

Proposed State Implementation Plan Revision
Vehicle Emissions Inspection/Maintenance Program
Program Changes for Philadelphia and Pittsburgh
Regions

Comment and Response Document

January, 2004

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 in the Philadelphia and Pittsburgh Regions.

Comment and Response Document

The Department of Environmental Protection published a notice of a public comment period on November 8, 2003 in the Pennsylvania Bulletin (33 *Pennsylvania Bulletin* 5574). The public comment period closed on December 12, 2003.

This document contains the comments received during the public comment period on changes to the Commonwealth's I/M program in nine counties (Bucks, Chester, Delaware, Montgomery, Philadelphia, Allegheny, Beaver, Washington and Westmoreland).

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

The final page of this document is a summary of the public hearing record. One comment was received at the Pittsburgh public hearing.

List of Commentators

Number	Commentator
1	Charles McPhedran Senior Attorney PennFuture 117 S. 17 th St., Suite 1801 Philadelphia, PA 19103
2	Ms. Marilyn Skolnick Sierra Club Pennsylvania Chapter P.O. Box 606 Harrisburg, PA 17108

Response to Comments

1. **Comment:** Provisions in the regulation providing for a switch to biennial testing and phase out of testing violate the Secretaries' obligations under the settlement agreement in Citizens for Pennsylvania's Future v. Mallory. The settlement agreement required the Secretaries to implement gas cap checks and anti-tampering inspections for subject vehicles model year 1995 and older in 16 additional Commonwealth counties outside of the Philadelphia and Pittsburgh regions. Section 177.51(c)(1) and (2) in the proposed SIP revision could result in the reduction or elimination of emission reduction programs that are both essential to the agreement and to satisfying the vehicle inspection program emissions benchmark. (1)

Response: The Department has redacted the biennial testing and phase-out language, 67 Pa. Code Section 177.51 (c)(1) and (2), from the final SIP submission so that EPA will not consider the language for inclusion in the SIP.

The biennial testing and phase-out language is intended to apply only to tailpipe (exhaust emission) testing in the Philadelphia and Pittsburgh regions and, therefore, is not relevant to the terms of the settlement agreement. The settlement agreement applies only to the counties other than counties in the Philadelphia and Pittsburgh regions. The Commonwealth intends to pursue a regulatory revision as soon as practicable to explicitly limit the applicability of the provisions to tailpipe testing.

Additionally, "I/M Program" is an undefined term. In the context of 67 Pa. Code Section 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, the Commonwealth specifically stated that the provisions for biennial testing and phase-out in Chapters 177.51(c)(1) and (2) would only apply to tailpipe testing on subject pre-1996 model year vehicles.

2. **Comment:** The regulations included with the Proposed Philadelphia-Pittsburgh I/M SIP are inconsistent with Pennsylvania statute. (1)

Response: The Department has redacted the biennial testing and phase-out language from the final SIP submission so that EPA will not consider the language for inclusion in the SIP. 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.

The regulations included with the final SIP revision are consistent with the Pennsylvania statute referred to by the commentator, 75 Pa.C.S. 4706. The statute does not mandate the frequency of emission inspections, does not restrict the Commonwealth's selection of test types and does not commit an area for which a certification has been issued to indefinite emissions testing. The legislature established a general rule against vehicle emission inspections in the statute (75 Pa.C.S. 4706(a)), authorizing certification in section 4706(b) only as an exception when emission inspections are both required by federal law and required to prevent the loss of federal funds. (75 Pa.C.S. 4706(b).) The statute's authority to certify that an emission inspection system is required in an area includes the implied authority to reduce the frequency of, or to cease, inspections, as appropriate.

3. **Comment:** The Proposed Philadelphia-Pittsburgh I/M SIP is inconsistent with existing SIP obligations. The existing I/M SIP does not allow for biennial testing or the phase-out of testing as reflected in Section 177.51 and the Department has not demonstrated that an equivalent program would provide equivalent emissions reduction benefits. (1)

Response: The Department has redacted the biennial testing and phase-out language from the final SIP submission so that EPA will not consider the language for inclusion in the SIP. 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.

Any future revision to the I/M SIP to incorporate biennial tailpipe testing and tailpipe testing phase-out will be supported by applicable MOBILE modeling and any other necessary measures to demonstrate that the subject county or region would still meet the applicable I/M performance standard. Biennial tailpipe testing and tailpipe testing phase-out would only occur if emissions in the I/M county or region were at or below levels that are in compliance with the approved SIP, Clean Air Act transportation conformity requirements and the applicable I/M performance standard.

4. **Comment:** The Proposed Philadelphia-Pittsburgh I/M SIP provides no modeling in support of its phase-out backstop provisions and does not provide for EPA or citizen review. (1)

Response: The Department has redacted the biennial testing and phaseout language from the final SIP submission so that EPA will not consider the language for inclusion in this SIP revision. Any future revision to the I/M SIP to incorporate biennial tailpipe testing and tailpipe testing phase-out will be proposed as an I/M SIP revision and be published for public comment. The

Department anticipates providing applicable MOBILE modeling with any such proposed I/M SIP revision.

5. **Comment:** The blacked-out regulations accompanying the Proposed Philadelphia-Pittsburgh I/M SIP do not facilitate public participation. (1)

Response: The Department generally “blacks-out” or redacts regulatory language that is already included in the approved SIP or is not intended for EPA approval and inclusion in the SIP. The redacted language in §177.22 that the commentator specifically mentioned was included for incorporation in the Program Changes I/M SIP revision submitted to EPA on December 1, 2003. To incorporate that language in this revision would be redundant.

The Department acknowledges the commentator’s concerns about redacted language and will consider these concerns when using redaction in future SIP proposals.

6. **Comment:** The phase-out will eliminate critical emissions benefits in Philadelphia and Pittsburgh. (1)

Response: The Department has redacted the biennial testing and phase-out language from the final SIP submission so that EPA will not consider the language for inclusion in the SIP. 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.

Any future revision to the I/M SIP to incorporate biennial tailpipe testing and tailpipe testing phase-out will be supported by applicable MOBILE modeling and any other necessary measures to demonstrate that the subject county or region *would still* meet the applicable I/M performance standard. Biennial tailpipe testing and tailpipe testing phase-out would only occur if emissions in the I/M county or region were at or below levels that are in compliance with the approved SIP, Clean Air Act transportation conformity requirements and the applicable I/M performance standard.

7. **Comment:** A minimal program has been proposed for other regions of the state. If we are to meet Federal regulations for clean air, we must do a better job. (2)

Response: When implementation of the changes in the I/M program are complete, the Commonwealth will have I/M programs that are designed to achieve the vehicle emission reductions required by the Clean Air Act and to minimize the impact on Pennsylvania motorists.

8. **Comment:** The cost of the inspection should be regulated, and a cap placed on maximum charges. If you ask vehicle owners to find the lowest cost, you encourage unnecessary driving to find the best price. (2)

Response: The Commonwealth has always advocated a market-based system to define the emissions inspection costs. The Commonwealth's experiences in implementing enhanced emissions inspection in the Pittsburgh and Philadelphia regions have demonstrated that market forces stabilize inspection prices over time. The Commonwealth maintains the Drive Clean Pennsylvania website (www.drivecleanpa.state.pa.us) that lists the current prices charged by inspection stations so as to minimize the need for Pennsylvania motorists to drive around to compare prices.

Public Hearing Record

Date and Time of Hearing	Location
December 10, 2003 1:00 PM	PA Dept. of Environmental Protection Southeast Regional Office Hearing Room Lee Park 555 North Lane Suite 6010 Conshohocken, PA
December 10, 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 one comment (commentator #2) at the Pittsburgh public hearing. No comment was received at the Conshohocken public hearing.