TN Department of Environment & Conservation

July 5, 2018

Ms. Lisa Duke Crowell
Rutherford County Clerk
319 North Maple Street
Suite 121
Murfreesboro, Tennessee 37130

RE: Vehicle Emission Testing Program in Tennessee

Dear Ms. Crowell:

I am writing to be sure you are aware of recently enacted legislation, Public Chapter 953 (attached), relative to eliminating the annual inspection and maintenance program (I/M or vehicle emissions testing program). Public Chapter 953 prohibits employment of a vehicle emissions testing program in Tennessee on or after the effective date of the act. The effective date of the relevant section is 120 days after the United States Environmental Protection Agency (EPA) approves a state implementation plan (SIP) amendment eliminating the program (or the date the contract with the vendor terminates).

Under state and federal law, the vehicle emissions testing program must continue until EPA approves the SIP amendment. The Tennessee Department of Environment and Conservation (TDEC), estimates that it will take about three years, or longer, for the SIP amendment to be prepared by Tennessee and approved by EPA. There are a number of steps that Tennessee must take prior to elimination of the program:

- The Division of Air Pollution Control will first conduct a modeling analysis to determine if elimination of the vehicle emissions testing program will interfere with Tennessee's compliance with federal air quality standards established by EPA for pollutants considered to be harmful to public health and the environment. The division estimates that the analysis will take six months to a year to complete.
- After the analysis is complete, the division will work with the Air Pollution Control Board and local governments to amend the SIP to eliminate the vehicle emissions testing program. The SIP amendment process at the state level includes opportunity for public comment and promulgation of rules. If the analysis shows no interference, the division estimates that this part of the process will take approximately a year. If there is interference, then the process will take longer

because substitute measures will have to be identified to replace the vehicle emissions testing program.

- After the state-level SIP amendment process is complete, Tennessee will submit the SIP amendment for EPA approval. EPA approval can take up to a year and a half or more.

TDEC will seek to amend the contracts governing the services provided by the county clerks to add a provision required by Public Chapter 953 stating that the contract will terminate upon the effective date of the program end. Currently, there is a 90-day termination for convenience clause in the vendor contract. Additionally, TDEC will seek to amend the contract as provided in Public Chapter 953 to make clear the contract will be terminated when the program has ended in Tennessee.

Public Chapter 953 also contains a provision authorizing the local governing body of a county in which the vehicle emissions testing program has ended to add a fee to vehicle registrations. This provision applies after the vehicle emissions testing program has ceased to operate in that county.

TDEC will update the public on its website concerning the SIP amendment process. In addition, TDEC will conduct outreach to inform the public when EPA approves the SIP amendment and the program will be winding down.

Frequently asked question information is enclosed with this letter. I would encourage you to post this information on your website. Should you need additional information, please contact myself or Greg Riggs at greg.riggs@tn.gov, or (615) 532-0567.

Sincerely,

Michelle W. Owenby

Michelle W. Owenby
Director

2 Attachments

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State of Tennessee

PUBLIC CHAPTER NO. 953

HOUSE BILL NO. 1782

By Representatives Carter, Madam Speaker Harwell, McCormick, Gravitt, Hazlewood, Favors, Lamberth, Dawn White, Sparks, Terry, Rudd, Lynn, Boyd, Howell, Faison, Williams, Mark White, Tillis

Substituted for: Senate Bill No. 2656

By Senators Watson, Gardenhire, Ketron, Haile, Pody, Johnson, Kelsey, Stevens

AN ACT to amend Tennessee Code Annotated, Title 55 and Title 68, relative to motor vehicle inspection requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-201-119, is amended by designating the current language as subsection (a) and by adding the following language as a new subsection (b):

(b)

(1) Notwithstanding subsection (a) or any other law to the contrary, no inspection and maintenance program shall be employed in this state on or after the effective date of this act, except in accordance with Section 2.

(2) If at any time under the federal Clean Air Act, compiled in 42 U.S.C. § 7401 et seq., an inspection and maintenance program is mandated instead of available as a voluntary state implementation plan measure in any county of this state, then subdivision (b)(1) shall not apply in that county.

SECTION 2. An inspection and maintenance program may be employed in a county that, on the effective date of this act, has a local air pollution control program and implements its own inspection and maintenance program, if the county authorizes the continuation of its own inspection and maintenance program by action of its governing body; provided, that in order to authorize the continuation of the inspection and maintenance program, the governing body must authorize the continuation within thirty (30) days of the effective date of this act, and the presiding officer of the county governing body must furnish a certified copy of the approved resolution to the technical secretary of the air pollution control board within sixty (60) days of the effective date of this act.

SECTION 3. The Tennessee air pollution control board is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 4. Any new contract between the department or a local government and a contractor providing inspection services, any new contract between a local government and the department relative to the inspection and maintenance program, and any renewals of such contracts occurring after the effective date of this act, shall include a provision stating that the contract must conform to any changes in state law. Any existing contracts as described in this section shall be amended to include a provision stating that the contract must conform to any changes in state law.

SECTION 5. Tennessee Code Annotated, Section 55-4-104, is amended by adding the following as a new subsection:

( ) Any county that ceases to have an inspection and maintenance program pursuant to Section 1(b)(1) of this act may, by action of its governing body, increase the amount of any clerk's fee imposed on any initial registration, or at the time of renewal, by

an amount up to four dollars ($4.00). Of any increase up to four dollars ($4.00), the clerk shall retain one dollar ($1.00) and remit, as directed by the county governing body, the balance of any funds to the county general fund.

SECTION 6 Any fee increase promulgated by the air pollution control board in order to offset any revenue lost as the result of the implementation of this act shall not be imposed on major sources of air pollutants under Title V of the Clean Air Act (42 U.S.C. § 7401 et seq.) except to the extent that such fees are used to pay for indirect and direct costs related to the Title V program as provided in Title 68, Chapter 203 and 42 U.S.C. § 7661a, and indirect and direct costs specified in 40 CFR § 70.9.

SECTION 7. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 8.

(a) Section 1 shall take effect one hundred twenty (120) calendar days following the date on which the United States environmental protection agency (EPA) approves a revised state implementation plan consistent with this act, the public welfare requiring it; provided, however, that if on such date, a contract exists between the department and a contractor providing inspection services, then Section 1 shall take effect upon the date of the contract's termination or expiration, the public welfare requiring it. For all other purposes, this act shall take effect upon becoming a law, the public welfare requiring it.

(b)

(1) The commissioner of environment and conservation shall certify in writing to the executive secretary of the Tennessee code commission the date of the approval by the EPA described in Section 6(a) and provide the executive secretary of the commission with a copy of such approval.

(2) If a contract exists on the date one hundred twenty (120) calendar days following the date of approval of the revised state implementation plan, then the commissioner shall also certify in writing the date of the department's contract termination or expiration, and provide the executive secretary of the commission with a copy of the signed document.

HOUSE BILL NO. 1782

PASSED: April 24, 2018

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 15th day of May 2018

BILL HASLAM, GOVERNOR

TN Department of Environment & Conservation

Changes to Tennessee's Vehicle Emissions Testing Program

Frequently Asked Questions and Timeframe

Division of Air Pollution Control | June 2018

Frequently Asked Questions

Public Chapter 953 was enacted by the 110th General Assembly and signed by Governor Haslam on May 15, 2018. The law seeks to eliminate the vehicle emissions testing program (Inspection and Maintenance Program) implemented by the Tennessee Department of Environment and Conservation, Division of Air Pollution Control when the state receives EPA approval to do so.

1. I heard that Governor Haslam signed a bill that ends vehicle emissions testing (the inspection and maintenance program) in Tennessee. Do I still have to get my emissions tested before I register my motor vehicle this year?

Yes; light-duty motor vehicles are still required to undergo emissions testing. Governor Haslam did sign a bill that will start the process to end emissions testing in most of Tennessee. However, EPA must approve the change before it can take effect.

If you register your light-duty motor vehicle in Metropolitan Nashville/Davidson County, you will still need to get vehicle tested even after EPA approves the change because the Metropolitan Council voted to keep the testing program.

2. Why does Tennessee have to get approval from EPA?

Tennessee has used vehicle emissions testing to improve air quality and meet federal air quality standards (National Ambient Air Quality Standards, or NAAQS) in the counties that have vehicle emissions testing. NAAQS are established by EPA for those pollutants considered to be harmful to public health and the environment. Even though all counties are now in attainment status for the NAAQS related to ozone, Tennessee is required to maintain air quality. Tennessee has to show EPA that eliminating the vehicle emissions testing program will not interfere with Tennessee meeting the NAAQS. If Tennessee doesn't go through this process, then Tennessee could lose federal transportation highway funds.

3. How long will it take to get EPA approval?

It could take three years or more to get EPA approval. TDEC will begin the analysis to determine whether eliminating the vehicle emissions program will interfere with the NAAQS. TDEC will know what the next steps have to be once the analysis is complete. If there is no interference,

then TDEC can begin to work with the Air Pollution Control Board and local governments to amend the State Implementation Plan. If there is interference, substitute measures will have to be used to stay in compliance. TDEC will work with the Air Pollution Control Board and local governments to select those measures.

4. What is a State Implementation Plan?

A State Implementation Plan, or SIP, is the plan laying out all the measures Tennessee uses to improve and maintain air quality in compliance with federal law. A lot of the SIP is in the Tennessee Code and rules promulgated by the Air Pollution Control Board. Vehicle emissions testing is part of Tennessee's SIP.

5. Will air quality get worse in Tennessee if emissions testing is eliminated?

No; Tennessee has to show EPA that air quality will not get worse in order to get EPA approval. Tennessee may have to use substitute measures to maintain good air quality.

6. How will I know when I don't have to get my motor vehicle tested anymore?

TDEC will be updating its website throughout the process and will also issue notice when EPA approves the SIP amendment.

Timeframe

TDEC's Division of Air Pollution Control has begun the analysis necessary to prepare a technical demonstration requesting removal of the emissions testing program from the SIP. TDEC estimates that completing the analysis will take **six months to a year**.

The results of the analysis will determine the length of time to take the next steps.

- If no interference is found, then the following steps will take approximately **1 year:**
  - Internal and local program review,
  - Briefing the APC Board on the proposed SIP revisions,
  - Submitting revisions to local programs and EPA,
  - Editing based on feedback from locals and EPA,
  - Public hearing notice and public comment,

    - Revisions based on public input,
    - Rulemaking by Board to revise I/M (and, if necessary, to incorporate any substitute measures),
    - Review by Attorney General and General Assembly, and
    - Submitting to EPA.

  - If substitute measures are required, then this part of the process would take longer due to evaluation and analysis of the substitute measures for each area prior to the steps listed previously. The time to accomplish the evaluation and analysis of substitute measures is unknown. Substitute measures could involve stationary or mobile sources. If a county has a local air program, then substitute measures may require local government action.

After the State submits the package to EPA, review could take anywhere **from eight months up to a year and a half (sometimes more)**. TDEC tries to collaborate with EPA throughout the process in an effort to reduce the EPA review time necessary**.**

  - If measured ozone levels increase in Tennessee or if a lower ozone standard is imposed by EPA, approval may be delayed or denied.

The end of the program will take effect **120 days after EPA approves the SIP amendment** unless a contract with the vendor exists in which case it will take effect as soon as the contract allows for termination. Currently, there is a 90-day termination for convenience clause in the vendor contract. Additionally, TDEC will seek to amend the contract as provided in Public Chapter 953 to make clear the contract will be terminated when the program has ended in Tennessee.

Once the program ends, the local government can increase clerk motor vehicle registration fees.