgh, PA

The Department received no comment at the public hearings.