

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 Del.C. §6010(a) & (c))  
7 DE Admin. Code 1131

### PROPOSED

#### REGISTER NOTICE

SAN #2018-05

DOCKET # 2022-R-A-0002

#### 1131 Low Enhanced Inspection and Maintenance Program

1. TITLE OF THE REGULATIONS:

7 DE ADMIN. Code 1131 Low Enhanced Inspection and Maintenance Program proposed to be amended to 7 DE ADMIN. Code 1131 Motor Vehicle Emissions Inspection Program - Kent and New Castle Counties

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The purpose of this action is to amend Regulation 1131 to establish a statewide I/M program implemented in Kent, New Castle and Sussex Counties. The proposed amendments will establish identical emissions testing requirements statewide as well as exempt the first seven model years of a vehicle pursuant to House Bill 246.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

NONE

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. Ch. 60 § 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

Proposed 7 DE ADMIN. Code 1126 Motor Vehicle Emissions Inspection Program - Sussex County

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2022-R-A-0002) will be held on Thursday, September 29, 2022, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: MVEIP. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter the event code 2339 665 6055. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting September 1, 2022 at [https://regulations.delaware.gov/services/current\\_issue.shtml](https://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Marvina Cephas by phone at 302-739-9402 or by email at [Marvina.Cephas@delaware.gov](mailto:Marvina.Cephas@delaware.gov).

The Department will accept public comment through the close of business on Friday, October 14, 2022. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY: Marvina Cephas [marvina.cephas@delaware.gov](mailto:marvina.cephas@delaware.gov) 302.739.9402

**1131 Low Enhanced Inspection and Maintenance Motor Vehicle Emissions Inspection Program - Kent and New Castle Counties**

(06/12/12)

1.0 Purpose.

The purpose of this regulation is to ensure that emissions of hydrocarbons (HC), and carbon monoxide (CO) from light-duty vehicles weighing up to 14,000 pounds in the State of Delaware do not adversely impact public health, safety, and welfare.

~~This program shall be known as the "Low Enhanced Inspection and Maintenance Program" or "LEIM Program", and shall be identified as such in the balance of this regulation.~~

~~(06/12/12)~~

## **2.0 Applicability and ~~General Provisions.~~ general provisions**

### 2.1 Applicability.

2.1.1 Except as exempted in 2.2 ~~of this regulation~~, the requirements of this regulation shall apply to all 1968 and later model year, light duty passenger cars and 1970 and later model year ~~light duty trucks up to 8,500~~ 14,000 pounds gross vehicle weight rating registered in New Castle and Kent Counties ~~beginning on xx/xx/2023.~~

2.1.2 The requirements of Section 8.0 of this regulation shall apply to all certified emission repair technicians in the State of Delaware.

### 2.2 Exemptions. The following motor vehicles are exempt from the requirements of this regulation:

2.2.1 The five most recent model years of a light duty vehicle.

2.2.2 Vehicles manufactured and registered as Kit Cars.

2.2.3 Tactical military vehicles used exclusively for military field operations.

2.2.4 All motor vehicles with a manufacturer's gross vehicle weight over ~~8,500~~ 14,000 pounds.

2.2.5 All motorcycles and mopeds.

2.2.6 All vehicles powered solely by electricity generated from solar cells ~~and/or or~~ stored in batteries.

2.2.7 Non-road sources or vehicles not operated on public roads.

2.2.8 Model year vehicles 1996 and older powered solely by diesel fuel.

2.2.9 Any motor vehicle that is more than 25 years old with a title brand of "reconstructed" that does not qualify to be registered as an antique motor vehicle. The vehicle must continue to meet and be inspected for safety and anti-tampering requirements for its model year pursuant to 21 Del.C. §2147.

2.2.10 A motor vehicle registered as an antique motor vehicle, or a street rod vehicle shall be exempt from annual inspection pursuant to 21 Del.C. §2198. A motor vehicle must pass an initial inspection prior to the motor vehicle being registered as an antique motor vehicle which shall be consistent with the established model year testing procedures as described in Section 4.0 of this regulation.

2.2.11 Any Farm vehicle with license plates ("FV" tags) are exempt from inspection pursuant to 21 Del.C. §2113. Any vehicle or trailer upon which a "FV" tag is affixed must be used exclusively in the operative of a farm.

### 2.3 ~~General Provisions.~~ provisions

2.3.1 Vehicles shall be pre-inspected by the Division prior to the emission inspection, and shall be prohibited from testing should any unsafe conditions be found. These unsafe conditions include, but are not limited to significant exhaust leaks, and significant fluid leaks. The Division and the Department shall not be responsible for major vehicle component failures during the test, ~~of including~~ parts which were deficient or excessively worn prior to the start of the test.

2.3.2 Vehicles shall be rejected from testing, as covered in this regulation, if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition for testing.

2.3.3 Effective January 1, 1997 for vehicles registered in New Castle County and July 1, 1997 for vehicles registered in Kent County, in order to qualify for a waiver under Section 7.0 of this regulation on any 1996 or later model year vehicle, emission repairs shall be performed by a certified emission repair technician as defined in Section 8.0 of this regulation.

2.3.4 Vehicles with engines of a model year older than the chassis model year shall be required to pass the standards commensurate with the chassis model year.

2.3.5 Mixing vehicle classes (e.g., light duty with heavy duty) and certification types (e.g., California with Federal) within a single vehicle configuration shall be considered tampering.

2.3.6 Subject vehicles which are registered in the program area but are primarily operated in another LEIM area shall be tested, either in the area of primary operation, or in the area of registration. Alternate schedules may be established to permit convenient testing of these vehicles (e.g., vehicles belonging to students away at college should be rescheduled for testing during a visit home).

2.3.7 Vehicles which are operated on Federal installations located within the State of Delaware shall be tested. This requirement applies to all employee owned or leased vehicles (including vehicles owned, leased, or

operated by civilian and military personnel on Federal installations) as well as agency owned or operated vehicles, except tactical military vehicles, operated on the installation.

2.3.7.1 This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

2.3.7.2 In areas without test fees collected in the lane, arrangements shall be made by the installation with the LEIM program for reimbursement of the costs of tests provided for agency vehicles, at the discretion of the Director. The installation manager shall provide documentation of proof of compliance to the Director. The documentation shall include a list of subject vehicles and shall be updated periodically, as determined by the Director, but no less frequently than each inspection cycle. The installation shall use one of the following methods to establish proof of compliance:

2.3.7.2.1 Presentation of a valid certificate of compliance from the LEIM program, from any other LEIM program at least as stringent as the LEIM program described herein, or from any program deemed acceptable by the Director.

2.3.7.2.2 Presentation of proof of vehicle registration within the geographic area covered by the LEIM program, except for any Inspection and Maintenance program whose enforcement is not through registration denial.

2.3.7.2.3 Another method approved by the Director.

2.3.8 Vehicles that have been switched from an engine of one fuel type to another fuel type that is subject to the LEIM program (e.g., from a diesel engine to a gasoline engine) shall be subject to the test procedures and standards for the current fuel type.

2.3.9 Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the Division determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for that model year without such devices.

2.3.10 Vehicles converted to run on alternate fuels, frequently called a dual-fuel vehicle, shall be tested and required to pass the most stringent standard for each fuel type.

2.3.11 Alternative fuel vehicles powered solely by a "clean fuel" such as compressed natural gas, propane, alcohol and similar non-gasoline fuels shall report for inspection to the same emission levels as gasoline powered cars until standards for clean fuel vehicles become available and are adopted by the State.

2.3.12 Dual-fuel vehicles able to be powered by more than one fuel, such as a clean fuel (compressed natural gas) and/or gasoline, shall report for inspection to the same emission levels as gasoline powered cars until standards for clean fuel vehicles become available and are adopted by the State.

2.3.13 Hybrid electric vehicles shall report for inspection to the same emission levels as gasoline powered cars until standards for hybrid electric vehicles become available and are adopted by the State.

## 2.4 Inspection Facility Requirements

2.4.1 Motor Vehicle associates employed by the Division shall meet the requirements specified in subsection 2.5.

2.4.2 Test equipment used by the Division shall be a type approved by the Department and testing procedures shall be conducted in accordance with the provisions of this regulation.

2.4.3 No person employed by the Division to test motor vehicle emissions shall engage in or have an interest in the operation of repair facilities located in this State; perform emission related repairs for compensation; or recommend repair facilities to owners or operators of vehicles being tested.

## 2.5 Certification of Motor Vehicle Associates

2.5.1 A person may not perform the duties of a motor vehicle associate for testing motor vehicle emissions or operating emission testing equipment to determine the compliance or noncompliance of a motor vehicle as required by this regulation at an official inspection station unless that person has applied for and has received certification in accordance with the provisions established by the Division.

2.5.2 To become certified, a person shall successfully complete a training course for this purpose approved by the Division.

## 2.6 Calibration and Test Procedures and Approved Equipment

2.6.1 All emissions testing for the purpose of determining compliance with emissions standards shall be performed using equipment approved by the Department.

2.6.2 Calibration. The calibration of equipment shall be in accordance with provisions established by the Division in accordance with 40 CFR 51.359.

2.6.3 Test Procedures. The vehicle emissions test shall be performed in accordance with provisions established by the Division in order to meet the requirements in 40 CFR 51.357.

~~(06/12/12)~~

### 3.0 Definitions.

The following words and terms, when used in this regulation, have the following meaning ~~unless the context clearly indicates otherwise~~:

**"Alternative fuel vehicle"** means any vehicle capable of operating on one or more fuels, none of which are gasoline or diesel, and which is subject to emission testing to the same stringency as a similar gasoline or diesel fueled vehicle.

**"ASE L1"** means "Advanced Engine Performance Specialist Test" certificate as provided by the National Institute for Automotive Service Excellence. The ASE "Advanced Engine Performance Specialist (L1) Test" contains questions that test technicians' knowledge in the diagnosis and repair of computer-controlled engine systems.

**"Carbon dioxide"** or **"CO<sub>2</sub>"** means colorless, odorless, incombustible gas resulting from oxidation of carbon. It is the primary greenhouse gas emitted through human activities.

**"Carbon monoxide"** or **"CO"** means a colorless, odorless gas that can be harmful when inhaled in large quantity. Their greatest sources are cars, trucks, or machinery that burn fossil fuels.

**"Certified emission repair technician"** means an automotive repair technician certified by the National Institute for Automotive Service Excellence and has received an ASE L1 "Advanced Engine Performance Specialist Test" certificate or an equivalent certificate from a program approved by the Department.

**"Curb-Idle Test"** means an exhaust emissions test sampling and analysis performed while the vehicle engine is operating at or approximately at the vehicle manufacturer's recommended normal curb idle speed.

**"Director"** means the Director of the Division of Motor Vehicles in the Department of Transportation.

**"Division"** means the Division of Motor Vehicles in the Department of Transportation of the State of Delaware.

**"Department"** means the Department of Natural Resources and Environmental Control of the State of Delaware.

**"Dual-fuel vehicle"** means a vehicle with two fuel storage tanks capable of operating on more than one fuel type, one of which is gasoline and cannot be operated on a mixture of the fuels.

**"Emissions"** means the products of combustion and fuel evaporation discharged into the atmosphere from the tailpipe, fuel system or any emission control component of a motor vehicle.

**"Emission inspection area"** means the emissions inspection area will constitute the entire State effective April 1, 1990.

**"Emissions standards"** means the maximum concentration of hydrocarbons (HC), and carbon monoxide (CO), or any combination thereof, allowed in the emissions from a motor vehicle as established by the Secretary, as described in this regulation.

**"Evaporative system integrity test"** means a comprehensive range of testing methods to determine the evaporative emissions levels of a vehicle's engines and components.

**"Exhaust emission test"** means the curb idle or two-speed idle tests test.

**"Failed motor vehicle"** means any motor vehicle which does not comply with applicable exhaust emission standards, evaporative system function check requirements and emission control device inspection requirements during the initial test or any retest.

**"Farm vehicle"** or **"FV"** means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of agriculture.

**"Flexible fuel vehicle"** means any vehicle with one fuel storage tank capable of operating on more than one fuel type, one of which includes gasoline, which must be tested to program standards for gasoline. This is in contrast to alternative fuel vehicles.

**"Gross vehicle weight"** or **"GVW"** means the vehicle gross weight as designated by the manufacturer as the total weight of the vehicle and its maximum allowable load.

**"High emitting vehicle (HEV)"** or **"HEV"** means a vehicle with emissions three times the applicable standard established by Table 4-1 for the exhaust emission test. For applicable 1996 and newer vehicles, an HEV means a vehicle with emissions three times the standard for group 5 in Table 4-1. "Hybrid electric vehicle" means any vehicle that has two power sources: an electric motor to propel its wheels, and a gasoline engine to recharge the vehicle's electrical storage system. In some configurations the gasoline engine also assists the electric motor with propulsion.

**"Hydrocarbon" or "HC"** means organic compound made of carbons and hydrogen atom. They are found in crude oil and natural gases.

**"I/M Subject Vehicle"** means a vehicle registered or required to be registered at a residence or business address within a county or district and which is subject to the State of Delaware registration fee pursuant to Delaware Code Title 21. Motor Vehicle § 2143 of the Inspection of motor vehicle before registration; exception; vehicle outside State.

**"Inspection period"** means the two-year (biennial) period beginning the date which the vehicle passes inspection.

**"Invalid test condition"** means the system is unable to establish a clear result.

**"Kit car"** means a car, especially a sports car, assembled by the owner from a set of prefabricated parts supplied by the manufacturer. Kit cars should use a complete powertrain matching an existing configuration that has an EPA certificate of conformity. Kit cars must be clearly labeled as to the make, model year, engine family, subfamily, and tune-up specifications represented by the originally certified engine/powertrain donor vehicle.

**"Light duty vehicle"** means passenger cars and light duty trucks, rated up to 8,500 ~~14,000~~ pounds gross vehicle weight rating.

**"Malfunction Indicator Lamp indicator lamp" or "MIL"** means the dashboard light on a vehicle that when illuminated indicates an emission control device is not working to the manufacturer's specifications. ~~Also The MIL is also~~ known as the check engine light.

**"Model year"** means the year of manufacture of a vehicle as designated by the manufacturer, or the model year designation assigned by the Division to a vehicle constructed by other than the original manufacturer.

**"Motor vehicle"** means every vehicle, as defined in ~~21 Del.C. Section 101~~ 21 Del.C. §101(37).

**"Motor vehicle technician associate"** means a person who has completed an approved emissions inspection equipment training program, who is both authorized and performs vehicle inspection requirements, and is employed or under contract with the State of Delaware.

**"New model year exemption"** means an exemption of a designated ~~new model year of an applicable vehicle from any or all of the requirements in this regulation. The exemption shall begin on the first day of October of the calendar year, which will be the anniversary date for calculating the applicability of a vehicle for a new model year exemption range of model year vehicle and refers to new motor vehicles and initial registration or renewal of vehicles no older than 7 model years.~~ For example, a 2010 model year vehicle titled in Delaware in August of 2009 will have an anniversary date of October 1, 2009 and thus does not lose its five model year exemption status until October 1, 2014 2022 model year granted a new model year exemption of seven years would be exempt until the first vehicle inspection due date in calendar year 2028.

**"OBD diagnostics trouble codes codes" or "DTCs"** means a code that provides information on an OBD equipped motor vehicles' emission control system ~~and aide in identifying system malfunctions~~ malfunction status.

**"Official inspection station"** means all official Motor Vehicle Inspection ~~places~~ facilities operated by the Division in the State of Delaware.

**"On-board diagnostics (OBD)" or "OBD"** means a system of vehicle component and condition monitors controlled by a central, on-board computer designed to signal the motorist when conditions exist which could lead to a vehicle's exceeding its certification standards by 1.5 times the standard.

**"On-Board Diagnostics Test"** means providing the driver with an early warning of potentially high emissions, and stores important information about detected malfunctions so that a repair technician can accurately find and fix the problem.

**"Reasonable cost"** means the actual cost of parts and labor which is necessary to cause the failed motor vehicle to comply with applicable emissions standards or which contributes towards compliance. It shall not include the cost of those repairs determined by the Division to be necessary due to the alteration or removal of any part of the emission control system of the motor vehicle, or due to any damage resulting from the use of improper fuel in the failed motor vehicle.

**"Reconstructed vehicle"** means any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles, or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

**"Registration Denial denial"** means the rejection of an application for initial registration of a vehicle or re-registration of a used vehicle (i.e., a vehicle being registered after the initial retail sale and associated

registration) unless the vehicle has complied with the LEIM program requirement prior to granting the application.

**"Repair Waiver"** means an exemption issued to a motor vehicle that, after initial I/M inspection and subsequent vehicle repair and re-inspection, does not comply with the applicable emissions testing standards and requirements and has received emission system repairs to an cost amount up to the repair waiver expenditure limit, but which cannot be repaired for reasonable cost, per the requirements of Section 6.0.

**"Repair Waiver Expenditure Limit"** means the minimum cost of vehicle repairs required to be completed in order to qualify for a waiver.

**"Sale" or "sell"** means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.

**"Secretary"** means the Secretary of the Department of Natural Resources and Environmental Control.

**"Standards"** means a standard of performance.

**"Subject vehicle"** means the vehicle being tested.

**"Tampering"** means adding, removing or making inoperable any system or device used to control emissions from a motor vehicle engine.

**"Unsafe condition"** means a vehicle which presents an immediate safety hazard.

**"Vehicle"** means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting off-highway vehicles.

**"Vehicle type"** means the EPA classification of motor vehicles by weight class which includes the terms light duty and heavy duty vehicle.

**"Visual Catalyst Inspection"** means inspections of subject emission control devices if such devices are found to be incorrect for the certified vehicle configuration under inspection. Aftermarket parts, as well as original equipment manufacturer parts, may be considered correct if they are proper for the certified vehicle configuration.

**"Waiver"** means an exemption issued to a motor vehicle that cannot comply with the applicable exhaust emissions standard and cannot be repaired for a reasonable cost.

~~(06/12/12)~~

#### 4.0 Vehicle inspection requirements.

##### 4.1 General provisions.

- 4.1.1 Each vehicle subject to this regulation shall be inspected at least once every two years at an official inspection station operated by the Division.
- 4.1.2 All subject fleet vehicles shall be inspected at an official inspection station operated by the Division or at an alternate inspection station approved by the Director.
- 4.1.3 HC, CO, CO+CO<sub>2</sub> (or CO<sub>2</sub> alone) emission standards shall be applicable to all vehicles subject to the LEIM program and repairs shall be required for failure of any standard.
- 4.1.4 Initial tests (i.e., those occurring for the first time in a test cycle) shall be performed without repair or adjustment at the inspection facility, prior to the test.
- 4.1.5 An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test condition or unsafe conditions.
- 4.1.6 Tests involving measurements shall be performed with equipment that has been calibrated according to the quality control procedures established by the Department.
- 4.1.7 After an initial failure of any portion of any exhaust emission test in the LEIM program, all vehicles shall be retested ~~without repairs being performed. This retest shall be indicated on the records as the second-chance test. automatically. Both initial and automatic retest shall constitute Test 1.~~ After failure of ~~the second-chance test~~ Test 2, prior to any subsequent retests Test 3, proof of appropriate repairs must be submitted indicating the type of repairs and parts installed (if any). This shall be done by completing the "Vehicle Emissions Repair Report Form" as developed and provided by the Division.
- 4.1.8 Any vehicle entering the inspection lane while smoking excessively or with coolant, oil, or fuel leaks, or any other such defect that is unsafe, shall be rejected from the testing area.

##### 4.2 Exhaust emission testing procedures and standards.

- ~~4.2.1~~ Exhaust emissions from 1968 to ~~1980~~ 1995 model year vehicles subject to this regulation shall be equal to or less than the rates specified in Table 4-1; determined pursuant to the following idle test requirements:

- 4.2.1.4 ~~4.2.1~~The motor vehicle ~~technician~~ associate shall insert a probe at least 10 inches into the exhaust pipe
- 4.2.1.2 ~~4.2.2~~Genuine dual exhaust vehicles shall be tested with a dual exhaust probe.
- 4.2.1.3 ~~4.2.3~~The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins.
- 4.2.1.4 ~~4.2.4~~Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds. The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature and idle speed.
- 4.2.1.5 ~~4.2.5~~The test shall be immediately terminated upon reaching the overall maximum test time of 145 seconds.
- 4.2.2 ~~Exhaust emissions from 1981 to 1995 model year vehicles subject to this regulation shall be equal to or less than the rates specified in Table 4-1; determined pursuant to the requirements in Section 4.2.1.1, 4.2.1.2, 4.2.1.3 and 4.2.1.4 above and the following two-speed idle test requirements:-~~
- 4.2.2.1 ~~After the vehicle is placed in the parking mode or in neutral with parking brake on, the motor vehicle technician shall instruct the vehicle operator to raise the vehicle's idle speed.~~
- 4.2.2.2 ~~The test shall begin when the vehicle engine speed is between 2200 and 2800 rpm. If engine speed exceeds 2800 rpm or falls below 2200 rpm, the test shall be restarted. The maximum for this idle mode shall be 30 seconds~~
- 4.2.2.3 ~~Upon completion of the test mode described in 4.2.2.2, the vehicle operator shall be instructed to lower the engine speed to normal idle (foot off the gas pedal). The maximum for this idle mode shall be 30 seconds.~~

<b>TABLE 4-1 EXHAUST EMISSION STANDARDS ACCORDING TO MODEL YEAR (1968-1995)</b>				
Group	Auto/Station Wagons (passenger vehicles)	Pickup/Van under 8501 lbs.	Hydrocarbon (HC) Limit (ppm)	Carbon Monoxide (CO) Limit (%)
1	1968-70	1970-72	900	9.00
2	1971-74	1973-78	600	6.00
3	1975-79	1979-83	400	4.00
4	1980	(none)	220	2.00
5	1981-95	1984-95	220	1.20

- 4.3 Evaporative emission procedures and standards.
- 4.3.1 1975 through 1995 model year vehicles shall pass the ~~evaporative system integrity (pressure)~~ gas cap test pursuant to the following requirements:
- 4.3.1.1 ~~4.3.1~~The motor vehicle ~~technician~~ associate ~~shall open the hood of the vehicle in order to access the vapor canister~~ shall perform a visual check of the gas cap for proper fit and installation. The gas cap shall be checked to ensure that it is properly, but not excessively tighten, and shall be tighten if necessary. If the gas cap is missing or damaged, the gas cap shall fail the visual inspection.
- 4.3.1.2 ~~4.3.2~~ The motor vehicle ~~technician~~ associate ~~shall crimp the intake hose to the canister~~ locate the correct gas cap adapter model for the gas cap. The gas cap will be tested (pressurized) using the adapter to determine the effectiveness of the gas cap and identify significant leaks. If significant leaks are identified, the gas cap shall fail the gas cap testing procedures.
- 4.3.1.3 ~~4.3.3~~The motor vehicle technician shall ~~remove the gas cap and apply the air pressure equipment hose to the cap~~ This completes the gas cap testing procedures.
- 4.3.1.4 - ~~Upon completion of the gas cap test, the motor vehicle technician shall apply the pressure equipment hose to the fuel intake. Air is then applied to pressurize the fuel system from the fuel intake to the vapor canister.~~

- 4.3.2 ~~Vehicles shall fail the evaporative system integrity test(s) if the system(s) cannot maintain the equivalent pressure of eight inches of water for up to two minutes after being pressurized to 14.0 ± 0.5 inches of water. Additionally, vehicles shall fail evaporative system integrity testing if the canister is missing or obviously disconnected, the hoses are crimped off, or the fuel cap is missing.~~
- 4.4 On-board diagnostics procedures and standards.
- 4.4.1 ~~1996 and later model year vehicles shall be subject to OBD II test pursuant to the following procedures~~  
The following vehicles shall be subject to OBD II tests pursuant to the following procedures:
- 4.4.1.1 ~~The motor vehicle technician shall instruct the vehicle operator to leave the vehicle for this test.~~  
Model year 1996 and later model year gasoline fueled vehicles weighing up to 8,500 GVW.
- 4.4.1.2 ~~The motor vehicle technician shall observe the MIL (malfunction indicator lamp) when the ignition key is in the on position and then when the engine is turned on and running.~~  
Model year 1997 and later model year diesel fueled vehicles weighing up to 8,500 GVW.
- 4.4.1.3 ~~The motor vehicle technician shall locate the Diagnostic Link Connector in the vehicle and insert the on-board diagnostic connecting cable. The vehicle's emission control device information from the vehicle's computer shall be transmitted to the DMV on-board diagnostic equipment for the test to be completed successfully.~~  
Model year 2008 and later model year gasoline and diesel fueled vehicles weighing 8,501 -14,000 GVW.
- 4.4.2 Test procedure
- 4.4.2.1 The motor vehicle associate shall locate the Diagnostic Link Connector in the vehicle and insert the on-board diagnostic connecting cable. The vehicle's emission control device information from the vehicle's computer shall be transmitted to the Division's on-board diagnostic equipment for the test to be completed successfully.
- 4.4.2.2 The motor vehicle associate shall observe the MIL (malfunction indicator lamp) when the ignition key is in the on position and then when the engine is turned on and running.
- 4.4.2.3 4.4.3 Vehicles shall fail the OBD test if any of the following conditions exist:
- 4.4.2.4 4.4.3.1 Malfunction Indicator Light (MIL) is not lit during key on, engine off check of bulb; and/or
- 4.4.2.5 4.4.3.2 MIL lit (or commanded on) for any Diagnostic Trouble Codes (DTC) during engine on mode;
- 4.4.2.6 4.4.3.3 Data Link Connector (DLC) is damaged, missing, tampered or obstructed by an after-market device device;
- 4.4.2.7 4.4.3.4 More than two unset readiness codes for model years 1996-2000. 1996-2000; or
- 4.4.2.8 4.4.3.5 More than one unset readiness code for model years 2001 and newer.
- 4.4.3 4.4.4 1996 and newer light-duty vehicles and light-duty trucks not equipped by the manufacturer with certified on-board diagnostics systems with the exception of tampered or removed systems shall be required to undergo the two-speed idle test, the evaporative system integrity (pressure) test and the emission control device test.
- 4.5 Visual equipment inspection standards.
- 4.5.1 ~~1975 and later through 1995~~ model year vehicles shall pass a visual inspection of the catalytic converter.
- 4.5.2 Visual inspection of emission control ~~device checks~~ devices shall be performed through direct observation or through indirect observation using a mirror. These inspections shall include a determination as to whether each subject device is present.
- 4.5.3 Vehicles shall fail visual inspections of subject emission control devices if such devices are part of the original certified configuration and are found to be missing, modified, disconnected, or improperly connected.

~~(06/12/12) xx/xx/xxxx~~

## 5.0 ~~[Reserved]~~ Motor Vehicle Anti-Tampering Requirements

- 5.1 No person shall sell, offer for sale, possess for sale, advertise, manufacture, install, or use any part or component intended for use with or as part of any motor vehicle when the primary effect is to bypass, defeat, or render inoperative, in whole or part, the emission control system.
- 5.2 No person shall tamper with any emission control system installed on or in a motor vehicle after sale, lease, or rental and delivery of the vehicle to the ultimate purchaser, lessee, or renter.
- 5.3 No person shall operate a motor vehicle that has been tampered with if the motor vehicle or motor vehicle engine has been certified by the United States environmental protection agency as meeting federal emission control standards.
- 5.4 No person may remove or make inoperable any system or device used to control emissions from a motor vehicle or motor vehicle engine or any part thereof, except where the purpose of removal of the system or



device, or part thereof, is to install another system or device, or part thereof, which is equally effective in reducing emissions from the vehicle.

(06/12/12)

## 6.0 On-road inspection standards and test procedures.

- 6.1 Periodic random Delaware registered vehicle pullovers or on-road testing on Delaware highways may occur without prior notice to the public for on-road vehicle exhaust emission testing.
  - 6.1.1 Vehicles identified by the on-road testing portion of the LEIM program as high-emitting vehicles may be notified of the requirement for an out-of-cycle emission retest, and shall have 30 days from the date of the notice to appear for inspection.
  - 6.1.2 Vehicles not appearing for a retest shall be out of compliance, and be liable for penalties under Title 21 of Delaware Criminal and Traffic Law Manual and the Division shall take action to suspend the vehicle registration.

~~(06/12/12)~~ ~~xx/xx/xxxx~~

## 7.0 Vehicle inspection waivers.

- 7.1 Waiver issuance criteria.
  - 7.1.1 Motorists shall expend a reasonable cost, as defined in Section 3.0 of this regulation in order to qualify for a waiver.
    - 7.1.1.1 For vehicles failing the exhaust emissions test under subsection 4.1 of this regulation, in order to qualify for waiver, repairs (cost of parts and labor) on any 1981 or later model year vehicle shall be performed by a certified emission repair technician, as defined in Section 3.0 of this regulation, and must have been appropriate to correct the emission failure.
    - 7.1.1.2 In order to qualify for a waiver, repairs of primary emission control components (cost of parts only) may be performed by non-technicians (e.g., vehicle owners) and must have been appropriate to correct the emission failure.
    - 7.1.1.3 The waiver would apply to the cost of parts for the repair or replacement of the following list of emission control component systems:
      - 7.1.1.3.1 Air induction system (air filter, oxygen sensor),
      - 7.1.1.3.2 Catalytic converter system (converter, preheat catalyst),
      - 7.1.1.3.3 Thermal reactor,
      - 7.1.1.3.4 EGR system (valve, passage/hose, sensor)
      - 7.1.1.3.5 PCV System, air injection system (air pump, check valve),
      - 7.1.1.3.6 Ignition system (distributor, ignition wires, coil, spark plugs).
      - 7.1.1.3.7 The cost of any hoses, gaskets, belts, clamps, brackets or other emission accessories directly associated with these components may also be applied to the waiver limit.
    - 7.1.1.4 For vehicles failing the on-board diagnostics test under 2.2 of this regulation subsection 4.4.3 in order to qualify for waiver, repairs on any 1996 or later model year vehicle shall be performed by a certified emission repair technician as defined in Section 3.0 of this regulation, and must have been appropriate to correct the emission failure.
  - 7.1.2 Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits in subsection 7.1.4 of this regulation. The owner or operator of a vehicle within the statutory age and mileage coverage under the engine warranty requirements found in section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.
  - 7.1.3 ~~Receipts~~ Original receipts shall be submitted for review to further verify that qualifying repairs were performed. Original receipts shall not be used more than once for verification.
  - 7.1.4 A minimum expenditure for repairs of \$75 for pre-1981 model year vehicles or a minimum expenditure of \$200 for 1981 model year and newer vehicles shall be spent in order to qualify for a waiver.
  - 7.1.5 The minimum expenditure for repairs for 1981 and newer vehicles shall increase to \$450 starting January 1, 2000. For each subsequent year, the \$450 minimum expenditure shall be adjusted in January of that year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index for 1989.
  - 7.1.6 The issuance of a waiver applies only to those vehicles failing an exhaust emission or on-board diagnostics tests. No waivers are granted to vehicles failing the evaporative emission integrity test.

- 7.1.7 Waivers shall be issued by the Director or his/her designee only after a vehicle has failed a retest for only the exhaust emissions or on-board diagnostics portions of the program, performed after all qualifying repairs have been completed;
  - 7.1.8 Qualifying repairs include repairs of primary emission control components performed within 90 days of the test date.
  - 7.1.9 Waivers issued pursuant to this regulation are valid ~~until the date of~~ through the current vehicle ~~registration expiration~~ vehicle inspection cycle.
  - 7.1.10 Waivers shall not be issued to vehicles for tampering related repairs. The cost of tampering related repairs shall not be applicable to the minimum expenditure in subsection 7.1.4 of this regulation. The Director shall issue exemptions for tampering related repairs if it can be verified that the part in question or one similar to it is no longer available for sale.
- 7.2 Compliance via diagnostics inspection.
- ~~7.2.4~~ Vehicles subject to an emission test at the exhaust emission standards shown in Table 4.1 ~~of this regulation~~ may be issued a certificate of compliance without meeting the prescribed emission exhaust emission standards, if after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by a certified emission repair technician shows that no additional emission related repairs are needed.

**(06/12/12)**

## **8.0 Certified emission repair technicians.**

- 8.1 Emission repair technician certification.
  - 8.1.1 An emission repair technician may be certified as trained to do emission repairs on all makes of vehicles or vehicles of a specific manufacturer. Auto repair technicians seeking to become certified under 7 **DE Admin. Code** 1131 shall meet one of the following requirements:
    - 8.1.1.1 Applicants currently certified by the Department as of 06/12/2012 shall have up to 06/12/2017 to become ASE-L1 certified or present certification from an equivalent program which is approved by the Department.
    - 8.1.1.2 Applicants that are currently ASE-L1 certified as of 06/12/2012 shall be certified by the Department for the period the ASE-L1 certification is current.
    - 8.1.1.3 New applicants that have not been previously certified by the Department as of 06/12/2012 shall be ASE-L1 certified or present certification from an equivalent program which is approved by the Department and the Division.
  - 8.1.2 A certified emission repair technician certification or any renewal thereof shall be valid for a period not to exceed five years from the date of issuance, unless sooner revoked by order of the Department, and may be renewed upon application to and approval by the Department.
  - 8.1.3 At the time of application to receive certification, a certified emission repair technician shall also make application in accordance with subsection 8.3 of this regulation to receive a permit to conduct on-board diagnostics testing of vehicles that are not in compliance with 21 **Del.C.** §2115.
- 8.2 Vehicle on-board diagnostics testing permit.
  - 8.2.1 Applicability. Vehicle on-board diagnostics testing permits shall be issued to all certified emission repair technicians to conduct on-board diagnostics testing of vehicles that are not in compliance with 21 **Del.C.** §2115.
  - 8.2.2 General provisions.
    - 8.2.2.1 This regulation establishes the procedures that satisfy the requirement of 7 **Del.C.** Ch. 67 to provide a permit to certified emission repair technicians to conduct on-board diagnostics testing of vehicles that are not in compliance with 21 **Del.C.** §2115.
    - 8.2.2.2 Any approval granted by the Department pursuant to this regulation shall not relieve certified emission repair technician of the responsibility of complying with applicable local, State, and Federal laws and regulations.
  - 8.2.3 Cancellation of permits.
    - 8.2.3.1 The Department may cancel the vehicle on-board diagnostics testing permit if the certified emission repair technician fails to maintain their certification as required by subsection 8.1 of this regulation.
  - 8.2.4 Action on applications.
    - 8.2.4.1 If an application is disapproved, the Department shall set forth its objections in the notice of disapproval.

- 8.2.4.2 Upon granting written approval for vehicle on-board diagnostics testing, the Department shall give notice of such approval to any person who has submitted a written request for such notice.
- 8.2.5 Transfer of permit prohibited.
  - ~~8.2.5.1~~ No person shall transfer a vehicle on-board diagnostics testing permit to another person.
- 8.2.6 Availability of permit.
  - ~~8.2.5.2~~ Any permit issued by the Department pursuant to Section 8.0 of this regulation shall be in the possession of the certified emission repair technician when operating vehicles that are not in compliance with 21 **Del.C.** §2115 in order to conduct on-board diagnostics testing.
- 8.2.7 Permit expiration.
  - ~~8.2.7.1~~ A vehicle on-board diagnostics testing permit or any renewal thereof shall be valid for a period not to exceed five years from the date of issuance, unless sooner revoked by order of the Department, and may be renewed upon application to and approval by the Department.
- 8.3 Permit and certified emission repair technician application.
  - 8.3.1 Any person identified in subsections 8.1 and 8.2.2 of this regulation shall submit to the Department complete applications for a vehicle on-board diagnostics testing permit and certified emission repair technician certification on forms furnished by the Department. Permit and certification application forms are available from the Department upon request.
  - 8.3.2 The application shall ~~consist of a description of at least~~ include the following:
    - 8.3.2.1 Applicant's contact information.
    - 8.3.2.2 Name and location of auto repair facility where applicant is employed.
    - 8.3.2.3 Applicant's emission repair certification information.
    - 8.3.2.4 Name of certifying organization.
    - 8.3.2.5 Date certified.
    - 8.3.2.6 Date certification expires.
    - 8.3.2.7 Insurance Information (e.g. Shopkeeper's or Garage Keeper's Policy) including policy number, policy expiration date and name of issuing agent.
    - 8.3.2.8 The application shall contain the following language from the applicant: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."
  - 8.3.3 The applicant shall submit any additional information requested by the Department deemed necessary to process the application.
- 8.4 Permit and certified emission repair technician certification fees.
  - 8.4.1 Pursuant to with 7 **Del.C.** §6706, the Department may establish permit fees to recover costs reasonably related to the issuance of such permits.
  - 8.4.2 The permit fee shall be \$125 for the five year period covering the permit and certification of the certified emission repair technician.
  - 8.4.3 Permits issued for any period less than five years shall be pro-rated the permit fee \$25 per year for each year of the permit.

~~(06/12/12)~~

## **9.0 Enforcement and Registration Denial.**

- 9.1 Vehicle registration enforcement is the express responsibility of the Division with the assistance of police agencies for on road inspection and verification.
- 9.2 The Division shall provide an external, readily visible means of determining vehicle compliance with the registration requirement to facilitate enforcement of the ~~LEIM~~ program
- 9.3 Owners of subject vehicles must provide valid proof of having received a passing emissions test or a waiver issued by the Director or ~~his/her~~ the Director's designee in order to receive a valid vehicle registration from the Division.

~~(06/12/12)~~

## **10.0 [Reserved]**

~~(06/12/12)~~

## **11.0 [Reserved]**

~~(06/12/12)~~

12.0 [Reserved]

~~(06/12/12)~~

13.0 [Reserved]

15 DE Reg. 1762 (06/01/12)

26 DE Reg. 163 (09/01/22) (Prop.)