

PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 113 AND 121]

Personal Income Tax; Employer Withholding

The Department of Revenue (Department), under authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7354), proposes amendments to Chapters 113 and 121 (relating to withholding of tax; and final returns) to read as set forth in Annex A.

Purpose of the Proposed Amendments

The proposed amendments are intended to serve the following purposes:

1. Section 113.3(c) and (f) (relating to computing withholding of Pennsylvania Personal Income Tax) is being amended to add the provisions of the act of May 7, 1997 (P. L. 85, No. 7) (Act 7) relating to cafeteria plans and other employee compensation arrangements. See section 301(d) of the TRC (72 P. S. § 7301(d)).

2. The proposed amendments establish new employer identification number requirements to facilitate the Department's Keystone Integrated Tax System.

3. The proposed amendments establish new employer registration requirements to facilitate the common employer registration form of the Department and the Department of Labor and Industry.

4. The proposed amendments change W-2 filing requirements to facilitate the Department's new Infoimage System and make more use of electronic and magnetic media.

5. The Federal employee reporting and withholding requirements for tip income are being adopted so that businesses will not have to deal with conflicting requirements at the Federal and State level.

6. Section 113.3(d) and (e), pertaining to the statutory trust fund provisions, will enhance the Department's enforcement powers.

Explanation of Regulatory Requirements

Section 113.2 (relating to compensation subject to withholding) is amended by adding a new paragraph (3) pertaining to tips. Employers are required to deduct and withhold tax on tips of which the employer has the control, receipt, custody or payment or that are reported by the employee and only to the extent that the employer can collect the tax by deducting it from the employee's compensation exclusive of tips.

Section 113.3 is amended by adding a new subsection (c) that addresses special situations pertaining to the deduction or payment of amounts by an employer for or on behalf of an employee. A new subsection (d) provides that tax deducted from the State wages of an employee shall be considered to have been withheld at the time of payment of the State wages against which the deduction was charged.

A new § 113.3(e) addresses the situation where an employer fails or refuses to pay over any withheld tax or to deposit it in a separate account in trust for and payable to the Department or otherwise identify and segregate it from other funds.

A new § 113.3(f) provides that amounts specified in a cafeteria plan as being available to the employee for purposes of selecting or purchasing benefits under a plan or as additional cash remuneration received in lieu of coverage are excludible from tax and withholding if certain enumerated conditions are met.

A new § 113.3a (relating to employer identification number) is added to explain the various rules relating to Federal and State employer identification numbers.

A new § 113.3b (relating to registration) details when an employer must register with the Department.

Section 113.4 (relating to time and place for filing reconciliation and withholding statements) has been amended by deleting unnecessary language relating to the completion of W-2s for tax year 1971. Subsection (b) is updated to provide for the filing of quarterly withholding returns. Subsection (c) is amended by providing that reconciliation statements with accompanying withholding statements for each employee can be forwarded to the Department by means of first class mail or electronic or magnetic media. The subsection is further amended to provide that if an employer is required to file 250 or more withholding statements, the reconciliation statement with accompanying withholding statements shall be forwarded by means of electronic or magnetic media as specified in the instructions of the Department.

Finally, § 121.16 (relating to Form W-2) is deleted in its entirety, consistent with the changes regarding W-2 filing requirements previously referenced.

Affected Parties

Affected parties are employers, employees and tax professionals.

Fiscal Impact

The Department has determined that the proposed amendments will have no significant fiscal impact on the Commonwealth.

Paperwork

The proposed amendments will not require additional paperwork for the public or the Commonwealth. The proposed amendments will reduce paperwork requirements in that form W-2 will no longer be required to be filed with each individual return.

Effectiveness/Sunset Date

The proposed amendments will become effective upon final publication in the *Pennsylvania Bulletin*. The proposed amendments are scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed amendments to Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2001, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and

to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

LARRY P. WILLIAMS,
Secretary

Fiscal Note: 15-418. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 113. WITHHOLDING OF TAX

§ 113.2. Compensation subject to withholding.

All compensation shall be subject to withholding of tax by an employer. Regulations for residents and nonresidents shall be as follows:

* * * * *

(3) Tips.

(i) Every employee who, in the course of his employment, receives in any calendar month cash tips which are wages as defined in section 3401(a) of the IRC (26 U.S.C.A. § 3401(a)) shall report those tips in one or more written statements furnished to his employer on or before the 10th day following that month.

(ii) Employers are required to deduct and withhold tax only on tips of which the employer has the control, receipt, custody or payment or tips that are reported by the employee and only to the extent that the employer can collect the tax by deducting it from the employee's compensation exclusive of tips.

§ 113.3. Computing withholding of Pennsylvania Personal Income Tax.

* * * * *

(c) Except as provided in subsection (f):

(1) Any amount lawfully deducted by an employer from the remuneration of an employee shall be deemed to be a part of the employee's remuneration and to have been paid to the employee as compensation at the time the deduction is made.

(2) Any amount paid by an employer on behalf of an employee without deduction from the remuneration of, or other reimbursement from, the employee on account of any liability or obligation of, or payment required from, an employee shall be

deemed to be paid to the employee as compensation at the time the payment is made.

(3) Any payment made to an employee, third party or fund under a cash or deferred arrangement under which an employee may unilaterally elect to have the employer make payments to the third party or fund for the benefit of the employee or to the employee directly in cash shall be deemed to be paid to the employee as compensation at the time the payment is made.

(4) Any payment made to an employee, third party or fund under an arrangement under which an employee may unilaterally choose between two or more benefits consisting either of cash and coverage under a plan or coverage under two or more plans shall be deemed to be paid to the employee as compensation at the time the payment is made.

(d) Tax deducted from the State wages of an employee shall be considered to have been withheld at the time of payment of the State wages against which the deduction was charged.

(e) If an employer fails or refuses to pay over any withheld tax or to deposit it in a separate account in trust for and payable to the Department or otherwise identify and segregate it from other funds, it shall be deemed that:

(1) Withheld tax would be on deposit in the general operating account of the employer at the time of payment of the state wages from which deduction was made.

(2) The employer would disburse withheld tax last.

(3) Once withheld tax is disbursed, subsequent deposits would not replenish it.

(4) The lowest intermediate balance of cash on deposit in the general operating account is withheld tax that constitutes a trust fund for the Commonwealth that is enforceable against the employer or any person receiving any part of the fund.

(5) Any excess of the tax deducted over the lowest intermediate balance is withheld tax that has been received by the employer and disbursed.

(f) Amounts specified in a cafeteria plan document as being available to the employee for the purpose of selecting or purchasing benefits under a plan or as additional cash remuneration received in lieu of coverage under a plan are excludible from tax and withholding if the following apply:

(1) They were not actually or constructively received, after taking section 125 of the IRC (26 U.S.C.A. § 125) into account.

(2) The benefits selected or purchased are nontaxable under the IRC when offered under a cafeteria plan described in section 125 of the IRC.

(3) The payments made for the plan would be nontaxable under the Pennsylvania Personal Income Tax if made by the employer outside a cafeteria plan described in section 125 of the IRC.

§ 113.3a. Employer identification number.

An employer shall use both the Federal and Pennsylvania employer identification numbers to report all Pennsylvania withholding. Employers who have not yet received a Federal employer

identification number will be assigned a temporary Pennsylvania number until the Federal employer identification number is obtained, at which time the Department shall be notified. If an employer has multiple divisions using the same Pennsylvania employer identification number but remitting and reconciling withholding tax separately, the employer shall request a separate Pennsylvania number for each division.

§ 113.3b. Registration.

Every employer having an office or transacting business within this Commonwealth and making payment of wages for the first time to one or more nonresident individuals performing services on behalf of the employer within this Commonwealth or to one or more resident individuals shall, within 10 business days of the payment, register with the Department by completing and filing the form prescribed by instructions of the Department.

§ 113.4. Time and place for filing reconciliation and withholding statements.

(a) An employer shall submit a wage and tax withholding statement to each of his [employees] employees on or before January 31 following the year of payment of compensation, or within 30 days from the date of the last payment of compensation if employment or the business is terminated.

(1) An employer shall use the combined Federal-State Wage and Tax Withholding Statement (Form W-2) issued by the Internal Revenue Service or one that conforms thereto with the [name] word "Commonwealth" printed, stamped [,] or typed thereon.

[(i)] The statement shall show the name of employer, address and identification number of the employer; the name, address and Social Security number of [employe] the employee; the total compensation paid during the taxable year; and the total amount of Pennsylvania tax withheld during the taxable year.

[(ii) For the year 1971, the employer shall also show on Form W-2 the actual compensation paid, for example, on and after June 1, 1971, through December 31, 1971, or, in the alternative, actual compensation paid for the period July 1, 1971, through December 31, 1971, plus, 1/3 of the calendar quarter July 1, 1971, to September 30, 1971.]

* * * * *

[(3) With prior approval of the director of the Commonwealth Personal Income Tax Bureau, an employer or his agent may be permitted to submit a magnetic tape or computer printed listing in lieu of copies of Form W-2.]

(b) A completed Reconciliation Statement (Return Form [RIT-W-3] PA-W3), reconciling Personal Income Tax withheld with related quarterly withholding returns and deposit and [employe] employee withholding statements shall be submitted by the following:

* * * * *

(c) Reconciliation Statements (Form [RIT-W-3] PA-W3), with accompanying withholding statements (Form W-2) for each [employe] employee shall be forwarded via first class mail with sufficient postage [to Department of Revenue, Personal Income Tax Bureau,

Harrisburg, Pennsylvania 17129] or electronic or magnetic media as specified in instructions of the Department to the Department. [If an employer has a large number of Form W-2's to be forwarded, he may use as many packages as are conveniently necessary which shall be numbered consecutively and contain the name of the employer and identification number thereon. If more than one package is forwarded, Form RIT-W-3 shall be placed in the package numbered one.] If an employer is required to file 250 or more withholding statements, the reconciliation statement, with accompanying withholding statements shall be forwarded by means of electronic or magnetic media as specified in the instructions of the Department.

CHAPTER 121. FINAL RETURNS

§ 121.16. [Form W-2] (Reserved).

[This form is a receipt for the taxes withheld from the salary of an employe. It shall accompany his return Form PA-40 as evidence of taxes withheld. If an employe works for more than one employer during the year, he shall usually have more than one Form W-2. A copy of each Form W-2 shall accompany his return. If a person is unable to furnish his Form W-2, a statement shall be attached to the return explaining the reason.]

[Pa.B. Doc. No. 01-1599. Filed for public inspection August 31, 2001, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

Heavy-Duty Diesel Emissions Control Program

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 126 (relating to general provisions; and standards for motor fuels) to read as set forth in Annex A.

The proposed rulemaking establishes a new heavy-duty diesel emissions control program designed to primarily reduce emissions of carbon monoxide (CO), oxides of nitrogen (NOx), volatile organic compounds (VOCs), particulate matter (PM) and air toxics from new heavy-duty diesel engines and trucks. The proposed amendments adopt and incorporate by reference certain requirements of the California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Year Heavy-Duty Engines and Vehicles as authorized under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) (CAA).

This proposal was adopted by the Board at its meeting of July 17, 2001.

A. Effective Date

These proposed amendments will be effective immediately upon publication in the Pennsylvania Bulletin as final rulemaking.

B. Contact Persons

For further information, contact Arleen Shulman, Chief, Mobile Sources Section, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office

Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9495, or Robert A. Reiley, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of section 5(a)(1) of the Air Pollution Control Act (act) (35 P. S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The Board is also expressly authorized by section 5(a)(7) of the act to adopt regulations designed to reduce emissions from motor vehicles.

D. *Background and Purpose.*

Heavy-duty diesel (HDD) engines and vehicles contribute greatly to a number of serious health and welfare problems. First, they emit pollutants like PM, sulfur oxides (SOx), toxic compounds, such as formaldehyde, and ozone precursors, such as NOx and VOCs, whose documented adverse health effects include premature mortality, aggravation of respiratory and cardiovascular disease, changes in lung function and increased respiratory symptoms, changes to lung tissues and structures, altered respiratory defense mechanisms, chronic bronchitis and decreased lung function. Second, ozone pollution causes crop and forestry losses, and PM causes damage to materials and soiling of commonly used building materials and culturally important items such as statues and works of art. Third, NOx, SOx and PM contribute to visibility impairment. Fourth, NOx emissions from HDD vehicles contribute to the acidification, nitrification and eutrophication of water bodies. Fifth, the United States Environmental Protection Agency (EPA) has concluded that diesel exhaust is likely to be carcinogenic to humans. Finally, while vehicles powered by HDD engines account for about only 1% of all motor vehicles and equipment, they are responsible for nearly a quarter of NOx emissions.

Emissions from HDD engines and vehicles account for a substantial portion of ambient PM and ground-level ozone levels. These proportions are higher in some urban areas. Urban areas, which include many poorer neighborhoods, can be disproportionately impacted by HDD vehicle emissions because of heavy traffic in densely populated urban areas.

In addition, due to its location in the Northeast, this Commonwealth is a conduit for a large amount of truck traffic. If this rulemaking is not adopted, this Commonwealth can expect an additional 12.5 tons of NOx emissions per average summer day in 2006 Statewide from the trucks manufactured in 2005 and 2006. In the five-county Philadelphia area alone, model year 2005 and 2006 trucks are expected to emit an additional 2 tons of NOx per average summer day in 2006 without these additional controls.

HDD engines and vehicles have not been subject to many environmental regulations since passage of the Clean Air Act in 1970. The EPA's regulation of HDD engines and vehicles did not begin until 1984, when the agency adopted a 10.7 grams/brake horsepower-hour (g/bhp-hr) NOx standard. The EPA's NOx emissions standards for 1998 to 2003 model year HDD engines are 4 g/bhp-hr. The EPA currently requires testing of the engine (with emission control systems in place) rather than the entire vehicle. Thus the standards are expressed in units

of g/bhp-hr (that is, grams of emission per unit of work the engine performs over a period of time), rather than the grams per mile unit used for testing passenger cars and light-duty trucks.

Before being offered for sale, new engines must be certified to compliance with Federal emissions standards. Engines are tested for certification using an engine dynamometer. The performance test cycle or cycles for determining compliance with numerical standards plays an important part in determining the stringency of the existing standards. It is the performance test that serves as the basis for determining this compliance.

Currently, the EPA only tests engines with the Federal test procedure (FTP) to determine compliance with the HDD engine standards. The FTP, however, only represents a small portion of "real world" driving conditions. For example, the FTP does not include elevated high temperatures and highway cruise patterns. It is therefore inadequate in testing emissions under these conditions.

Several years ago, the United States Department of Justice, the EPA and the California Air Resources Board (CARB) brought major enforcement actions alleging that seven of the largest HDD engine and vehicle manufacturers (representing approximately 60% of HDD engine sales) violated Federal and California engine certification regulations by "defeating" or turning off diesel emission control devices during in-use highway driving. The manufacturers employed "defeat devices" in the HDD engines for model years 1988 through 1998. With these defeat devices, emission controls typically were turned off during cruising conditions to save fuel. This allowed NOx emissions as high as three times the emission standard. It is estimated that in 1998 alone, the "defeat devices" caused approximately 1.3 million tons of excess NOx emissions Nationally.

The Federal government and the seven HDD engine and vehicle manufacturers resolved the cases through settlement agreements. In 1998, they entered into judicial consent decrees (binding settlement orders) that imposed substantial penalties upon the seven manufacturers and required them to achieve additional emission reductions.

In the consent decrees, the settling manufacturers are required, among other things, to produce HDD engines and vehicles that comply with prescribed emission standards that are lower than those required in current California and Federal regulations, as measured by the FTP. Specifically, these engines must meet a 2.5 g/bhp-hr standard for nonmethane hydrocarbons (NMHC) plus NOx emissions no later than October 1, 2002. This will require production of new engines that are approximately 50% cleaner than current engines.

The majority of these settling engine manufacturers (Caterpillar, Cummins, Detroit Diesel, Mack Trucks, Renault (RVI) and Volvo Trucks) have also agreed to produce HDD engines by October 1, 2002, that meet supplemental certification test procedures. Together with the FTP test, the supplemental test procedures will require control of emissions during the majority of real world operating conditions, insuring that in the future "defeat devices" will no longer be employed. This will result in significant additional emission reductions of NOx and other pollutants during "real world" conditions. These supplemental test procedures are designed to make up for the deficiencies of the FTP.

The California rules require manufacturers to perform supplemental test procedures, in addition to the existing FTP. The two components of the supplemental test are

known as the Not To Exceed (NTE) test and the EURO III European Stationary Cycle (ESC) test. The ESC test also has associate requirements known as maximum achievable emission limits (MAEL).

The NTE test procedure can be run in a vehicle on the road or in an emissions testing laboratory using an appropriate dynamometer. The vehicle or engine is operated under conditions that may reasonably be expected in normal vehicle operation and use, including operation under steady-state or transient conditions and under varying ambient conditions. Emissions are averaged over a minimum time of 30 seconds and then compared to the applicable emission limits.

The ESC test simulates cruising conditions better than either the FTP or the NTE procedures. This can help prevent excess emissions increasing during highway driving. This test consists of 13 modes of speed and power, primarily covering the typical highway cruise operating range of HDD engines. During each mode of operation, the concentration of the gaseous pollutant is measured and weighted. The weighted average emissions for each pollutant, as calculated by this test, must not be greater than the applicable FTP emission standard.

The MAEL requirements can be considered an adjunct to the ESC test because they are utilized during the 12 nonidle test modes of that test. The MAEL specifications prevent manufacturers from complying with the ESC using computer programs that recognize when the engine is being tested at specific test points, and then recalibrating for better fuel economy (which results in higher emissions) between test points. The MAEL requirements ensure that emissions do not exceed a cap when operating within the nonidle ESC test modes.

Since certifying HDD engines using the NTE and ESC tests produces much higher reductions than the reductions achieved when only the FTP is used, the EPA issued a final rule to adopt these supplemental test procedures for 2004 and subsequent model year HDD engines and vehicles. See, 65 FR 59895 (October 6, 2000). However, due to timing constraints that the Clean Air Act imposes on the EPA under section 202 of the CAA (42 U.S.C.A. § 7521), manufacturers will not be required to comply with the NTE and ESC test procedures until 2007 model year. Therefore, there will be a 2-year gap between the expiration of these test procedures for the settling manufacturers following the 2004 model year and the commencement of the test procedures for model year 2007 under EPA's final rule.

As a result, for two entire model years there may be serious backsliding, that is, diesel exhaust emissions could increase significantly above the previous levels mandated by the consent decrees. For this reason, California decided to fill the gap by requiring compliance with the NTE and ESC test procedures in addition to the FTP test procedure during the 2005 and 2006 model years. Moreover, this regulation will apply to all manufacturers, not just those affected by the consent decrees, who may want to enter the United States HDD engine market to gain an unfair competitive advantage.

A number of states have recognized the benefits of adopting these test procedures to prevent any backsliding attempts by HDD engine and vehicle manufacturers and to maintain improved air quality. These states are anticipated to develop rules similar to those proposed in this Commonwealth. If enough states adopt these test procedures, it could result in a de facto National standard, removing any differences in engines and engine costs among states.

The Commonwealth also recognizes the benefits of adopting these test procedures. It is estimated that an additional 12.5 tons of NOx emissions per average summer day Statewide from trucks manufactured in 2005 and 2006 will be reduced through the adoption of this rule.

The proposed rulemaking establishes a HDD program consistent with the requirements of section 177 of the CAA (42 U.S.C.A. § 7507) and will serve as the framework for the Commonwealth's program to control emissions from new HDD engines and vehicles.

The CAA allows California (and only California) to obtain a waiver of Federal preemption to continue to set its own motor vehicle standards. The CAA was amended in 1977 to allow states to adopt emission standards for motor vehicles if the standards are identical to the California standards and a state adopts the standard at least 2 years before commencement of the model year.

Congress amended section 177 of the CAA in 1990 to prohibit states from taking any action that would have the effect of creating a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards or otherwise create a "third vehicle."

The Commonwealth's proposed HDD emissions control program does not mandate the sale or the use of any special diesel fuel which complies with the specifications adopted by the state of California. The courts have held that a state's failure to adopt California fuel requirements does not violate the section 177 of the CAA requirement that state emission standards be "identical to the California standards for which a waiver has been granted." *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 177 F.3d 521 (2d Cir. 1994).

Since HDD engines are engine certified, currently there is no mechanism in California to ensure that either a replacement engine or rebuild complies with requirements at least as stringent as the original engine. However, nonregulatory common practice dictates that when an engine is replaced, it is typically replaced with a newer, lower-emitting engine due to hardware and electronics compatibility concerns. Additionally, modern electronically controlled engines typically operate for more than 500,000 miles (and in many cases more than 1 million miles) before requiring replacements/rebuilds. By the time a typical replacement/rebuild occurs, engines older than the original engines are generally too old to be used or are not available.

Following promulgation of the proposed new HDD emissions control program regulations, amendments to Chapters 121 and 126 will be submitted to the EPA as a revision to the State Implementation Plan (SIP).

Under section 5(a)(7) of the act, the Department consulted with the Department of Transportation during the development of the proposed amendments. The Department also consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking. On April 27, 2001, the AQTAC recommended that the proposed rulemaking be submitted to the Board for consideration. AQTAC also suggested that the Department continue its aggressive efforts with other states to support uniform Federal standards for HDD vehicles to ensure progress in significantly reducing truck emissions during this decade.

This proposed rulemaking is consistent with the mandate under Executive Order 1996-1. The proposed rulemaking is necessary to achieve and maintain the ambient

air quality standard for ozone and as such is justified as a compelling and articulable State interest as required under the Executive Order.

E. Summary of Regulatory Requirements

This proposal establishes the requirements for the implementation of a new HDD emissions control program. A summary of the proposed rulemaking follows:

Chapter 121. General Provisions

The proposed amendment to § 121.1 (relating to definitions) includes terms and phrases applicable to the New HDD Emissions Control Program. The proposed definitions include the following terms: "heavy-duty diesel engine" and "heavy-duty diesel vehicle."

The proposed rulemaking also amends the definition of "new motor vehicle" or "new light-duty vehicle" to include vehicles subject to the requirements of the HDD Emissions Control Program.

Chapter 126. Motor Vehicle and Fuels Programs

Subchapter E. Pennsylvania Heavy-Duty Diesel Emissions Control Program

The title of Chapter 126 is proposed to be changed from "Standards for Motor Fuels" to "Motor Vehicle and Fuels Programs." Subchapter E contains provisions that establish a new HDD emissions control program in this Commonwealth to reduce the emissions of NO_x, SO_x, PM and air toxics from HDD engines and vehicles under section 177 of the CAA.

Proposed § 126.501 (relating to purpose) establishes a HDD emissions control program consistent with the requirements of section 177 of the CAA. It adopts and incorporates by reference certain provisions of the California exhaust emissions standards and test procedures for 1985 and subsequent model year HDD engines and vehicles. It also provides for certain exemptions from the program.

Proposed § 126.502(a) (relating to general requirements) provides that the Commonwealth's HDD Emission Control Program applies to new model year 2005 and subsequent model year HDD engines and vehicles with a gross vehicle weight rating (GVWR) greater than 14,000 pounds that are sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received in this Commonwealth.

As proposed § 126.502(b) adopts and incorporates by reference the California Exhaust Emissions Standards and Test Procedures for 1985 and Subsequent Heavy-Duty Engines and Vehicles to the extent that they pertain to model year 2005 and subsequent model year HDD engines and vehicles with a GVWR of greater than 14,000 pounds.

As proposed, § 126.502(c) adopts and incorporates by reference the California Enforcement of Vehicle Emission Standards and Surveillance Testing under Title 13 *California Code of Regulations* (CCR), Division 3, Chapter 2, Article 1.5, § 2065.

Proposed § 126.503 (relating to emission requirements) provides that a person may not sell, import, deliver, purchase, lease, rent, acquire or receive a model year 2005 and subsequent model year HDD engine or vehicle that is subject to the requirements of this program that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR.

As proposed, § 126.503(b) allows manufacturers the option to include any of the HDD engines or vehicles it

sells in this Commonwealth to participate in the averaging, banking and trading programs as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

As proposed, § 126.503(c) allows manufacturers the option to certify any of its HDD engines and vehicles delivered for sale in this Commonwealth to the optional emission standards as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

As proposed, § 126.503(d) requires that all new heavy-duty engines and vehicles subject to the requirements of this subject chapter shall possess a valid emissions control label which meets the requirements of Title 13, CCR, Division 3, Chapter 1, § 1965.

Proposed § 126.504 (relating to exemptions) provides that the following are exempt from the HDD Emissions Control Program in this Commonwealth: emergency vehicles; an HDD engine or vehicle transferred by a dealer to another dealer; an HDD vehicle transferred for use exclusively off highway; an HDD vehicle granted a National security or testing exemption under section 203(b)(1) of the CAA (42 U.S.C.A. § 7522(b)); an HDD vehicle defined as a military tactical vehicle or engine under Title 13, CCR, Division 3, Chapter 1, Article 1, § 1905; a HDD vehicle sold after the effective date of the final rule if it was registered in this Commonwealth before the effective date of the final-form rulemaking; an HDD engine or vehicle for the model years 2005 and 2006 manufactured by an ultra-small volume manufacturer as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1976(f)(2); an urban bus as defined under Title 13, CCR, Division 3, Chapter 1, Article 2, § 1956.2(b)(4) for model years 2005 and 2006; and an HDD engine that following a technology review, CARB determines it to be inappropriate to require compliance with the emissions standards under § 1956.8 for that particular model year.

Proposed § 126.511 (relating to new engine and vehicle certification testing) requires that prior to being offered for sale or lease in this Commonwealth, new HDD engines and vehicles shall be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

Proposed § 126.512 (relating to new engine and vehicle compliance testing) requires that prior to being offered for sale or lease in this Commonwealth, new HDD engines and vehicles shall be certified as meeting the HDD engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 as determined by Title 13 CCR, Chapter 2, Article 2, §§ 2101—2110.

Proposed § 126.513 (relating to assembly line testing) provides that each manufacturer of new HDD engines and vehicles subject to the Commonwealth's HDD Emission Control Program shall conduct assembly line testing in accordance with Title 13 CCR, Chapter 2, Article 1.

Proposed § 126.514 (relating to in-use engine and vehicle enforcement testing) provides that for the purposes of detection and repair of engines and vehicles that fail to meet the emission requirements of the program, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures under Title 13 CCR, Division 3, Chapter 2, Article 2.3, §§ 2136—2140.

Proposed § 126.515 (relating to in-use surveillance testing) provides that the Department may conduct in-use surveillance testing after consultation with CARB.

Proposed § 126.521 (relating to warranty and recall) provides that manufacturers of new HDD engines and

vehicles shall warrant to the owner that each engine or vehicle complies over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, Article 6, §§ 2036 and 2039—2041.

As proposed under § 126.521(b), each manufacturer shall submit to the Department failure of emission-related component reports for engines and vehicles subject to the program.

As proposed under § 126.521(c), any voluntary or influenced-related recall programs initiated by an HDD engine or vehicle manufacturer shall extend to all new HDD engines or vehicles in this Commonwealth.

As proposed under § 126.521(d), any in-use vehicle ordered recalls under Title 13 CCR, Division 3, Chapter 2, Article 2.2, §§ 2122—2135 shall extend to all new HDD engines and vehicles sold, leased or offered for sale or lease in this Commonwealth.

Proposed § 126.522 (relating to reporting requirements) provides that each manufacturer shall submit annually to the Department a report documenting the total deliveries for sale of HDD engines and vehicles for each engine family of that model year in this Commonwealth.

As proposed under § 126.522(b), each HDD engine and vehicle manufacturer shall submit annually to the Department a report of all of its HDD engines or vehicles delivered for sale that were included in any of the emissions averaging, banking and trading programs for heavy-duty diesel vehicles within the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965.

Proposed § 126.531 (relating to responsibilities of heavy-duty diesel highway vehicle dealers) provides that a dealer must convey to the owner of a new HDD engine or vehicle subject to the requirements of this subchapter a valid emission control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965.

As proposed, § 126.531(b) a dealer may not sell, offer for sale or lease, or deliver a new HDD engine or vehicle subject of this subchapter unless the engine or vehicle conforms to the standards and requirements under Title 13 CCR, Division 3, Chapter 2, Article 3, § 2151.

As proposed under § 126.531(c) a dealer who imports, sells, delivers, leases or rents any HDD engines or vehicles subject to this subchapter shall retain records concerning the transaction for at least 3 years following the transaction.

F. *Benefits and Costs*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

Benefits. The new HDD engine and vehicle emissions control program will contribute to the attainment and maintenance of the ozone health-based standard in this Commonwealth due to emission reductions from the operation of lower-emitting HDD vehicles. Modeling data from the Philadelphia area indicates that daily emissions of NO_x will be reduced by 2 tons per average summer day and 12.5 tons per average summer day Statewide from trucks manufactured in 2005 and 2006 that are subject to the requirements of this program. In addition, it is anticipated that the health of the citizens of this Commonwealth will benefit from these reductions as well as through reduced exposure of air toxics, NO_x and other air pollutants, which place people's health at risk.

Compliance Costs. The primary cost to the trucking industry will be incurred when purchasing a new truck or engine. In 2005, this regulation could increase the aver-

age cost of an engine, which has a useful life of 15 to 20 years, by as much as \$800 and increase operating costs by up to \$9 per year. Because it is difficult to separate the incremental cost of the supplemental tests from other aspects of complying with Federal and California standards, the actual cost is anticipated to be much lower.

Compliance Assistance Plan. Compliance assistance will be provided to affected parties, primarily automobile dealers, by distributing pamphlets and conducting public meetings and workshops to explain the proposed regulatory requirements. The Department will involve appropriate State trade organizations in the distribution of information to their membership. Information concerning the program will also be provided to affected consumers.

Paperwork Requirements. HDD engine and vehicle manufacturers will be required to submit paperwork demonstrating compliance with the emissions standards and other requirements of the Commonwealth's HDD emissions control program. HDD engine and vehicle dealers, leasing and rental agencies, and purchasers of HDD engines and vehicles must demonstrate to the Department that new vehicles subject to the proposed amendments meet the emissions standards.

G. *Sunset Review*

The proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

I. *Public Comments*

Written Comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by November 9, 2001. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by November 9, 2001. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us.

A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by November 9, 2001.

I. *Public Hearings.*

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held at 1 p.m. on the following dates and at the following locations:

- October 1, 2001 Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA
- October 4, 2001 Department of Environmental Protection
Southeast Regional Office
Suite 6010, Lee Park, 555 North Lane
Conshohocken, PA
- October 10, 2001 Department of Environmental Protection
Southwest Regional Office
500 Waterfront Drive
Pittsburgh, PA

Persons wishing to present testimony at a hearing are requested to contact Debra Sailor at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aide, service or other accommodation to participate should contact Debra Sailor at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

DAVID E. HESS,
Chairperson

Fiscal Note: 7-365. No fiscal impact; (8) recommends adoption.

There will be some costs to departments to comply with this regulation. Total estimated cost to comply with the regulation for 2003-04 is \$92,531, for 2004-05 is \$191,124 and for 2005-06 is \$100,417. These costs will be shared by the Department of Transportation, Turnpike Commission, Fish and Boat Commission and Game Commission.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and

terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Heavy-duty diesel engine—A diesel engine that is used to propel a motor vehicle with a GVWR of greater than 14,000 pounds.

Heavy-duty diesel vehicle—A diesel-powered motor vehicle with a GVWR of greater than 14,000 pounds.

* * * * *

New motor vehicle or new light-duty vehicle—A motor vehicle for which the equitable or legal title has never been transferred to the ultimate purchaser. For purposes of the Pennsylvania Clean Vehicles Program and the Pennsylvania Heavy-Duty Diesel Emissions Control Program, the equitable or legal title to a motor vehicle with an odometer reading of 7,500 miles or more shall be considered to be transferred to the ultimate purchaser. If the equitable or legal title to a motor vehicle with an odometer reading is less than 7,500 miles, the vehicle will not be considered to be transferred to the ultimate purchaser.

* * * * *

CHAPTER 126. [STANDARDS FOR MOTOR FUELS] MOTOR VEHICLE AND FUELS PROGRAMS

(Editor's Note: This subchapter is new and is printed in regular type to enhance readability.)

**Subchapter E. PENNSYLVANIA HEAVY-DUTY DIESEL EMISSIONS CONTROL PROGRAM
GENERAL PROVISIONS**

- Sec. 126.501. Purpose.
- 126.502. General requirements.
- 126.503. Emission requirements.
- 126.504. Exemptions.

APPLICABLE HEAVY-DUTY ENGINE AND VEHICLE TESTING

- 126.511. New engine and vehicle certification testing.
- 126.512. New engine and vehicle compliance testing.
- 126.513. Assembly line testing.
- 126.514. In-use engine and vehicle enforcement testing.
- 126.515. In-use surveillance testing.

ENGINE AND VEHICLE MANUFACTURERS' OBLIGATIONS

- 126.521. Warranty and recall.
- 126.522. Reporting requirements.

MOTOR VEHICLE DEALER RESPONSIBILITIES

- 126.531. Responsibilities of heavy-duty diesel highway vehicle dealers

GENERAL PROVISIONS

§ 126.501. Purpose.

(a) This subchapter establishes a heavy-duty diesel emissions control program under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone, particulate matter, air toxics and other air pollutants from new heavy-duty diesel engines and vehicles.

(b) This subchapter adopts and incorporates by reference certain provisions of the California Exhaust Emission Standards and Test Procedures for Heavy-Duty Diesel Engines and Vehicles.

(c) This subchapter also exempts certain new heavy-duty diesel engines and vehicles from this new emissions control program.

§ 126.502. General requirements.

(a) The Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements apply to new heavy-duty diesel engines and vehicles with a GVWR of greater than 14,000 pounds that are sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in this Commonwealth starting with the model year 2005, and each model year thereafter.

(b) The California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Heavy-Duty Engines and Vehicles, Title 13, CCR, Division 3, Chapter 1, Article 2, § 1956.8 is adopted and incorporated by reference to the extent that it pertains to the requirements for heavy-duty diesel engines and vehicles with a GVWR of greater than 14,000 pounds.

(c) The California Enforcement of Vehicle Emission Standards and Surveillance Testing, Title 13 CCR, Division 3, Chapter 2, Article 1.5, § 2065, are adopted and incorporated by reference.

§ 126.503. Emission requirements.

(a) Starting with model year 2005, a person may not sell, import, deliver, purchase, lease, rent, acquire or receive a new heavy-duty diesel engine or vehicle, subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Starting with the model year 2005, a manufacturer may elect to include its heavy-duty diesel engines or vehicles delivered for sale in this Commonwealth in the emissions averaging, banking and trading programs for heavy-duty diesel engines or vehicles as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

(c) Starting with model year 2005, a manufacturer may elect to certify any of its heavy-duty diesel engines or vehicles delivered for sale in this Commonwealth to the optional emission standards as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

(d) New heavy-duty diesel engines and vehicles subject to the requirements of this subchapter shall possess a valid emissions control label that meets the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965, incorporated herein by reference.

§ 126.504. Exemptions.

The following new heavy duty diesel engines and vehicles are exempt from the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements of this subchapter:

- (1) Emergency vehicles.
- (2) A heavy-duty diesel vehicle transferred by a dealer to another dealer.
- (3) A heavy-duty diesel vehicle transferred for use exclusively off-highway.
- (4) A heavy-duty diesel vehicle granted a National security or testing exemption under section 203(b)(1) of the Clean Air Act (42 U.S.C.A. § 7522(b)(1)).
- (5) A heavy-duty diesel vehicle defined as a military tactical vehicle or engine under Title 13, CCR, Division 3, Chapter 1, Article 1, § 1905, incorporated herein by reference.

(6) A heavy-duty diesel vehicle sold after _____ (*Editor's Note:* The blank refers to the

effective date of adoption of this proposal.), if the vehicle was registered in this Commonwealth before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.).

(7) A heavy-duty diesel engine or vehicle for the model years 2005 and 2006 manufactured by an ultra-small volume manufacturer as defined under Title 13, Division 3, Chapter 1, Article 2, § 1976(f)(2), incorporated herein by reference.

(8) For model years 2005 and 2006, an urban bus as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.2(b)(4), incorporated herein by reference.

(9) A heavy-duty diesel engine or vehicle that, following a technology review, CARB determines is inappropriate to require compliance with the emission standards under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 for a particular model year.

APPLICABLE HEAVY-DUTY ENGINE AND VEHICLE TESTING**§ 126.511. New engine and vehicle certification testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements of this subchapter shall be certified as meeting the heavy-duty diesel engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, Section 1956.8 as determined by Title 13 CCR, Chapter 2, Article 2, §§ 2101—2110.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB apply.

§ 126.512. New engine and vehicle compliance testing.

Prior to being offered for sale or lease in this Commonwealth, new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emission Control Program requirements of this subchapter shall be certified as meeting the heavy-duty diesel engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 as determined by Title 13 CCR, Chapter 2, Article 2, §§ 2101—2110.

§ 126.513. Assembly line testing.

Each manufacturer of new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emission Control Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct assembly line testing in accordance with Title 13 CCR, Chapter 2, Article 1.

§ 126.514. In-use engine and vehicle enforcement testing.

(a) For the purposes of detection and repair of engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements which fail to meet the emission requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR, Division 3, Chapter 2, Article 2.3, §§ 2136—2140, incorporated herein by reference.

(b) For purposes of compliance with subsection (a), in-use engine and vehicle enforcement testing determinations and findings made by CARB apply.

§ 126.515. In-use surveillance testing.

(a) For the purposes of testing and monitoring, the overall effectiveness of the Pennsylvania Heavy-Duty Diesel Emissions Control Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB, in accordance with Title 13 CCR, Division 3, Chapter 2, Article 3, §§ 2150—2153.

(b) For purposes of program planning, in-use surveillance testing determinations and findings made by CARB apply.

**ENGINE AND VEHICLE MANUFACTURERS'
OBLIGATIONS**

§ 126.521. Warranty and recall.

(a) A manufacturer of new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements of this subchapter which are sold, leased, offered for sale or lease in this Commonwealth, shall warrant to the owner that each engine or vehicle shall comply over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, Article 6, §§ 2036, 2039—2041 and 2046 incorporated herein by reference.

(b) Each manufacturer of new heavy-duty diesel engines and vehicles shall submit to the Department failure of emission-related components reports, as defined in Title 13 CCR, Division 3, Chapter 2, Article 2.4, § 2144, incorporated herein by reference, for engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program in compliance with the procedures in Title 13 CCR, Division 3, Chapter 2, Article 2.4, §§ 2141—2149, incorporated herein by reference.

(c) For heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program, a voluntary or influenced emission-related recall campaign initiated by any heavy-duty diesel engine or vehicle manufacturer under Title 13 CCR, Division 3, Chapter 2, Article 2.1, §§ 2111—2121, shall extend to all new heavy-duty diesel engines or vehicles sold, leased or offered for sale or lease in this Commonwealth.

(d) For heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emission Control Program, an in-use vehicle ordered recall under Title 13 CCR, Division 3, Chapter 2, Article 2.2, §§ 2122—2135,

shall extend to all new heavy-duty diesel engines or vehicles sold, leased or offered for sale or lease in this Commonwealth.

§ 126.522. Reporting requirements.

(a) For the purposes of determining compliance with the Pennsylvania Heavy-Duty Diesel Emissions Control Program, commencing with the model year 2005, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of engines and vehicles for each engine family over that model year in this Commonwealth.

(b) For the purposes of determining compliance with the Pennsylvania Heavy-Duty Diesel Emissions Control Program, each heavy-duty diesel engine and vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed calendar year, a report of its heavy-duty diesel engines and vehicles delivered for sale in this Commonwealth that were included in the emissions averaging, banking and trading programs for heavy-duty diesel engines and vehicles within the provisions of Title 13, CCR, Division 3, Chapter 1, Article 2, § 1956.8.

MOTOR VEHICLE DEALER RESPONSIBILITIES

§ 126.531. Responsibilities of heavy-duty diesel highway vehicle dealers.

(a) A dealer may not sell, offer for sale or lease, or deliver a new heavy-duty diesel engine or vehicle subject to the requirements of this subchapter without a valid emissions control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965.

(b) A dealer may not sell, offer for sale or lease, or deliver a new heavy-duty diesel engine or vehicle subject to the requirements of this subchapter unless the engine or vehicle conforms to the standards and requirements under Title 13 CCR, Division 3, Chapter 2, Article 3, § 2151.

(c) A dealer who imports, sells, delivers, leases or rents an engine or vehicle subject to the requirements of this subchapter shall retain records concerning the transaction for at least 3 years following the transaction.

[Pa.B. Doc. No. 01-1600. Filed for public inspection August 31, 2001, 9:00 a.m.]