

Oral Testimony: DNREC Public Hearing
April 2, 2012
7 DE Admin Code 1131 and the Plan for Implementation

(Slide #1) Good evening and welcome. I am Valerie Gray, Planning Supervisor with the Department's Division of Air Quality and I would like to thank you for coming to our Public Hearing on the proposed amendments to our Low Enhanced Inspection and Maintenance Program – Regulation 1131 and our document that explains how we implement our I/M program known as the Plan for Implementation.

(Slide #2) The I/M program in Delaware is one of the many important Ozone Control Measures in place. These control measures are integral to state's achieving the National Ambient Air Quality Standard for Ozone.

(Slide #3) Delaware's I/M program is covered by Regulation 1131 in New Castle and Kent Counties and Regulation 1126 in Sussex. The differences between the two regulations are primarily centered on the types of emissions testing vehicles receive and when the County was deemed not to comply with the Ozone Standard.

Since 1980, the I/M Programs have reduced over 24,000 tons of ozone contributing pollutants from our cars and trucks. We achieved these reductions by inspecting our vehicles and requiring those that fail the emissions test to be repaired as a condition to receiving their DMV vehicle registration.

The amendments we are proposing tonight are focused on Regulation 1131 and not Regulation 1126.

(Slide #4) We are all familiar with the process to obtain our vehicle license plates at DMV.

The first 5 years of our new vehicles are exempt from receiving the DMV emissions test. Older cars and trucks are tested based upon the vehicles age and type of fuel. For instance gasoline powered vehicles that are 1996 and newer receive the quick and simple OBD test while vehicles that are older receive either a curb idle or a two-speed idle and an evaporative emissions tests.

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The proposed amendments to our I/M program address the repair side of Regulation 1131 and the requirements established in Section 8.0 of the Department's proposal. Other amendments to the regulation and the plan will be presented later in this presentation.

(Slide #5) The General Assembly wrote changes to two statutes – Title 7 and Title 21 which were adopted by the Governor in June 2010. These two changes offer additional flexibility to the vehicle owner of a car or truck that has failed the DMV emission inspection tests by providing an exception to Title 21 vehicle registration requirements for vehicles being driven on Delaware highways by **Delaware Emission Education Program** ("DEEP") certified emission repair technicians during drive cycle testing. Exhibit 2 provides a copy of the legislation and statutes.

In order for certified emission repair technicians to drive unregistered cars or truck in the course of drive cycle testing those vehicles – they must be in possession of a Department issued permit which we have begun calling "SB215 permit".

The amendments to Regulation 1131 proposed tonight address the provisions associated with Certified Emission Repair Technicians and the SB215 permits for drive cycle testing unregistered vehicles that have failed their emission tests at DMV. These proposed amendments may be found in Section 8.0 of the proposed Regulation 1131.

(Slide #6) The Delaware Emission Education Program (aka DEEP) was developed to train and educate emission repair technicians in Delaware. Certified emission repair technicians provided the consumer a measure of confidence that their vehicle's emission control equipment will be repaired by knowledgeable auto mechanics.

It should be noted the "DEEP" program addresses the training and testing of emission repair technicians and not the certification process. For simplicity purposes these emission repair technicians are occasionally referred as DEEP certified technicians. The proposed amendments refers to these technicians as Certified Emission Repair Technicians (aka CERT) and not DEEP technicians.

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The current Regulation 1131 provides two pathways for an automotive repair technician to become a certified emission repair technician (1) by either submitting their ASE credentials for the L1 Certification, plus the two years work experience or (2) passing the DEEP certification exams, plus the two years work experience.

The Department issued the DEEP certified technician credentials after reviewing their application. The credentials included a certificate signed by the Department Secretary, an individually number stamp for stamping the repair receipts and an individually numbered sign recognizing them as certified to repair emission control equipment in Delaware.

(Slide #7) In order to address this dilemma, the Department established a Workgroup composed of representatives from the DelTech, DMV and Delaware Automotive Service Professionals (DASP). DASP is an organization representing many of Delaware's automotive repair technicians.

The Workgroup met on November 9, 2010 to discuss how to solve the problem of training and certifying Delaware's emission repair technicians. See Exhibits # 7-12.

In consultation with the Workgroup, the Department is proposing tonight to continue to rely on the National Institute of Automotive Service Excellence (ASE) testing program for certifying automotive repair technicians until funding is found to re-establish and sustain the DEEP program training conducted by DelTECH.

(Slide #8) . Some background on the National Institute of Automotive Service Excellence: ASE is an independent, non-profit organization that has worked since 1972 to improve the quality of vehicle repair and service by testing and certifying repair and service professionals. You may recognize their logo that is displayed at many auto repair facilities throughout the state.

By selecting ASE certification, the Department provides car-owners with the ability to find Certified Technicians who have proven to be knowledgeable professionals in the emissions repair field.

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(Slide #9) The ASE L1 test is designed to demonstrate the technicians knowledge of the skills required to diagnose the complex emission control related problems found in today's vehicles. ASE certifications expire every 5 years thereby requiring the technician to re-certify in order to maintain their credentials.

(Slide #10) Other alternatives the Workgroup considered were to include other training and certification programs that are deemed equivalent.

Examples may include training and certification a repair technician brings from a neighboring state. Or the training and certification received by one of the vehicle manufacturers such as General Motors, Ford or Toyota.

(Slide #11) In order to improve the efficiency of the process, the Workgroup discussed linking the DEEP application with the SB215 permit. In other words apply for DEEP certification and receive the permit as well.

The permit would be linked to the 5-year ASE L1 certification.

- In other words – if Joe currently holds a current DEEP certification, he will be issued a DEEP certification and permit for 5 years. At the end of those 5 years, he will be required to obtain his ASE L1 credentials in order to maintain his DEEP certification and permit.
- If Dave is currently DEEP certified but holds an ASE L1 certification that expires in 3 years, he will be issued a DEEP certification and permit that expire in 3 years (at the end of the ASE L1 term).
- If Bob just received his ASE L1 certification, his DEEP certification and permit will be for the same 5 year period his ASE L1 credentials were issued.

(Slide #12) Tonight, the Department is proposing to continue to rely on the National Institute of Automotive Service Excellence (ASE) testing program as the primary way for certifying automotive repair technicians until funding is found to re-establish and sustain

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the DEEP program training conducted by DelTECH. As mentioned on Slide #11, the Department will continue to consider other training and testing programs for emission repair technicians that are deemed equivalent.

The Workgroup discussed and agreed to the Department's proposal that in order to receive the DEEP certification as a certified emissions repair technician, each technician will be required to obtain ASE-L1 certification as well as have the current two year work experience requirement.

Automotive repair technicians currently certified by the DEEP program will be grandfathered for a period not to exceed 5 years or less if they also hold a current ASE-L1 certification. Technicians with current ASE-L1 certification shall be issued a permit for the term of the current ASE-L1 certification.

The estimated cost of the ASE-L1 certification testing is approximately \$60. Based upon ASE fees posted on their website as of November 2, 2011 – see <http://ase.com/Tests/ASE-Certification-Tests/cbt/Dates,-Fees,---Test-Times.aspx>

(Slide #13) The SB 215 permit to operate unregistered vehicles while conducting drive cycle testing will be issued to ALL Delaware DEEP certified emission repair technicians at the time of application. Section 8.0 of the proposed amendments to Regulation 1131 present the regulatory language for this process to occur. These amendments apply to ALL technicians who wish to become certified emission repair technicians regardless of what county they work. See Section 2.1.2 of the proposed Regulation.

In order for the Department to administer the permit program, the General Assembly recognized the need to recover costs. Title 7 Ch 60 Section 6709 provides the ability of the Department to do so. As a result, the Department is proposing a \$25 per year permit fee which will be assessed at the time of application. The assessment will be for the entire 5-year period of the permit or \$125. Permits that are issued any period less than 5 years shall be pro-rated the permit fee \$25 per year for each year the permit is to cover.

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Section 2. Amend Title 7, Delaware Code, by adding a new Section 6709, to read as follows:

“§6709. Permits for operation of motor vehicles during testing.

The Department of Natural Resources shall issue permits to all certified repair technicians to conduct on board diagnostic testing of vehicles that are not in compliance with §2115 of Title 21. The Department may recover costs reasonably related to the issuance of such permits.”

(Slide #14) In the course of working on Section 8.0, the Department determined that the regulation could be better organized. As a result, the Department has chosen to move Sections of the current regulation to a companion document required by the USEPA. The companion document is the known as the “Plan for Implementation”. This “Plan” describes how the Department will implement and administer the federal requirements for Low Enhanced Inspection and Maintenance Programs.

A separate Start Action Notice (2012-1) has been authorized by the Department Secretary. Tonight, the Department would like to present the amendments associated with the “Plan”. I should also noted these amendments bear no requirements or has any impact on the regulated community and will only enhance an individual and/or small business’ understanding of the requirements found in Regulation 1131.

(Slide #15) Exhibit xx provides a cross reference of the current, proposed regulation and proposed “Plan”.

(Slide #16) The “Plan” is a detailed document with numerous appendices describing how the Department will implement the I/M program. The federal regulation 40 CFR Part 351 describe the requirements each state must meet and explain in the “Plan”. The Department has placed the “Plan” and the appendices on its Regulation 1131 regulatory development website. The last slide in this presentation gives you the information for the web link.

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(Slide #17) As part of the regulatory development process the Department has followed the four steps:

- Form a workgroup to discuss the proposed amendments
- Schedule workshops to present to the regulated community those amendments and
- Publish the proposed amendments in the Delaware Register and finally
- Hold a Public Hearing on those proposed amendments.

(Slide #18) The workshops were held last year over three nights. Exhibits 13- 21 provide the information presented.

(Slide #20) In closing, the Department has provided tonight 33 exhibits and asks that they be incorporated into hearing record as DNREC Exhibits 1-33.

DNREC Exhibit 1 provides a description of each of these exhibits and Exhibit XX has includes tonight's handouts and presentation.

(Slide #21) READ SLIDE.

The Department has

- Met the Statutory and Departmental requirements throughout the amendment of Regulation 1131
- Maintained open communications with the potential affected source throughout the amendment process
- Provided the public with complete, timely information through the Regulation 1131

Regulatory Web Page.