

TITLE 67. TRANSPORTATION
CHAPTER 177. ENHANCED EMISSION INSPECTION PROGRAM
Subchapter F. SCHEDULE OF PENALTIES AND HEARING PROCEDURE
SCHEDULE OF PENALTIES AND SUSPENSIONS

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SCHEDULE OF PENALTIES AND SUSPENSIONS

§ 177.601. Definitions

As used in this subchapter, the following words and terms have the following meanings unless the context clearly indicates otherwise:

Careless recordkeeping—Failure to sign the emission inspection test report, missing or omitting required documentation supporting the issuance of a waiver as required by § 177.281 (relating to issuance of waiver) or data entry errors proven to have no influence on the outcome of the inspection.

Faulty inspection—Failure to perform an emission inspection as required by this chapter or any

other deviation in the testing procedure, provided that it can be demonstrated that the outcome of the inspection would have been different if the inspection had been performed properly.

Fraudulent recordkeeping—A recordkeeping entry not in accordance with fact, truth or required procedure that falsifies or conceals one or more of the following:

- (i) That a certificate of inspection was issued without compliance with the required inspection procedure.
- (ii) The number of inspections performed.
- (iii) The individuals or station that performed the inspection.

Improper inspection—Failure to perform an emission inspection as required by this chapter or any other deviation in the testing procedure provided that it can be demonstrated that the outcome of the inspection would have been the same if the inspection had been performed properly.

Improper recordkeeping—A recordkeeping entry that is not in accordance with fact, truth or required procedure.

§ 177.602. Schedule of penalties for emission inspection stations.

(a) *Schedule of penalties.* The complete operation of an official emission inspection station shall be the responsibility of the owner. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. In addition, violators are also subject to criminal prosecution. Every general, fleet or Commonwealth emission inspection station shall be subject to the following schedule of penalties and suspension:

	<i>Duration of Suspension</i>		
<i>Type of Violation</i>	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd and Subsequent Offenses</i>
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission	1 year & \$2,500 fine	Permanent and \$5,000 fine	

inspection			
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year & \$2,500 fine	Permanent and \$5,000 fine	
(iii) Fraudulent recordkeeping	1 year & \$2,500 fine	Permanent and \$5,000 fine	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months & \$1,000 fine	1 year and \$2,500 fine	3 years and \$5,000 fine
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	1 year
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced, whichever is greater	6 months or until produced, whichever is greater	1 year or until produced, whichever is greater
(vii) Inspection by uncertified inspector	3 months	6 months and \$1,000 fine	1 year and \$2,500 fine
(viii) Improper recordkeeping	2 months	6 months	1 year
(ix) Improper inspection	Warning	2 months and \$250 fine	6 months and \$500 fine
(x) Requiring or indicating unnecessary repairs for purpose of inspection	3 months	6 months	1 year

(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	1 month	3 months	1 year
(xiii) Failure to verify registration or emission inspecting a vehicle with an expired registration	2 months	4 months	6 months
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xv) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvi) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xvii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xviii) Improper security of certificate of inspection	Warning	3 months	1 year
(xix) Unclean	Warning	Warning	3 months

inspection area			
(xx) Careless recordkeeping	Warning	Warning	3 months
(xxi) Missing or broken tools	Warning, if repaired or replaced; if not, suspension until tools are repaired or replaced	1 month or until tools are repaired or replaced, whichever is greater	6 months or until tools are repaired or replaced, whichever is greater
(xxii) Bad Check	Warning, if amount due is paid within 10 days from date notified. If not, suspension until amount is paid	3 months or until amount due is paid, whichever is greater	6 months or until amount due is paid, whichever is greater
<i>Category 4 (Negligent)</i>			
(xxiii) Failure to report discontinuance of business	1 year	2 years	Permanent
(xxiv) Failure to notify the Department of changes of ownership, location or other changes affecting an official inspection station	3 months	6 months	1 year
(xxv) Failure to make emission inspection test printout available to customer	Warning	Warning and \$100 fine	1 month

(2) *Schedule of penalties for enhanced emission inspection stations.*

	<i>Duration of Suspension</i>		
<i>Type of Violation</i>	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd and Subsequent Offenses</i>

<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year and \$2,500 fine	Permanent and \$5,000 fine	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year & \$2,500 fine	Permanent & \$5,000 fine	
(iii) Fraudulent recordkeeping	1 year and \$2,500 fine	Permanent & \$5,000 fine	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months and \$1,000 fine	1 year and \$2,500 fine	3 years and \$5,000 fine
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by Section 177.408(f)	3 months	6 months	3 years
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced	6 months or until produced	1 year or until produced
(vii) Inspection by uncertified inspector	3 months	6 months and \$1,000 fine	1 year and \$2,500 fine
(viii) Unnecessary repairs for purpose of inspection	3 months	6 months	1 year

(ix) Misstatement of fact	1 month	3 months	1 year
(x) Improper assigning of certificate of inspection	1 month	3 months	1 year
<i>Category 3 (Careless Activities)</i>			
(xi) Improper security of certificate of inspection	Warning	3 months	1 year
(xii) Unclean inspection area	Warning	Warning	3 months
(xiii) Careless recordkeeping	Warning	Warning	3 months
(xiv) Missing or broken tools	Warning, if repaired or replaced; if not, suspension until tools are repaired or replaced	1 month or until tools are repaired or replaced, whichever is greater	6 months or until tools are repaired or replaced, whichever is greater
(xv) Bad Check	Warning, if amount due is paid within 10 days from date notified. If not, suspension until amount is paid	3 months or until amount due is paid, whichever is greater	6 months or until amount due is paid, whichever is greater
<i>(4) Category 4 (Negligent)</i>			
(xvi) Failure to report discontinuance of business	1 year	2 years	Permanent
(xvii) Failure to notify the Department of changes of ownership, location or other changes affecting an official inspection station	3 months	6 months	1 year

(b) *Assignment of points.* If the station owner, manager, supervisor or other management level employee was without knowledge of the violation, the Department may permit the station owner to consent to the acceptance of a point assessment for the station in lieu of suspension.

(1) The station owner bears the burden of proving that the station owner provided proper supervision of the employee who committed the violation, but that the owner's supervision could not have prevented the violation.

(2) By accepting the assessment of points the station owner waives the right to appeal the Department's determination in the case to a court of record. If the station owner refuses to accept the point assessment, the Department will issue the suspension provided in this chapter for the offense committed.

(c) *Point determination.* When offering a point assessment, in lieu of a suspension, the Department will calculate points in the following manner:

(1) One point will be assessed for every month of suspension which the Department would otherwise impose.

(2) A point assessment will not exceed 8 points for a single violation.

(3) If an inspection station is currently serving a suspension for a violation of this chapter, no point assessment will be made.

(d) *Point suspension.* The Department will suspend the privileges of an official inspection station for an accumulation of points whenever the station accumulates 10 or more points.

(1) The first occurrence of an accumulation of 10 points or more shall result in a suspension for 2 months for each point over 9 points; the second occurrence of an accumulation of 10 points or more shall result in a suspension for 4 months for each point over 9 points; the third occurrence of an accumulation of 10 points or more shall result in a suspension for 6 months for each point over 9 points.

(2) The fourth occurrence for an accumulation of 10 or more points shall result in a permanent suspension.

(3) Only suspensions issued as the result of an accumulation of points shall be counted in determining whether a suspension for point accumulation's is a second, third or fourth suspension.

(4) If the point record of a station has been reduced to zero, a subsequent accumulation of points that will result in the suspension of the station will be considered first, second, third and fourth suspensions.

(e) *Voluntary discontinuance.* A certificate of appointment will be cancelled by the Department whenever the owner voluntarily discontinues the operation of an emission inspection station. Remaining emission inspection materials shall be returned to the quality assurance officer upon request of the Department.

(f) *Abandonment.* A certificate of appointment will be cancelled by the Department, and inspection materials confiscated when the owner of record abandons the place of business and cannot be located.

(g) *Sale of business.* If an emission inspection station is sold or leased to a new owner, an application will not be considered while the station is suspended or restored pending an appeal of a suspension.

§ 177.603. Schedule of penalties for emission inspectors.

Emission inspectors shall assume full responsibility for their acts as emission inspectors. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. A violator may also be subject to criminal prosecution. After providing the emission inspector with an opportunity for a hearing, the Department may impose suspensions or penalties upon the emission inspector according to the following schedule of offenses for violations:

	<i>Duration of Suspension</i>		
<i>Type of Violation</i>	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd and Subsequent Offenses</i>
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year	Permanent	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year	Permanent	
(iii) Fraudulent recordkeeping	1 year	Permanent	

<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months	1 year	3 years
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	3 years
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced	6 months or until produced	1 year or until produced
(vii) Inspection by uncertified inspector	3 months and \$100 fine	6 months and \$500 fine	1 year and \$1,000 fine
(viii) Improper recordkeeping	Warning	2 months	6 months
(ix) Improper inspection	Warning	2 months & \$250 fine	6 months and \$500 fine
(x) Requiring or indicating repairs unnecessary for purpose of passing inspection	3 months	6 months	1 year
(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	Warning	2 months	6 months
(xiii) Failure to verify registration or emission inspecting a	2 months	4 months	6 months

vehicle with an expired registration			
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
(xv) Improper security of certificate of emission inspection	Warning	2 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xvi) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvii) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xviii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xix) Improper security of certificate of emission inspection	Warning	2 months	4 months
(xx) Unclean inspection area	Warning	1 month	4 months
(xxi) Careless record keeping	Warning	1 month	4 months

(xxii) Failure to make vehicle emission inspection test printout available to customer	Warning	1 month	4 months
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§ 177.604. [Not in SIP]

SCHEDULE OF PENALTIES FOR CERTIFIED REPAIR TECHNICIANS

§ 177.605. Subsequent violations.

Determination of second and subsequent violations is made on the basis of previous violations in the same category within a 3-year period.

§ 177.606. Multiple violations.

If multiple violations are reviewed and considered at one Departmental hearing, the Department will impose separate penalties for each violation as required by the schedule of penalties. The Department may direct that a suspension be served concurrently or consecutively. Violations affecting more than one vehicle will be treated as separate violations.

DEPARTMENTAL HEARING PROCEDURE

§ 177.651. Notice of alleged violation and opportunity to be heard prior to immediate suspension.

Prior to the immediate suspension of any official emission inspection station, certificate of appointment, emission inspector certification or certified repair technician, the Department shall, within 3 days, provide written notice of the alleged violation and the opportunity to be heard.

§ 177.652. Official documents.

(a) Whenever an emission inspection station, inspector or certified repair technician is suspended or cancelled, the Department may order the surrender, upon demand, to a quality assurance officer or authorized representative of the Department, of the following items:

- (1) Inspector certification card.
- (2) Other items pertaining to the certification of the emission inspector to conduct vehicle emission inspections.
- (3) Inspection records.

- (4) Certificate of appointment.
- (5) Signature cards.
- (6) Unused certificates of emission inspection
- (7) Unused I/M monthly inserts.

(b) Certificates of emission inspection and records confiscated as the result of an investigation will be retained by the quality assurance officer. Certificates of emission inspection and records confiscated as the result of a suspension will be returned to the Department. They will be returned if inspection privileges are restored or the station is reappointed.

RESTORATION AFTER SUSPENSION

§ 177.671. Restoration of certification of an emission inspector after suspension.

An emission inspector who has had the privilege to conduct emission inspections suspended shall have the certification restored as follows:

(1) A certified emission inspector who has been suspended for a Category 1 violation or on two or more occasions for a violation of Category 2 or Category 3 under this chapter may not have the certification restored unless the emission inspector obtains classroom instruction and passes a written test and a tactile test according to procedures established by the Department.

(2) A certified emission inspection inspector who has not been previously suspended for a violation of Category 2 or Category 3 under this chapter will have the certification restored at the termination of the suspension.

§ 177.672. Restoration of certification of an emission inspection station after suspension.

(a) *Restoration after suspensions.* Stations that have had their privilege to inspect suspended shall be restored as follows:

(1) Stations that have been suspended as a result of a point accumulation will have their point total reduced to six points upon restoration.

(2) Additional points assessed against the station since the last violation resulting in a suspension will be added to the point record unless the station has served an additional suspension under §177.602(c)(3) (relating to schedule of penalties for emission inspection stations).

(b) *Removal of points.* Points assessed against a station shall be removed at the rate of two points for each 12 consecutive months in which the station has not had any additional violations

charged against it that could result in additional points. The 12-month period starts at the date of the last violation resulting in points or from the date of restoration of a suspension resulting from an accumulation of points, whichever occurred last.

(c) *Subsequent violations.* Determination of second and subsequent violations is made on the basis of previous violations in the same category within a 3-year period.

(d) *Multiple violations.* In the case of multiple violations, considered at one time, the Department will impose separate penalties for each violation as required by the schedule. The Department may direct that a suspension be served concurrently. If the Department permits a station to accept points in lieu of a suspension, the points will be assigned for the more serious violation affecting each vehicle. Violations affecting more than one vehicle will be treated as separate violations.

(e) *Application process.* After a suspension has been served, inspection privileges will not be restored until an Official Emission Inspection Update/Official Emission Inspection Station Application has been received and processed by the Department. Upon receipt of an application for reappointment following a suspension of more than 3 months, a complete and thorough investigation by the quality assurance officer will be conducted to determine if the applicant qualifies for reappointment under the requirements of the Department. Other applications for reappointment are subject to investigation at the discretion of the Department.

§ 177.673. Restoration of certification of certified repair technician after suspension.

A certified repair technician who has had the privilege to process requests for waivers suspended shall have the certification restored as follows:

(1) A certified repair technician who has been suspended for a Category 1 violation or on two or more occasions for a violation of Category 2 under this chapter may not have the privilege to process requests for and deliver waivers restored unless the certified repair technician passes written tests according to procedures established by the Department.

(2) A certified repair technician who has been suspended for a Category 2 violation and has not been previously suspended for a violation of Category 2 under this chapter will have the privilege to process requests for and deliver waivers restored at the termination of the suspension.

REGISTRATION RECALL PROCEDURE FOR VIOLATION OF §§ 177.301--177.305 (RELATING TO ON-ROAD RESTING)

§ 177.691. Registration Recall Committee.

(a) *Composition.* The Registration Recall Committee (Committee) of the Department will consist of a Vehicle Registration Section manager, an Emission Inspection Section manager and

the Director of the Bureau or a designee.

(b) *Frequency of meetings of Committee.* The Committee will meet on the first Monday of each month and as needed.

(c) *Basis of recalling registrations.* The Committee will recall the vehicle registration when the following conditions are met:

(1) The contractor forwards documentation to the Department that a subject vehicle has failed to pass an on-road emissions test.

(2) The vehicle owner or operator of the vehicle has failed to produce within 30 days of the failure of the on-road emission test evidence that the vehicle has passed a retest or evidence of an emission test waiver.

(d) *Determination of the Committee.* Upon a determination by the Committee that the subject vehicle had failed an on-road emission test and that the owner or operator of the subject vehicle had failed to produce evidence of a correction of the failure or a waiver, the Committee will issue a letter to the owner or operator of the subject vehicle recalling the vehicle registration until proof of passing an emission test or receiving a waiver has been submitted to the Department.

(e) *Appeal.* An appeal from the recall of vehicle registration under this section shall be commenced consistent with Chapter 491 (relating to administrative practice and procedure).