

## §2114. Diesel-powered Motor Vehicle Emission Opacity Testing Program

**1. Program established.** The Diesel-powered Motor Vehicle Emission Opacity Testing Program, referred to in this section as the "program," is established within the Department of Environmental Protection. The Department of Environmental Protection shall administer the program in cooperation with the Department of Public Safety.

[PL 1997, c. 786, §7 (NEW).]

**2. Definitions.** As used in this section, the following terms have the following meanings.

A. "Diesel-powered motor vehicle" refers only to a diesel-powered motor vehicle that has a gross vehicle weight rating of 18,000 or more pounds. "Diesel-powered motor vehicle" does not include a truck registered as a farm truck. [PL 2003, c. 452, Pt. Q, §61 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. "Opacity" means the degree of light-obscuring capability of emissions of visible air contaminants expressed as a percentage. Complete obscuration must be expressed as 100% opacity. [PL 2003, c. 452, Pt. Q, §61 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. Q, §61 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Testing and repair requirement.** A person who causes operation of a diesel-powered motor vehicle shall comply with the requirements of the program, including emission opacity standards and testing and repair requirements. Owners or operators of diesel-powered motor vehicles that have failed opacity standards for the first time have 30 days from the date that the operator was notified of the failure of the test to certify to the department that repairs were made to bring the vehicle into compliance with the opacity standards established pursuant to this section. If certification is not made within 30 days, then owners or operators commit a traffic infraction. A person may not be found in violation of this section until after January 1, 2000.

Only diesel-powered motor vehicles identified by certified inspectors as potential violators of the program's emission opacity standards are subject to testing under this section. Inspectors must be certified pursuant to the procedures for certification specified in 40 Code of Federal Regulations, Part 60, Appendix A, Method 9.

[PL 2003, c. 452, Pt. Q, §62 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3-A. Penalties.** The following penalties apply to violations of this section.

A. A person who violates this section commits a traffic infraction for which a fine of \$250 may be adjudged. [PL 2003, c. 452, Pt. Q, §63 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this section after previously having been adjudicated as violating this section commits a traffic infraction for which a fine of \$500 may be adjudged. [PL 2003, c. 452, Pt. Q, §63 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. Q, §63 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Standards and procedures.** The Board of Environmental Protection shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, that establish standards and procedures to continue the program. These rules must include the following:

A. Emission opacity standards for diesel-powered motor vehicles that are consistent with emission opacity standards for diesel-powered motor vehicles recommended by an interstate association of air quality control divisions in the northeast states; [PL 1997, c. 786, §7 (NEW).]

B. Standards and procedures, including testing methods and standards for test equipment, for safe and effective roadside testing of diesel-powered motor vehicles that operate on public ways of the State for the purpose of enforcing compliance with emission opacity standards; [PL 1997, c. 786, §7 (NEW).]

C. Standards and procedures for the administration and enforcement of the program. The rules may establish reciprocity agreements with other states that recognize enforcement actions related to diesel-powered motor vehicle testing programs in other states; [PL 1999, c. 356, §1 (AMD).]

D. Repair requirements and standards and procedures for certification of repairs; and [PL 1999, c. 356, §1 (AMD).]

E. Standards and procedures for the enforcement of violations and the monitoring and certification of repairs made to bring a vehicle into compliance pursuant to this section. [PL 1999, c. 356, §1 (NEW).]

[PL 1999, c. 356, §1 (AMD).]

**5. Educational program.** A person who causes operation of a diesel-powered motor vehicle that does not comply with the program's emission opacity standards must be given educational materials by the Department of Environmental Protection regarding the environmental and other benefits of a vehicle that is in compliance with the standards set forth in subsection 4.

[PL 1997, c. 786, §7 (NEW).]

**6. Implementation.**

[PL 1999, c. 356, §1 (RP).]

**7. Definition.**

[PL 2003, c. 452, Pt. Q, §64 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1997, c. 786, §7 (NEW). PL 1999, c. 356, §1 (AMD). PL 2003, c. 452, §§Q61-64 (AMD). PL 2003, c. 452, §X2 (AFF).

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