

MOTOR VEHICLE EMISSIONS INSPECTIONS

**A Report from the Stakeholder Group formed to Develop
Recommendations for the Requirements for Management of the
Vehicle Emissions Inspection and Maintenance Program Utilizing a
Program Coordinator**

November 2012

I. Introduction

This report is prepared by the Department of Environmental Quality (DEQ) to report the recommendations of the Stakeholder Group formed by DEQ pursuant to the requirements of Chapters 216 and 824 of the 2012 Acts of Assembly directing DEQ to gather a group of stakeholders with knowledge about the vehicle emissions inspection and maintenance program to make recommendations on the specific requirements for management of the program utilizing a program coordinator. DEQ expects to issue a request for proposal for a program coordinator in the coming months.

II. Background and Process

During its 2012 Session, the Virginia General Assembly passed legislation amending Virginia's motor vehicle emissions inspection and maintenance program. Among other things, this legislation clarified the equipment required for emissions inspections stations and directed DEQ to

gather a group of stakeholders with knowledge about the emissions inspection and maintenance program to make recommendations on the specific requirements for management of the emissions inspection and maintenance program utilizing a program coordinator. The Department of Environmental Quality shall report those recommendations to the Chairmen of the House and Senate Transportation Committees no later than November 1, 2012. *See 2012 Virginia Acts of Assembly Chapters 216 and 824.*

DEQ posted a notice on Virginia's Regulatory Town Hall in June 2012 seeking interested persons to participate on this representative stakeholder group. The Stakeholder Group members are listed in Attachment A.

The Stakeholder Group met on August 8 and August 13, 2012 to develop recommendations on the specific requirements for management of the motor vehicle emissions inspection and maintenance program utilizing a program coordinator.

Consensus was tested with respect to each recommendation proposed by the group, with the level of interest defined as follows:

- 3 – Strongly Support
- 2 – Some reservations, but will not oppose it
- 1 – Not support and may actively oppose it

Consensus would be achieved so long as all members *present* indicated a level of interest of "2" or "3". No consensus would be reached if any one member expressed a level of interest of "1."

It is important to note that when convening a stakeholder group, assuring representation in equal numbers among varying interests can be a challenge. Moreover, it can be difficult for all members of the stakeholder group to attend all meetings of the group. Accordingly, the actual number of people responding in a particular way in a straw poll is less significant than the overall view of whether consensus could be obtained and the concerns expressed about why consensus could not be achieved.

III. Current Motor Vehicle Emissions Inspection and Maintenance Program

Virginia Code § 46.2-1176 et seq. sets forth the basic parameters for the State Air Pollution Control Board (Air Board) to follow in the development of regulations necessary to implement Virginia's motor vehicle emissions inspection and maintenance (I&M) program. Virginia's I&M program was developed to comply with provisions of the federal Clean Air Act requiring the development of an emissions inspections program for certain areas of Virginia. The statute was amended in 1995 to establish a decentralized, test and repair emissions inspection program for motor vehicle emissions inspections in Northern Virginia. The statute specifies the testing procedures (and equipment) required to become a certified emissions inspection station in addition to meeting Federal requirements. Clarifications to those equipment requirements were made during the 2012 General Assembly Session, specifically, Virginia Code § 46.2-1176 defines the enhanced emissions inspection program as

a motor vehicle emissions inspection system established by regulations of the Board that shall designate, as the only authorized testing equipment for emissions inspection stations, (i) the use of the ASM 50-15 (acceleration simulation mode or method) together with an OBD-II (on-board diagnostic system) with wireless capability; (ii) the use of the ASM 50-15 together with the use of a dynamometer, and (iii) two-speed tailpipe testing equipment. Possession and availability of a dynamometer shall be required for enhanced emissions inspection stations. Only those computer software programs and emissions testing procedures necessary to comply with applicable provisions of Title I of the federal Clean Air Act shall be included. Such testing equipment shall be approvable for motor vehicle manufacturers' warranty repairs. An enhanced emissions inspection program shall include remote sensing and an on-road clean screen program as provided in this article.

Additionally, amendments to the statute enacted during the 2012 General Assembly Session give the DEQ Director authority to approve a validation program and authorizes the DEQ Director to enter into an agreement to designate a program coordinator for the motor vehicle emissions inspection program (except that that remote sensing and on-road clean screening programs are not to be included in such agreement). The 2012 amendments specify that the Director is to determine the services to be provided by the program coordinator and the amount to be paid to the program coordinator for such services. *See Virginia Code* § 46.2-1177.1. The amendments also provide that such an agreement for a program coordinator

shall include a provision that the program coordinator shall provide and maintain inspection stations ... with equipment, ... as required for a station to provide inspections. In addition to the amount the Director agrees for the Department to pay the program coordinator, the agreement shall permit the program coordinator to be paid up to \$3,500 per year from each inspection station for each set of required equipment for the provision and maintenance of such equipment by the program coordinator. *See Virginia Code* § 46.2-1177.1.

The Virginia Code also requires an on-road emissions testing program, including the collection of data and information necessary to comply with the federal Clean Air Act, random testing of motor vehicle emissions, procedures to notify owners of test results, and assessment of civil charges for noncompliance with emissions standards adopted by the State Air Pollution Control Board to identify gross violators. *See Virginia Code* § 46.2-1178.1. Additionally, the 2012 amendments expanded the on-road clean screen program. *See Virginia Code* § 46.2-1178. The on-road clean screen program is a program that allows a motor vehicle owner to voluntarily certify compliance with emissions standards by means of on-road remote sensing. The Air Board is in the process of developing regulations to implement the statutory amendments expanding the on-road clean screen program.

Emissions inspections

Currently, biennial emissions inspections are required for motor vehicles in the Northern Virginia Program Area which includes: the Counties of Arlington, Fairfax, Loudoun, Prince William and Stafford; and the Cities of: Alexandria, Fairfax, Falls Church, Manassas and Manassas Park. More than 1.7 million vehicles are subject to the emissions inspection program in Northern Virginia. There are more than 500 emissions inspection stations in the Northern Virginia Program Area with more than 1,700 licensed emissions inspectors. There are two basic types of emissions inspections performed in the inspection stations: tailpipe testing (including two-speed idle testing and acceleration simulation mode testing using a dynamometer) and on-board diagnostic testing (most 1996 and newer vehicles).

IV. Stakeholder Group Discussions

Prior to the first Stakeholder Group meeting, the stakeholders were provided with responses DEQ received from various vendors responding to a Request for Information on how DEQ could utilize a program coordinator to provide equipment, vehicle information database services and other functions for the I&M program. The Stakeholder Group met on August 8th and 13th, 2012 to develop recommendations on the specific requirements for management of the program utilizing a program coordinator. Technical presentations were provided by DEQ staff regarding the current vehicle emissions inspection program; the Request for Proposal process; and an overview of the I&M program revenue and expenses.

The Stakeholder Group reached **CONSENSUS** on the following objectives to guide the Group's development of recommendations for requirements for managing the I&M program utilizing a program coordinator.

- Ensure compliance with the Clean Air Act.
- Ensure continued integrity of the program, including consumer convenience.
- Ensure the program is (or continues to be) cost effective.

The Stakeholder Group then discussed the role of a program coordinator and reached **CONSENSUS** on the following recommendations for the DEQ Director's consideration for the specific requirements for a program coordinator:

- That the program coordinator would be subject to reasonable service level agreements and liquidated damages.
- That good communications between the program coordinator and regulated participants/stations should be encouraged. The level of communication between the program coordinator and inspection stations should be at least as good/equal to current communications between DEQ and the stations (which include a newsletter). Stakeholder Group members suggested that communication between the program coordinator and the stations may be enhanced with the requirement for a regular meeting (on a monthly or quarterly basis) between the program coordinator and inspection stations.
- That the program coordinator provide equipment required for inspections to the inspection stations except for the dynamometer; and that the program coordinator provide equipment interface connections, data software, and maintenance for all equipment, including the dynamometer.
- That the inspection stations should be able to opt out of the vehicle I&M program entirely. This recommendation was raised out of a concern that the Commonwealth would enter into an agreement with a program coordinator for a contract period and that

inspection stations would then be required to pay an annual equipment and maintenance fee of up to \$3500 per year to the program coordinator for each year of the full contract period. The Group discussed that for the I/M program to function utilizing a program coordinator, all participating inspection stations would have to utilize the program coordinator equipment and maintenance services. The Group concluded, however, that it was reasonable to recommend to the Director that any request for proposal (RFP) for a program coordinator should include requirements for an opt-out for an inspection station owner who determines participation in the program is no longer economically feasible (and thus opt out of the inspection program).

- That any RFP for a program coordinator should include a request for a proposal for the program coordinator to provide, at a minimum, online inspector training and recertification. The Stakeholder Group noted during discussion of this recommendation that any training and recertification must be performed in accordance with DEQ and U.S. Environmental Protection Agency requirements.
- That any RFP for a program coordinator should include a request for a proposal for the program coordinator to provide testing (to opt-out of the training) and certification for previously certified repair technicians. The Stakeholder Group noted that testing must be in accordance with DEQ and U.S. Environmental Protection Agency requirements.
- That the program coordinator have experience as a program coordinator with decentralized test and repair programs.
- That any RFP for a program coordinator should specify information technology (IT) requirements. The Stakeholder Group discussed concerns about computer system downtime and noted that parameters for IT system requirements and availability could be included in the RFP.
- That the inspection stations retain the ability to perform inspections when they are off-line. Stakeholder Group members representing inspection stations expressed concern about the potential adverse impacts to customer service if they could not test, as they can now, if computer systems are down. Representatives of various equipment and services vendors noted that off-line testing and manual entry of data can increase the potential for error and suggested that the Commonwealth could include among its requirements for the RFP that the program coordinator ensure a certain level of system availability and reduce the need for off-line testing.
- That the program coordinator make peripheral devices and equipment available at a fair market price established by the Director through the RFP process. This recommendation arose out of a concern that, as the sole provider of required inspection equipment, the program coordinator would be able to require the inspection station's to pay above market prices for any un-required or peripheral equipment the stations may want.
- That the program coordinator provide tools and methodologies to support DEQ compliance efforts and to improve efficiency of program enforcement and oversight.

Discussion among the Stakeholder Group revealed that program coordinators in other states provide various levels of audit support (overt, covert, reactive, and proactive) through various tools and that based on the levels of support desired there might be opportunities for efficiency and auditing capability.

- That the program coordinator charge stations up to \$3500 for services specified in the RFP as a lump sum (and not as a per-test fee) and offer the option of payment of the authorized amount in installments. Concerns for providing revenue certainty for the program coordinator were discussed and the Stakeholder Group concluded that, given the \$3500 statutory cap, a per-test fee would not work. Discussion of the potential frequency of installment payments by inspection stations revealed agreement only at the quarterly level.
- That the program coordinator/inspection station relationship be governed by a contract between the two, written for the entire term of the program coordinator's contract with DEQ, that specifies:
 - Stations are able to opt out at any time with reasonable notice.
 - Reasonable response time requirements

The Stakeholder Group discussed 90 days as reasonable for the "opt-out" notice. The Group also noted that acknowledgement by the program coordinator to the station of a failure report with an estimate of repair time within a specified period is highly desirable, and that two calendar days might be an appropriate maximum response time for correction of problems/failures.

- That any agreement the State enters into with a program coordinator include service level agreements for reasonable response times and specified liquidated damages, with portions payable to the stations, for failure by the program coordinator to meet those specified response times.

NO CONSENSUS was reached on the following recommendation:

- That the program coordinator provide program evaluation/validation software. This recommendation would require that if the DEQ Director decided to use an alternative validation program to evaluate the clean screen program, then the Program Coordinator would provide the software necessary to implement such validation program at the stations. The validation program described would identify out-of-cycle vehicles at random for a free emissions inspection during the annual safety inspection to evaluate the program. Some members of the stakeholder group expressed concern about customer permission for such out-of-cycle inspections, stations performing the inspections for free, and inspection failures. This recommendation was discussed during both meetings of the Stakeholder Group, but **NO CONSENSUS** was reached.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**STAKEHOLDER GROUP
CONCERNING**

**DEVELOPING RECOMMENDATIONS FOR REQUIREMENTS FOR MANAGEMENT
OF THE VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM
UTILIZING A PROGRAM COORDINATOR**

Group Facilitator

Angela Jenkins, DEQ Policy Director

Consultants/Manufacturers

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Trade Groups/Vehicle Emission Inspection Station Operators

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