



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

AIR QUALITY, ENERGY AND SUSTAINABILITY

Division of Air Quality

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Commissioner

October 6, 2016

Mr. John Filippelli, Director
Clean Air and Sustainability Division
United States Environmental Protection Agency
290 Broadway – Region 2
New York, New York 10007-1866

Dear Mr. Filippelli,

This letter transmits the New Jersey Department of Environmental Protection's rule, Motor Vehicle Inspection and Maintenance Program, which appeared in the New Jersey Register on October 3, 2016 (48 N.J.R. 2049 (a)). This is the final component of the State Implementation Plan revision for New Jersey's Enhanced Inspection and Maintenance Program that was previously sent to Regional Administrator Judith Enck on September 16, 2016. If you have any questions, please contact Sharon Davis from my staff at (609) 292-6722.

Sincerely,

Francis C. Steitz, Director
Division of Air Quality

c: Paul Baldauf, Acting Assistant Commissioner, NJDEP
John R. Renella, New Jersey DAG
Rick Ruvo, USEPA Region 2





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VOLUME 48, ISSUE 19

ISSUE DATE: OCTOBER 3, 2016

RULE ADOPTIONS

**ENVIRONMENTAL PROTECTION
AIR QUALITY, ENERGY, AND SUSTAINABILITY
DIVISION OF AIR QUALITY**

48 N.J.R. 2049(a)

Adopted Amendments: N.J.A.C. 7:27-14.1 through 14.7, 14.10, and 15.1 through 15.7; 7:27A-3.10; and 7:27B-4.1, 4.2, 4.3, 4.6, 4.7, 4.8, 5.1, 5.2, 5.3, and 5.5 through 5.8

Adopted Repeals: N.J.A.C. 7:27-14.8 and 14.9; and 7:27B-4.5

Adopted Repeals and New Rules: N.J.A.C. 7:27-14 Appendix, 7:27-15 Appendix; and 7:27B-5.4

Motor Vehicle Inspection and Maintenance Program

Notice of Proposed Revisions to the State Implementation Plan (SIP) for New Jersey's Enhanced Inspection and Maintenance (I/M) Program

Proposed: May 16, 2016, at 48 N.J.R. 748(a).

Adopted: September 9, 2016, by Bob Martin, Commissioner, Department of Environmental Protection.

Filed: September 9, 2016, as R.2016 d.124, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:1B-3.e, 13:1D-9, 26:2C-8 et seq., specifically 26:2C-8 through 8.5, and 8.11, and 39:8-41 et seq.; specifically 39:8-41 through 58.

DEP Docket Number: 04-16-04.

Effective Date: October 3, 2016.

48 N.J.R. 2049(a)

Operative Date: December 2, 2016.

Expiration Date: Exempt, N.J.A.C. 7:27 and 7:27B;

March 21, 2020, N.J.A.C. 7:27A.

The Department of Environmental Protection (Department) is adopting amendments, new rules, and repeals in its rules governing motor vehicle inspection and maintenance at N.J.A.C. 7:27, 7:27A, and 7:27B to update the emissions tests and standards for certain classes of both gasoline and diesel vehicles and further enhance the State's use of the available on-board diagnostic (OBD) capabilities of modern motor vehicles. The new rules, amendments, and repeals are the Department's portion of the changes to the State's enhanced motor vehicle inspection and maintenance (I/M) program, which is developed by the Department, the Motor Vehicle Commission (MVC), and the Department of the Treasury. This rulemaking also constitutes a revision to New Jersey's State Implementation Plan (SIP). The proposed and final SIP revisions are available on the Department's website at www.nj.gov/dep/baqp/sip/siprevs.htm.

The Department is repealing the exhaust emissions tests (tailpipe tests) for all gasoline-fueled motor vehicles, and the smoke opacity test for diesel-powered vehicles equipped with OBD. Under the new inspection program, every vehicle subject to inspection that is required by the United States Environmental Protection Agency (USEPA) to be equipped with an OBD system will be subject to an OBD test. The Department is also amending rules related to inspection requirements and inspection procedures. Of the three smoke opacity tests for heavy-duty diesel-powered motor vehicles, the Department is repealing the rolling acceleration smoke opacity test and the power brake smoke opacity test, and retaining only the snap acceleration smoke opacity test. The New Jersey Diesel Emission Inspection Center (DEIC) inspection forms previously in use are replaced with daily electronic reporting of diesel inspections. In the new program, private inspection facilities (PIFs) will submit diesel inspection information through an electronic portal or a workstation. Other amendments add requirements and standards for the fuel leak check, which the Motor Vehicle Commission's (MVC's) rules require; add procedures for the diesel exhaust after-treatment checks; and replace the fuel cap leak test (gas cap test) for gasoline-fueled vehicles with a visual gas cap check to ensure that a gas cap is present.

[page=2050] Enforcement-related amendments include authorizing inspectors of both gasoline-fueled and diesel-powered motor vehicles to fail a vehicle if it is determined that there has been tampering with the vehicle's emission controls, and the Department may also impose penalties for tampering with emission controls on diesel vehicles. Rule amendments also enumerate specific penalties for diesel emission control tampering. The penalties are consistent with existing penalties for tampering with emission controls on gasoline vehicles.

This rule adoption can also be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

Summary of Hearing Officer's Recommendations and Agency Response:

A public hearing was held on this rulemaking and the revision to the New Jersey State Implementation Plan that it represents on Friday, June 24, 2016, at the Department's Public Hearing Room, 1st Floor, 401 East State Street, Trenton. Tony Iavarone, Chief of the Department's Bureau of Mobile Sources, served as the hearing officer. Two persons commented at the public hearing. After reviewing the comments received, the hearing officer has recommended that the notice of proposal be adopted with the changes described in the Summary of Agency-Initiated Changes below. The Department accepts the hearing officer's recommendation. A record of the public hearing is available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection
Office of Legal Affairs

ATTN: DEP Docket No. 04-16-04
401 East State Street
Mail Code 401-04L
PO Box 402
Trenton, NJ 08625-0402

Summary of Public Comments and Agency Responses:

The Department accepted comments on the notice of proposal through July 15, 2016. The following individuals provided written and/or oral comments:

1. Doug O'Malley, Environment NJ
2. Sal Risalvato, NJ Gasoline, C-Store, Automotive Association
3. Barbara Sachau
4. Jamie Zaccaria, NJ Sierra Club

The comments received and the Department's responses are summarized below. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

State Implementation Plan (SIP)

1. COMMENT: The proposed amendments would violate the SIP. (4)

RESPONSE: The Department's analysis of the emission impacts of the proposed I/M program changes, which include the Department's adopted rules, demonstrated that the proposed changes to the I/M program achieve the two requirements that the USEPA has established regarding I/M SIP revisions.

First, the proposed I/M program changes must pass or meet the USEPA I/M Performance Standard Test. The I/M Performance Standard Test provides a gauge by which the USEPA can evaluate the adequacy and effectiveness of each state's I/M program when compared to a benchmark reference I/M program (performance standard I/M program). The USEPA I/M Performance Standard Test requires the calculation of the emissions for the state's proposed I/M program and the USEPA performance standard I/M program. Each state is required to demonstrate that its I/M program achieves applicable area-wide emission levels for the pollutants of interest that are equal to, or lower than, those that would be realized by the implementation of the performance standard I/M program. The changes to New Jersey's I/M program pass the USEPA I/M Performance Standard Test because the emissions from the State's I/M program were shown to be lower than the emissions that would result from the performance standard I/M program.

Second, the state must demonstrate that the changes to the I/M program will not interfere with the state's ability to attain or maintain any National Ambient Air Quality Standards (NAAQSs). New Jersey demonstrated this by quantifying the difference in emission reductions between New Jersey's I/M program under the existing rules and its adopted I/M program and offsetting any shortfall through new, previously unclaimed, and contemporaneous emission reductions resulting from the Department's Low Emission Vehicle (NJLEV) program (N.J.A.C. 7:27-29). The shortfall is calculated by using the USEPA MOVES2014 emissions model for both the existing and adopted I/M programs for the year being evaluated, which in this case is 2018. The differences in emissions between the existing and adopted I/M programs are the emissions shortfall. The emission reduction benefits in the evaluation year are estimated by using the USEPA MOVES2014 model with and without the model inputs that represent the NJLEV program. The NJLEV program requires new light-duty vehicles sold in the State to meet the California vehicle emissions standards. The State demonstrated that the emission reduction benefits from the NJLEV program are equal to or greater than any emission reduction benefit losses from the I/M program changes.

The Department is following the appropriate procedures for revising its I/M SIP as set forth in the Clean Air Act and the Environmental Protection Agency's implementing regulations, 42 U.S.C. § 7410 and 40 CFR Part 51, Subpart F. Additional details are provided in the proposed SIP revision documentation available at www.nj.gov/dep/baqp/sip/siprevs.htm.

Elimination of Tailpipe Testing for Older Vehicles

2. COMMENT: The elimination of the tailpipe tests for older cars will mean that more of them will be kept on the road longer than they would if they were subject to emissions inspection and required to be repaired. It will also encourage owners to not maintain their vehicles. The justification for those cars to come off the road is the stick of emissions testing, which not only ensures that the clunkers on the road are going to be retired, but also ensures that they actually get the repairs that they need. Though the number of older cars is decreasing, this proposal would slow that decrease. The proposed rules will increase air pollution because the elimination of emissions tests for older cars will allow them to continue to pollute without being repaired. New Jersey should be taking efforts to make air quality better, and not worse. The 50,000 or more cars that would be allowed to keep running because of this amendment are far dirtier than the newer cars and hybrid cars, and add air pollution that contributes to the already high levels of asthma throughout the State. (1 and 4)

RESPONSE: As stated in the notice of proposal Environmental Impact (48 N.J.R. 748(a), at 755), there may be some small increase in emissions, to the extent that the rules encourage owners of older vehicles that are no longer subject to emission inspection to keep the vehicles in service longer than they might otherwise. The Department is unable to estimate how many vehicles will remain in use, or for how long; however, the natural aging of vehicles and the less-than-ideal weather conditions in New Jersey contribute to a low rate of survival of older vehicles, particularly those that are poorly maintained. The Department anticipates that older vehicles will continue to be removed from the New Jersey vehicle fleet at a rate not significantly different from that currently observed. As the vehicles are retired, any increase in emissions that might result from implementation of these rule amendments will diminish. As stated in the notice of proposal Economic Impact, the Department estimates that, in 2018, the number of gasoline-fueled vehicles that would have failed an emissions test under the existing rules but are not subject to inspection under the adopted rules, will be approximately 40,000. By 2021, this number is expected to drop to 10,000 or fewer vehicles (48 N.J.R. at 755).

See the Response to Comment 1 for a discussion of offsets from the NJLEV program for purposes of demonstrating continued compliance with NAAQS.

3. COMMENT: The Department is correct in eliminating tailpipe inspections for older vehicles (N.J.A.C. 7:27-15 and 7:27B-5). Vehicles of model year 1995 and older, which do not have OBD systems, require a more costly and time-consuming form of inspection, the two-speed idle (TSI) test. Motor vehicle inspectors are trained technical professionals, and every minute of their time has a clear, concrete, and not inexpensive value. The act of performing a TSI test will therefore always cost a significant percentage more simply for that reason. Beyond the extra cost in staff hours, the purchase of these workstations is significantly more [page=2051] expensive (approximately three times). The current TSI workstations being used are reaching the end of their natural lifespan, and though most are still functioning, it is highly unlikely they will continue functioning for the six-year period the new inspection contract will last, much less the additional four years of extensions allowed by the contract. Further, the cost of maintenance of a TSI machine is also much higher than an OBD workstation. Add this all up and it results in a high cost per inspection as business owners try to earn back the cost of labor, the cost of the maintenance fee, and the high cost of the initial investment in the TSI workstation; not to mention all the other costs that go into operating a business, like the rent, the taxes, and the electricity.

If a PIF could count on performing multiple TSI inspections per day, then this would not present a particularly insurmountable problem. However, even now there are many PIFs that perform one or two TSI inspections per month. With such a small universe of vehicles, the high cost of these inspections must be amortized over a very small number

of customers, driving up the price substantially. The pool of vehicles that are subject to TSI under the existing rules is shrinking. Approximately 3,500 of these vehicles leave the roadways every month through attrition. If that trend were to continue at that same rate, then these vehicles would be off the roads in about five years (of a six- to 10-year contract). Even the handful that would remain would all become so old that they could in theory qualify for historic plates (depending on their usage) at that point. There simply is not, and would not be, enough potential revenue available to make TSI inspections worth the upfront and ongoing investment for a PIF. While over half of PIFs currently have a TSI machine, it is hard to imagine more than a handful choosing this option again in the new program, if it were offered. If the State were to overcompensate for this problem by mandating that all PIFs purchase a TSI machine, most current PIFs would simply abandon the program, greatly inconveniencing all motorists and driving up costs for the State.

From an environmental standpoint, the miniscule benefit to the environment from continuing these inspections is nowhere near the cost and the burden that would be involved in maintaining TSI inspection requirements, not now and certainly not six or 10 years from now. It should of course be pointed out that this change will not mean tens of thousands of perfectly functioning cars will suddenly become massive polluters with this change. The vast majority will continue to work as well as they currently do, and those that do suffer some form of malfunction will increase the chances that the owner will finally make the decision to upgrade to a car manufactured in the last 20 years; such a car would be OBD-capable and required to receive regular emissions inspections. (2)

RESPONSE: The Department acknowledges the commenter's support.

4. COMMENT: If older cars are no longer subject to emissions testing, they may not meet Federal standards for tailpipe emissions. (4)

RESPONSE: The only Federal standards for in-use (that is, not new) motor vehicles are those prescribed for emissions inspection tests when those tests are part of a state's SIP. As noted above, the Department is revising its SIP to reflect the changes to the emissions inspection tests, which are part of the State's I/M program. Thus, vehicles no longer subject to emissions testing as a result of the adopted amendments to the MVC's rules will also no longer be subject to the standards in the State's SIP. There are also Federal emissions standards for new vehicles. USEPA and California regulate the emissions that are permitted from vehicles when newly manufactured. These standards must be met by the vehicle manufacturer, not the owner of the vehicle. The Department's rules do not violate or affect the standards to which vehicles were originally designed and manufactured.

Centralized Inspection Facility (CIF) and PIF inspections

5. COMMENT: The proposed rules may lead to privatization of the inspection system, which could again lead to more vehicles not being maintained or being able to pass inspection when they should not. (4)

RESPONSE: The State's inspection system is already largely privatized and the Department's rulemaking does not modify that aspect of the program. The motor vehicle inspection system is a hybrid network that has both test-only State-run CIFs and test-and-repair PIFs. The State-run CIFs have been privately operated under contract between the State and a private vendor since 1999. PIFs have been licensed by the State to conduct inspections for more than 30 years. New Jersey motorists currently elect to use the CIFs for 86 percent of their inspections and PIFs for the remaining 14 percent of inspections.

CIFs and PIFs are required to apply the same emissions inspection procedures and may identify a vehicle as passing inspection only if the vehicle meets the standards established under the applicable rules. CIFs and PIFs are required to report the results of vehicle inspections in the same manner. All facilities and inspectors are subject to audits on a regular basis.

See the Response to Comment 2, regarding older vehicles remaining on the road.

6. COMMENT: The pilot program proposed at N.J.A.C. 7:24-15.5(f) has long-term negative implications for PIFs.

It is good that the test is limited to no more than 20,000 vehicles, though the fact that each test is so limited could leave room for future abuse. As the State moves forward in the coming years with investigating the feasibility of OBD testing that would, in effect, result in fewer inspections conducted at PIFs, it should bear in the mind the ripple effects that would result from the full-scale implementation of such a program.

The continued existence of the CIFs in the new program will continue to provide a disincentive for private facilities to become official PIFs, because for passenger vehicle inspections they are competing with CIFs that offer the same product at no cost to owners. Convenience is the one thing that a PIF can offer that a CIF does not, and allowing self-serve kiosk or remote testing would take away that advantage. Fewer incentives will result in fewer PIFs, as more small business owners decide the costs of the equipment, the staff, the licensing, and the regulatory compliance no longer make financial sense and they drop out of the program. Fewer PIFs is a problem for the State, as there will be fewer options for motorists who need a secondary form of inspection or who need a reinspection. (2)

RESPONSE: The primary goal of the Department's amendment to allow pilot testing is to evaluate inspection methods for future consideration in a manner that ensures such tests still represent legitimate inspections. The Department must consider not only technical feasibility, but also motorist convenience. The Department continues to seek additional inspection methods that further the goal of controlling emissions from motor vehicles. The more convenient it can make emission testing, the higher the compliance rate.

The Department recognizes the significant investment that a business makes when it participates in the inspection program as a PIF. The Department has taken that into account in promulgating the rules, as indicated in the notice of proposal Economic Impact (48 N.J.R. at 754). The adopted rules repeal the gas cap test and exhaust emissions components, which should save an initial \$ 3,500 per workstation that does not need to have the gas cap test and exhaust emissions components installed, and approximately \$ 110.00 per month, per workstation, in maintenance costs.

As the commenter states, PIFs provide a level of convenience for motorists that is not necessarily available at a CIF. Further, there are some inspections, such as mechanical inspections of commercial vehicles and reinspections of all vehicles, that only PIFs can provide under MVC's adopted rules (48 N.J.R. 810(a)). The Department anticipates, therefore, that there will continue to be an incentive for businesses to become PIFs.

7. COMMENT: Eliminating emissions tests at State inspection stations and sending vehicle owners to PIFs where they have to pay a fee is a form of taxation. Inspections should remain free. (3)

RESPONSE: The extent to which some inspections are available only at PIFs and others are available at CIFs is beyond the scope of the Department's proposal. However, under MVC's adopted rules (48 N.J.R. 810(a)), non-commercial vehicles may continue to undergo initial inspection at a CIF at no charge to the vehicle owner.

8. COMMENT: There should be no easing of biennial inspections at proposed N.J.A.C. 7:27-15.5. On multiple occasions over the life of the I/M program, small businesses that signed up with the State as part of various I/M programs have seen the terms of the program changed mid-stream, after they had already made the investment in equipment and training. Such a change could presage further changes in the next 10 [page=2052] years that would lead to fewer vehicles being inspected per year, which would have a chilling effect on current and potential future PIFs. (2)

RESPONSE: Inspection frequency is established statutorily at N.J.S.A. 39:8-2 and, aside from the existing new vehicle exemption, may be no less frequent than biennial. MVC determines which vehicles are subject to inspection and where inspections may be conducted.

Self-Inspections

9. COMMENT: Though the proposal acknowledges MVC is in charge of answering the fundamental questions of which vehicles should be subject to which type of inspections, the Department should take the initiative on one aspect of the inspection program, and that is the issue of self-inspections, because of the deleterious effect that self-inspections

ultimately have on the environment. The Department can and should take action with new regulations to ban self-inspections, which are increased as part of the new I/M program, rather than decreased or eliminated as they should have been.

Self-inspection is not just somewhat ineffective; it may be the single most ineffective aspect of the entire inspection program. Experience has shown that self-inspection means no inspection at all. The diesel vehicles 10,000 to 18,000 pounds that have already been cleared for self-inspection have over the last several years proven to be the most frequent and egregious violators of inspection laws. There is little point in having a law if there is no one and no way to enforce it. Theoretically, all passenger vehicles are required to self-inspect for safety since various safety statutes still apply, yet many simply ignore the laws rather than pay to comply with them. The lack of compliance that already results from self-inspection, and the increased lack of compliance that will result from expanding the qualifications for self-inspection, will lower compliance with the law and damage air quality throughout the State, and all for no meaningful benefit. The State is doubling down on the mistake and expanding this failed policy to even more vehicles. These vehicles are among the largest and potentially most lethal vehicles on the road, and are the vehicles that, if the emissions technology fails, will pollute the air far worse than if the technology fails on a typical passenger vehicle. (2)

RESPONSE: N.J.S.A. 39:8-1 gives MVC the authority, with the Department's concurrence, to determine which vehicles are subject to, or excluded from, inspection requirements. The Department is not authorized to regulate which vehicles may be excluded from inspection, or are subject to self-inspection. Therefore, this comment is beyond the scope of the Department's notice of proposal.

Emission Control Equipment and Anti-tampering

10. COMMENT: Proposed N.J.A.C. 7:27-15.6(c), requiring all vehicle emissions equipment to be functioning properly, is appropriate. Even though there will be vehicles on the road that are not inspected for functioning emissions equipment, the owners will still have to keep their vehicle properly maintained. Unfortunately, the elimination of safety inspections will encourage some motorists to ignore the requirement. Still, any added incentive to ensure that these vehicles are properly maintained is welcome. (2)

RESPONSE: The Department acknowledges the commenter's support.

11. COMMENT: The proposed enhanced anti-tampering language at N.J.A.C. 7:27-14.3(e), 14.4(a)4, 14.5, and 15.7(a) and (b) is beneficial. These amendments bring diesel inspections into compliance with rules similar to gas-powered vehicles, as they should be. Particularly welcome is the clarity that the new language brings that if there has been tampering, the vehicle must fail the inspection. (2)

RESPONSE: The Department acknowledges the commenter's support.

12. COMMENT: The proposed required check for multiple catalytic converters at N.J.A.C. 7:27B-5.5 is appropriate. When these regulations were originally written it was essentially and understandably unthought-of for vehicles to possess multiple catalytic converters. With this change in technology, it is only proper for the State to adapt its regulations as well and ensure that all emissions systems are properly installed and functioning. The clarification that an inspector must look for multiple functioning catalytic converters will prevent confusion in that a vehicle with more than one catalytic converter cannot pass inspection if even one is not working properly. (2)

RESPONSE: The Department acknowledges the commenter's support.

OBD

13. COMMENT: The Department is correct to expand OBD testing at proposed N.J.A.C. 7:27-14.5(c)1 to all vehicles that are OBD-eligible. OBD testing is convenient for the motorist and the inspector, and the most effective form of emissions testing. The more vehicles tested with it, the better for all. (2)

RESPONSE: The Department acknowledges the commenter's support.

Diesel

14. COMMENT: The requirement that diesel inspection information be submitted electronically, N.J.A.C. 7:27-14.7(c), is a positive change. As a result, diesel inspection results will be submitted through an easy to use online portal, or directly through the new workstations. This change will be easier to comply with for inspectors and will reduce accidental errors that occur under the current system, leading to more effective compliance. (2)

RESPONSE: The Department acknowledges the commenter's support.

Summary of Agency-Initiated Changes:

The Department is modifying the rules on adoption to correct the penalty tables at N.J.A.C. 7:27A-3.10(m)14 for violations of N.J.A.C. 7:27-14. The penalty table incorrectly identifies N.J.A.C. 7:27-14.3(d) as the citation for the violation class "Disabled Closed Crankcase Ventilation System or Retrofit Device." N.J.A.C. 7:27-14.3(d) is not a provision for which a penalty is directly associated, but requires general compliance with N.J.A.C. 7:27-5, Prohibition of Air Pollution, or any other applicable local, State, or Federal law. The Department is modifying N.J.A.C. 7:27A-3.10(m)14 on adoption to correct the citation for the violation class listed in the table to N.J.A.C. 7:27-14.3(f), which prohibits the disabling of a closed crankcase ventilation system.

The adopted amendments to N.J.A.C. 7:27-14.7, which include repeals and recodifications, required corresponding amendments to the penalties for these provisions at N.J.A.C. 7:27A-3.10(m)14. The Department is modifying the penalty provisions on adoption to delete the penalties for violations of N.J.A.C. 7:27-14.7(d) and (g), which are no longer in the rules as adopted. In addition, the references to N.J.A.C. 7:27-14.7(h) are corrected on adoption to N.J.A.C. 7:27-14.7(c) and the reference to N.J.A.C. 7:27-14.7(i) and (k) is corrected on adoption to N.J.A.C. 7:27-14.7(d), to conform to the codification of N.J.A.C. 7:27-14.7 as adopted.

The Department is also modifying N.J.A.C. 7:27A-3.10(m)14 on adoption to remove references to deleted footnotes.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The adopted repeals, new rule, and amendments to the Department's enhanced I/M program rules do not modify the program design so as to impose standards or requirements that exceed any Federal standards or requirements. The I/M program and the within adopted rules are intended to allow the State to comply with the Federal regulations that control establishment of enhanced I/M programs. (See generally, 40 CFR Parts 51 and 85.) Specifically, the Department is continuing and expanding the implementation of mandatory OBD inspections. The adopted program design does not exceed the Federal requirements set forth at 40 CFR Parts 51 and 85, nor do the adopted rules impose standards that exceed Federal requirements for those standards provided by the USEPA. Accordingly, no Federal standards analysis is required.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

[page=2053] CHAPTER 27
AIR POLLUTION CONTROL

SUBCHAPTER 14. CONTROL AND PROHIBITION OF AIR POLLUTION FROM DIESEL-POWERED MOTOR

VEHICLES

7:27-14.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context already indicates otherwise.

"Auxiliary power unit" or "APU" means an integrated system that provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle.

...

"Data link connector" or "DLC" means a standardized nine- or 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

...

"Diesel particulate filter" or "DPF" means an exhaust emissions aftertreatment device that physically entraps and prevents from being emitted into the air at least 85 percent of the particulate matter contained in the full exhaust stream emitted by the engine.

...

"EPA Memorandum 1A" means the memorandum dated June 25, 1974, and issued by the EPA's Office of Enforcement and General Counsel, which sets forth the EPA's interim tampering enforcement policy. This term also includes any revisions to the policy set forth in the June 25, 1974, memorandum that are subsequently issued by the EPA. A copy of this EPA memorandum has been filed with the Office of Administrative Law and may be obtained from the Bureau of Mobile Sources in the Department of Environmental Protection.

...

"Indicator light" means a light that serves to inform about a given condition in a circuit or device, such as a malfunction.

...

"Motor Vehicle Commission" or "MVC" means the New Jersey Motor Vehicle Commission established by the Motor Vehicle Security and Customer Service Act (N.J.S.A. 39A:1-1 et seq.).

"OBD-eligible" means capable of receiving an OBD inspection as determined by the Department in accordance with N.J.A.C. 7:27-14.5(h).

...

"Peak smoke opacity" means the highest numerical value of smoke opacity obtained through the testing procedures for the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(a).

...

"Private inspection facility" or "PIF" means a facility licensed by the MVC to perform emissions and mechanical inspections. A PIF may also offer motor vehicle parts and repair services.

...

"Selective catalytic reduction" or "SCR" means an advanced active emissions control technology system that injects a liquid-reductant agent through a special catalyst into the exhaust stream of a diesel engine.

...

7:27-14.2 Applicability

(a) Except as provided in (b) below, this subchapter applies to all diesel-powered motor vehicles.

(b) N.J.A.C. 7:27-14.5 and 14.6 do not apply to a diesel-powered motor vehicle that is owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes; and that is generally held in ready status, and only brought into service during an emergency requiring immediate action. Such vehicles do not include multi-purpose utility vehicles, such as dump trucks, highway construction vehicles, or other vehicles used to perform temporary emergency service.

7:27-14.3 General prohibitions

(a) (No change.)

(b) The provisions of (a) above shall not apply to:

1.-5. (No change.)

6. A vehicle equipped with a sleeper berth and which is equipped with a model year 2007 or newer engine, or has been retrofitted with a diesel particulate filter that is connected and properly functioning, while it is being used by the vehicle's operator for sleeping or resting in an area that is not zoned as residential. This exception shall not apply to a vehicle that is equipped with a functional auxiliary power unit; or

7. The operation of technology designed to reduce engine idling, such as auxiliary power units, generator sets, and bunk heaters, provided the vehicle's main engine is not operating.

(c) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes when that vehicle is parked in a parking space with available electrification technology.

(d) (No change.)

(e) No person shall cause, suffer, allow, or permit any of the following, unless it is performed in accordance with EPA Memorandum 1A or it is exempt from prohibition by CARB Executive Order (information on devices or modifications approved by CARB Executive Order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov):

1. The disconnection, detachment, deactivation, or any other alteration or modification from the design of the original vehicle manufacturer or an element of design installed on any motor vehicle with a certified configuration or motor vehicle engine with a certified configuration, except temporarily for the purpose of diagnosis, maintenance, repair, or replacement;

2. The sale, lease, or offer for sale or lease, of any motor vehicle with a certified configuration or motor vehicle engine

with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer; or

3. The sale, or offer for sale, of any device or component as an element of design intended for use with, or as part of, any motor vehicle with a certified configuration or motor vehicle engine with a certified configuration that is not designed to duplicate the function and performance of any element of design installed by the original vehicle manufacturer.

(f) (No change.)

7:27-14.4 General public highway standards

(a) No person shall cause, suffer, allow, or permit the operation of any diesel-powered motor vehicle or motor vehicle engine upon the public roads, streets, or highways of the State or upon any public property or upon any quasi-public roadway in the State, if the vehicle:

1.-3. (No change.)

4. Has an emission control apparatus or an element of design installed on the vehicle or diesel engine or exhaust system that has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer or rendered inoperable or less effective than designed by the original equipment or vehicle or engine manufacturer unless the action in question has been performed in accordance with EPA Memorandum 1A or it is exempt from prohibition by CARB Executive Order (information on devices or modifications approved by CARB Executive Order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov); or

5. (No change.)

7:27-14.5 Motor vehicle inspections

(a) This section applies to the motor vehicle inspection of a diesel-powered motor vehicle, as follows:

1. The testing of a heavy-duty diesel vehicle, as designated by the Chief Administrator of the MVC, as part of the roadside enforcement program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-46, Diesel Emission Inspection and Maintenance Program;

2. The testing of a heavy-duty diesel vehicle, as designated by the Chief Administrator of the MVC, as part of the periodic inspection program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-26.17, Compliance with diesel emission standards, equipment requirements, and test procedures; inspection and verification of [page=2054] installation of best available retrofit technology devices; periodic inspection program for diesel emissions; self-inspection; exempt vehicles;

3. The testing of a diesel bus as part of the periodic inspection program pursuant to N.J.A.C. 13:20-30, Inspection of school buses, or N.J.S.A. 48:4-1 et seq., and N.J.A.C. 16:53, Autobuses;

4. The testing of a diesel-powered motor vehicle as part of the self-inspection programs pursuant to N.J.A.C. 13:20-26, Compliance with diesel emission standards and equipment, periodic inspection program for diesel emissions and self-inspection of certain classes of motor vehicles; and

5. The testing of a light-duty diesel vehicle subject to the enhanced inspection and maintenance program pursuant to

N.J.S.A. 39:8-1 et seq.

(b) A person testing a diesel-powered motor vehicle, as referenced at (a)1, 2, 3, and 5 above, shall use diesel emissions testing equipment approved by the Department in accordance with N.J.A.C. 7:27B-4.6.

(c) A person testing a diesel-powered motor vehicle in accordance with (a)1, 2, and 3 above shall perform one of the following:

1. For an OBD-eligible vehicle, the OBD inspection at N.J.A.C. 7:27B-4.8; or
2. For a vehicle that is not OBD-eligible, the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(a).

(d) A person testing a diesel-powered motor vehicle in accordance with (a)1 through 4 above shall perform the following:

1. The visible smoke test at N.J.A.C. 7:27B-4.7(a);
2. The indicator light check at N.J.A.C. 7:27B-4.7(b);
3. The visual fuel leak test at N.J.A.C. 7:27B-4.7(c); and
4. The emission control apparatus examination at N.J.A.C. 7:27B-4.4(a) and (b).

(e) A person testing a light-duty diesel-powered motor vehicle in accordance with (a)5 above shall perform the following:

1. The visible smoke test at N.J.A.C. 7:27B-4.7(a);
2. For an OBD-eligible light-duty diesel vehicle of model year 1997 or later, the OBD inspection at N.J.A.C. 7:27B-4.8; and
3. The visual fuel leak test at N.J.A.C. 7:27B-4.7(c).

Recodify existing (e)-(g) as (f)-(h) (No change in text.)

(i) The Department maintains a list of makes and model years of motor vehicles that it has determined to not be OBD-eligible, based on the criteria at (h) above. A copy of this list is available from the Department by contacting the Bureau of Mobile Sources at (609) 292-7953 and can also be viewed and downloaded from the Department's website at www.stophthesoot.org.

7:27-14.6 Motor vehicle standards

(a) No diesel-powered motor vehicle shall be deemed to have passed an inspection unless it satisfies:

1. The general public highway standards at N.J.A.C. 7:27-14.4; and
2. The applicable motor vehicle inspections at N.J.A.C. 7:27-14.5(b) through (i).

(b) A heavy-duty diesel vehicle, tested using the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3, shall not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1.-3. (No change.)

(c) A diesel bus, tested using the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3, shall not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1.-3. (No change.)

(d) A retrofitted diesel bus, tested using the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3, shall not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1.-2. (No change.)

(e) A motor vehicle or motor vehicle engine with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer, in a manner not in accordance with EPA Memorandum 1A or not exempt from prohibition by CARB Executive Order, will be deemed to have failed the motor vehicle inspection.

(f) A diesel-powered motor vehicle required to have been retrofitted pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time retrofit compliance inspection if a visual check confirms the installation and presence of the retrofit device.

(g) A diesel bus required to have been equipped with a closed crankcase ventilation system pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time compliance inspection if a visual check confirms the installation and presence of the closed crankcase ventilation system.

(h) A diesel vehicle shall not emit visible smoke of any color in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds when measured using the test procedure at N.J.A.C. 7:27B-4.7.

(i) If, pursuant to the provisions of N.J.A.C. 7:27-14.5(c)1, a diesel vehicle is subject to an OBD inspection conducted in accordance with the inspection test procedure at N.J.A.C. 7:27B-4.8, it shall be considered to have passed said inspection, unless:

1.-7. (No change.)

7:27-14.7 Licensed emissions inspectors

(a) No person shall perform a diesel emission inspection under the periodic inspection program established pursuant to N.J.A.C. 13:20-26.17 unless the person is licensed by the Motor Vehicle Commission as a licensed emission inspector pursuant to N.J.A.C. 13:20-43.17.

(b) No person shall perform a visual verification of compliance required by N.J.A.C. 7:27-32.6 or a one-time compliance inspection required by N.J.A.C. 7:27-32.21 unless the person is a licensed emission inspector and has successfully completed Department-approved training to perform such inspections.

(c) A licensed emission inspector shall be responsible for the submission of diesel inspection information that includes, but is not limited to, the vehicle owner's contact information, vehicle and engine identification numbers, ambient weather conditions, engine test parameters, and emission inspection results.

(d) A licensed emission inspector shall electronically submit to the State, as directed by the MVC, the diesel inspection

information obtained pursuant to (c) above, within one business day after the inspection of the vehicle.

7:27-14.8 and 14.9 (Reserved)

7:27-14.10 Penalties

Any person who violates the provisions of this subchapter may be subject to civil administrative penalties under the provisions of N.J.A.C. 7:27A-3.10(m)14.

APPENDIX

The following table highlights the provisions of N.J.A.C. 7:27-14.5 to show generally the emissions tests to be administered to each category of vehicle inspected or reinspected:

Weight Class (GVWR)	Model Year	Smoke Opacity Test	Indicator Light Check	OBD Test	Visible Smoke Test	Fuel Leak Test
<= 8,500 lbs.	1997 and newer	N/A	N/A	All OBD-eligible	All	All
>= 8,501 and <= 10,000 lbs.	All	N/A	N/A	All OBD-eligible	All	All
>= 10,001 and <= 14,000 lbs.	All	N/A	N/A	All OBD-eligible	All	All
> 14,000 lbs.	All	All	DPF check: 2007 and newer SCR check: 2010 and newer	All OBD-eligible	All	All

SUBCHAPTER 15. CONTROL AND PROHIBITION OF AIR POLLUTION FROM GASOLINE-FUELED MOTOR VEHICLES**7:27-15.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Data link connector" or "DLC" means a standardized nine- or 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

...

"EPA Memorandum 1A" means the memorandum dated June 25, 1974, and issued by the EPA's Office of Enforcement and General Counsel, which sets forth the EPA's interim tampering enforcement policy. This term also includes any revisions to the policy set forth in the June 25, 1974, memorandum that are subsequently issued by the EPA. A copy of this EPA memorandum has been filed with the Office of Administrative Law and may be obtained from the Bureau of Mobile Sources in the Department of Environmental Protection.

...

"Motor vehicle testing equipment" means equipment used to conduct a test of a gasoline-fueled motor vehicle at N.J.A.C. 7:27B-5, and which satisfies all applicable specifications at N.J.A.C. 7:27B-5.8, Specifications for motor vehicle testing equipment for use in the New Jersey Enhanced Inspection and Maintenance Program. For motor vehicle inspections conducted pursuant to N.J.A.C. 7:27B-5 and this subchapter, this term shall include all devices used for performing a motor vehicle inspection, including, but not limited to, on-board diagnostic scanners and analyzers, and computers and related software.

...

"OBD-eligible" means capable of receiving an OBD inspection as determined by the Department in accordance with N.J.A.C. 7:27-15.5(j).

...

"Pilot test" means a program of limited scope designed by the Department and the MVC to evaluate future inspection test methods. Each pilot test shall apply to no more than 20,000 vehicles over the duration of the pilot test. Each pilot test shall require, at a minimum, the use of OBD testing.

...

7:27-15.2 Applicability

(a) Except as provided in (b) and (c) below, this subchapter applies to all light-duty gasoline-fueled vehicles, light-duty gasoline-fueled trucks, and heavy-duty gasoline-fueled vehicles.

(b) This subchapter does not apply to:

1. Motor vehicles operated solely on diesel fuel;
2. Motorcycles; or
3. Motor vehicles that operate solely on electric power, and that are incapable of combusting fuel at any time.

(c) N.J.A.C. 7:27-15.5 applies only to those light-duty gasoline-fueled vehicles, light-duty gasoline-fueled trucks, and heavy-duty gasoline-fueled vehicles that are subject to inspection in accordance with N.J.S.A. 39:8.

(d) (No change.)

(e) Except as provided in (f) and (g) below, the applicability of the standards in this subchapter and of the test procedures at N.J.A.C. 7:27B-5.3 through 5.7, to a motor vehicle with an engine other than the engine originally installed by the manufacturer is based on the chassis type and model year of the motor vehicle, not on the engine model year.

(f) A motor vehicle that is modified to operate solely on a fuel other than that for which the motor vehicle was originally equipped is subject to the test procedures and standards applicable to a motor vehicle of the fuel type the vehicle is operating on at the time of inspection. If the motor vehicle's fuel type after modification is one to which this subchapter does not apply (for example, a gasoline engine replaced with a diesel engine or an electric motor), the motor vehicle is exempt from this subchapter.

(g) A motor vehicle that is modified or manufactured to operate on more than one fuel type (for example, a flexible fuel gasoline-methanol vehicle or bi-fuel gasoline-propane vehicle) is subject to inspection using the fuel mixture in the vehicle at the time of inspection and subject to the emission standards applicable to a vehicle fueled by gasoline.

(h) The provisions of (e), (f), and (g) above shall not be construed to allow any of the following acts, if such act is prohibited by N.J.A.C. 7:27-15.7:

1. The installation of an engine into a motor vehicle other than the engine originally installed by the manufacturer;
2. The operation of a motor vehicle on a fuel other than that for which the motor vehicle was originally equipped; and
3. The modification of a motor vehicle to operate on more than one fuel type.

7:27-15.3 General public highway standards

(a) (No change.)

(b) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow, or permit the operation of the motor vehicle upon the public roads, streets, or highways of the State or any public or quasi-public property in the State, if the vehicle fails to meet any applicable standard at N.J.A.C. 7:27-15.6.

(c)-(d) (No change.)

7:27-15.4 New motor vehicle dealer inspections

(a) (No change.)

(b) Whenever applicable emission specifications are not prescribed by the manufacturer, the standards at N.J.A.C. 7:27-15.6 shall apply to the new motor vehicle.

7:27-15.5 Motor vehicle inspections

(a) The owner of a motor vehicle subject to this section pursuant to N.J.A.C. 7:27-15.2 shall ensure that the motor vehicle is inspected at the frequency required by the MVC at N.J.S.A. 39:8-2. This inspection includes an initial inspection, together with any reinspections required pursuant to (g) below.

(b) Initial inspections and reinspections are performed at an inspection facility or other location determined by the MVC pursuant to N.J.S.A. 39:8-2.

(c) A motor vehicle inspection is not complete until the motor vehicle passes all of the tests and satisfies all of the requirements, as specified in (e) and (f) below, as applicable, that constitute the inspection or reinspection.

(d) The motor vehicle shall be inspected as presented at the inspection facility or other MVC-determined location, as specified in (b) above, without repair or adjustment prior to the inspection.

(e) Except as set forth in (f) below, a motor vehicle inspection shall include the following:

1. (No change.)

2. For an OBD-eligible motor vehicle, an OBD inspection utilizing motor vehicle testing equipment approved by the Department and conducted in accordance with N.J.A.C. 7:27B-5.6;

3. (No change.)

4. A visual fuel leak test conducted in accordance with N.J.A.C. 7:27B-5.4;

5. For any motor vehicle that is subject to a recall notice issued to the owner on or after January 1, 1995, pursuant to either a "Voluntary Emissions Recall" as defined at 40 CFR 85.1902(d) or to a remedial plan determination made pursuant to 42 U.S.C. § 7541(c), the provision by the owner of the motor vehicle of documentation that all applicable recall [page=2056] repairs have been completed; provided, however, for any recall notice received fewer than 60 days prior to inspection, this documentation may, instead, be provided at the next scheduled vehicle inspection; and

6. A visual fuel cap test conducted in accordance with N.J.A.C. 7:27B-5.7.

(f) For an OBD-eligible motor vehicle, an inspection may consist solely of an OBD inspection in accordance with (e)2 above if the inspection is conducted as part of a pilot test.

(g) The owner of a motor vehicle that fails to pass all of the tests that constitute a motor vehicle inspection pursuant to (e) above shall have it reinspected in accordance with every applicable element of (e) above by the deadline specified by the MVC at N.J.A.C. 13:20-7.5, 7.6(a), or 43.14(g), as applicable. Operation of the motor vehicle upon the public roads, streets, or highways of the State or any public or quasi-public property in the State is prohibited pursuant to N.J.A.C. 7:27-15.3(c) unless, by the deadline established by the MVC at N.J.A.C. 13:20-7.5, 7.6(a), or 43.14(g), as applicable, the motor vehicle passes all of the tests and meets all the requirements that constitute the inspection or reinspection.

(h) (No change in text.)

Recodify existing (l)-(m) as (i)-(j) (No change in text.)

(k) The Department maintains a list of makes and model years of motor vehicles that it has determined to not be OBD-eligible, based on the criteria at (j) above. A copy of this list is available from the Department by contacting the Bureau of Mobile Sources at (609) 292-7953 and can also be viewed and downloaded from the Department's website at www.stopthesoot.org.

7:27-15.6 Motor vehicle standards

(a) (No change.)

(b) If, pursuant to the provisions of N.J.A.C. 7:27-15.5(e) or (f), a motor vehicle is tested using an OBD inspection conducted in accordance with the inspection test procedure at N.J.A.C. 7:27B-5.6, it shall be considered to have passed said inspection unless:

Recodify existing i.-iii. as 1.-3. (No change in text.)

4. The number of systems that have non-continuous readiness monitors that are not ready for inspections equals or exceeds the following criteria: three "not ready" codes for motor vehicles model year 1996 through 2000 and two "not ready" codes for motor vehicles model year 2001 and newer, as established at 40 CFR 51.357, incorporated herein by reference;

Recodify existing v.-viii. as 5.-8. (No change in text.)

(c) A motor vehicle shall have a properly functioning and properly maintained emission control apparatus as determined according to the test procedures established at N.J.A.C. 7:27B-5.5.

(d) A motor vehicle shall not exhibit any fuel leaks, as determined according to the visual fuel leak test procedure at N.J.A.C. 7:27B-5.4.

(e) A motor vehicle shall have all required fuel caps present as determined according to the visual fuel cap test procedure established at N.J.A.C. 7:27B-5.7.

7:27-15.7 Prohibition of tampering with emission control apparatus

(a) No owner or operator of a motor vehicle shall cause, suffer, allow or permit any of the following, unless it is performed in accordance with EPA Memorandum 1A or it is exempt from prohibition by CARB Executive Order (information on devices or modifications approved by CARB Executive Order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov):

1. The disconnection, detachment, deactivation, or any other alteration or modification from the design of the original vehicle manufacturer of an element of design installed on any motor vehicle with a certified configuration or motor vehicle engine with a certified configuration, except temporarily for the purpose of diagnosis, maintenance, repair, or replacement;

2. The operation on the public roads, streets, or highways of the State or any public or quasi-public property in the State of any motor vehicle with a certified configuration or motor vehicle engine with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer;

3. The sale, lease, or offer for sale or lease, of any motor vehicle with a certified configuration or motor vehicle engine with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer; or

4. (No change.)

(b) A motor vehicle or motor vehicle engine in violation of (a)1 above will be deemed to have failed the motor vehicle inspection required pursuant to N.J.A.C. 7:27-15.5.

APPENDIX

The following table highlights the provisions of N.J.A.C. 7:27-15.5 to show generally the emissions tests to be administered to each category of vehicle inspected or reinspected:

Weight Class (GVWR)	Model Year	OBD Test	Visible Smoke Test	Fuel Leak Test	Catalytic Converter Check	Visual Fuel Cap Test
<= 8,500 lbs.	1995 and older	N/A	All	All	All originally equipped (model years 1975 and newer)	All
<= 8,500 lbs.	1996 and newer	All OBD-eligible	All	All	All	All
>= 8,501 and <= 14,000 lbs.	2007 and older	N/A	All	All	All originally equipped (model years 1975 and newer)	All
>= 8,501 and <= 14,000 lbs.	2008 and newer	All OBD-eligible	All	All	All	All

lbs.

> 14,000 lbs.	2013 and older	N/A	All	All	All originally equipped (model years 1975 and newer)	All
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> 14,000 lbs.	2014 and newer	All OBD- eligible	All	All	All	All
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[page=2057] CHAPTER 27A
AIR ADMINISTRATIVE PROCEDURES AND PENALTIES

SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a)-(l) (No change.)

(m) The violations of N.J.A.C. 7:27, whether the violation is minor or non-minor in accordance with (q) through (t) below, and the civil administrative penalty amounts for each violation are as set forth in the following Civil Administrative Penalty Schedule. The numbers of the following subsections correspond to the numbers of the corresponding subchapter in N.J.A.C. 7:27. The rule summaries for the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.

CIVIL ADMINISTRATIVE PENALTY SCHEDULE

1.-13. (No change.)

14. The violations of N.J.A.C. 7:27-14, Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles, and the civil administrative penalty amounts for each violation, per vehicle, are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense
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...

N.J.A.C. 7:27-14.3(e)1	Owner of four or fewer vehicles	NM	\$ 400	\$ 800
	Owner of five or more vehicles	NM	\$ 1,000	\$ 2,000
N.J.A.C. 7:27-14.3(e)2	Sale/Offer for Sale; Lease/Offer for Lease by owner for four or fewer vehicles	NM	\$ 1,000	\$ 2,000
	Sale/Offer for Sale; Lease/Offer for Lease by owner for five or fewer vehicles	NM	\$ 2,000	\$ 4,000
N.J.A.C. 7:27-14.3(e)3	Offer for Sale/Sale of Device/Component	NM	\$ 2,000	\$ 4,000
N.J.A.C. 7:27-14.3*[(d)**(f)*	Disabled Closed Crankcase Ventilation System or Retrofit Device	NM	\$ 1,000	\$ 2,000
N.J.A.C. 7:27-14.4(a)4	Passenger vehicle registration	NM	\$ 500	\$ 1,000
	Commercial vehicle registration	NM	\$ 1,000	\$ 2,000

...

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*[N.J.A.C. 7:27-14.7(d)	Submit Application	M	\$ 250	\$ 500
N.J.A.C. 7:27-14.7(g)	Complete Updates	M	\$ 250	\$ 500
N.J.A.C. 7:27-14.7*[(h)]**(e)*	Complete Form and Maintain Records	M	\$ 250	\$ 500
N.J.A.C. 7:27-14.7*[(i) and (k)]* *(d)*	Submit Inspection Form	M	\$ 250	\$ 500
Citation	Third			Fourth and Subsequent Offense
...				
N.J.A.C. 7:27-14.3(e)1	\$ 2,000		\$ 6,000	
	\$ 5,000		\$ 15,000	
N.J.A.C. 7:27-14.3(e)2	\$ 5,000		\$ 15,000	

	\$ 10,000	\$ 30,000
N.J.A.C. 7:27- 14.3(e)3	\$ 10,000	\$ 30,000
N.J.A.C. 7:27- 14.3*[(d)]**(f)*	\$ 3,500	\$ 5,000
N.J.A.C. 7:27- 14.4(a)4	\$ 2,500	\$ 7,500
	\$ 5,000	\$ 15,000
...		
*[N.J.A.C. 7:27- 14.7(d)]	\$ 750	\$ 1,500
N.J.A.C. 7:27- 14.7(g)	\$ 750<11>	\$ 1,500<11>]*

N.J.A.C. 7:27	\$ 750*[*]<11>*	\$ 1,500*[*]<11>
14.7*[(h)]***(e)*		

N.J.A.C. 7:27-	\$ 750*[*]<11>*	\$ 1,500*[*]<11>*
14.7*[(i) and (k)]*		
(d)		

<1> (No change.)

15.- 34. (No change.)

(n)-(t) (No change.)

CHAPTER 27B
 SAMPLING AND ANALYTICAL PROCEDURES

SUBCHAPTER 4. AIR TEST METHOD 4: TESTING PROCEDURES FOR DIESEL-POWERED MOTOR VEHICLES

7:27B-4.1 Definitions

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

...

"Data link connector" or "DLC" means a standardized nine- or 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

...

"Diesel emission fluid" or "DEF" means an aqueous solution made with urea and water, used as a consumable in selective catalytic reduction to lower NO_x concentration in the diesel exhaust emissions from diesel engines.

...

"Diesel particulate filter" or "DPF" means an exhaust emissions aftertreatment device that physically entraps and prevents from being emitted into the air at least 85 percent of the particulate matter contained in the full exhaust stream emitted by the engine.

...

"Indicator light" means a light that serves to inform about a given condition in a circuit or device, such as a malfunction.

...

"Peak smoke opacity" means the highest numerical value of smoke opacity measured during a snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(a).

...

[page=2058]"Private inspection facility" or "PIF" means a facility licensed by the MVC to perform emissions inspections that may also offer motor vehicle parts and repair services.

...

"SAE J1939" means the recommended practice in document number J1939 published by the Society of Automotive Engineers in April 2000, entitled Recommended Practice for a Serial Control and Communications Vehicle Network, and all appendices attached thereto, incorporated herein by reference, as supplemented or amended (www.sae.org).

...

"Selective catalytic reduction" or "SCR" means an emission control system that injects diesel exhaust fluid into the exhaust stream where it reacts with a catalyst to reduce NO_x emissions.

...

7:27B-4.2 General instructions for all tests

(a) An inspector conducting an emissions test on a heavy-duty diesel vehicle or diesel bus pursuant to any provision of this subchapter including, but not limited to, N.J.A.C. 7:27B-4.3, 4.4(a), and 4.4(b), shall perform the test in accordance with the following general procedures:

1.-2. (No change.)

3. Prior to testing, ensure that the engine is at normal operating temperature by operating the vehicle on a highway for a minimum of 15 minutes;

4. Examine the vehicle's exhaust system for integrity. For testing at a PIF, only, tighten all loose pipe connections and repair all significant exhaust leaks before performing a test;

5.-7. (No change.)

8. Determine that the engine speed governor is in proper operating condition. For PIFs only, make this determination as follows: operate the engine with the transmission in neutral and the clutch disengaged. Gradually increase the engine speed from curb idle to high idle while observing an RPM sensor connected to the engine. The engine speed should not exceed high idle as specified by the engine manufacturer with the accelerator pedal fully depressed. If the engine speed continues increasing beyond the manufacturer's rated high idle, immediately release the accelerator pedal. If the engine speed increases uncontrollably, immediately release the accelerator pedal and shut off the engine's fuel supply. Discontinue emission testing of any vehicle with dysfunctional or out-of-specification engine speed governors. Do not resume testing unless and until speed governor repairs are made;

9.-10. (No change.)

(b) An inspector conducting an emissions test on a light-duty diesel vehicle pursuant to any provision of this subchapter, including, but not limited to, N.J.A.C. 7:27B-4.7 and 4.8, shall perform the test in accordance with the following general procedures:

1.-3. (No change.)

4. Prior to testing, ensure that the vehicle is at normal operating temperature by doing one of the following:

i. Check the vehicle's engine coolant temperature gauge to confirm that the vehicle is at a normal operating temperature, as indicated by the gauge (that is, that engine coolant temperature is in the "normal" range as specified by the vehicle manufacturer, or, if the "normal" range is not specified by the vehicle manufacturer, is at least 70 degrees Celsius (160 degrees Fahrenheit); or

ii. Operate the vehicle on the road at speeds above 35 MPH for at least 20 minutes; and

5. (No change.)

(c)-(d) (No change.)

(e) The Department maintains a list of approved equipment for specific test procedures. The Department periodically reviews and evaluates equipment offered by manufacturers of motor vehicle testing equipment of which it is aware or has been made aware and update this list. A copy of this list can be obtained from:

Department of Environmental Protection

Bureau of Mobile Sources - Diesel Inspection Program

Mail Code 401-02E

PO Box 420

Trenton, NJ 08625-0420

7:27B-4.3 Procedures for using a smokemeter to measure the smoke opacity of heavy-duty diesel vehicles and diesel buses

(a) The testing procedures for the snap acceleration smoke opacity test, required pursuant to N.J.A.C. 7:27-14.5, shall be performed on heavy-duty diesel vehicles and diesel buses as follows:

1. (No change.)

2. For a PIF, only, affix the RPM sensor to the engine and vehicle according to the smokemeter manufacturer's instructions;

3. For a PIF, only, connect the engine RPM sensor to the smokemeter according to the smokemeter manufacturer's instructions;

Recodify existing 5.-12. as 4.-11. (No change in text.)

12. Repeat (a)11 above at least four more times. This shall include, at a minimum, two preliminary snap accelerations to

remove loose soot from the exhaust system for a stabilized reading, and a minimum of three snap accelerations for the official test, the average of which shall constitute the final test result; and

13. (No change in text.)

TABLE 1

(No change.)

7:27B-4.5 (Reserved)

7:27B-4.6 Specifications for diesel emissions testing equipment for determining compliance with N.J.A.C. 7:27-14

(a) A smokemeter used to measure smoke opacity in the exhaust emissions of a diesel-powered motor vehicle in order to determine the vehicle's compliance with N.J.A.C. 7:27-14 shall conform to all specifications and standards set forth in SAE J1667.

(b) Equipment used for performing the OBD inspection at N.J.A.C. 7:27B-4.8 shall be approved by the Department as provided at N.J.A.C. 7:27B-4.2(d) and shall meet the requirements of 40 CFR 85.2231, incorporated herein by reference and SAE J1939.

7:27B-4.7 Procedures for the visible smoke, indicator light check, and visual fuel leak tests

(a) An inspector conducting a visible smoke test to determine a diesel vehicle's compliance with the inspection requirements at N.J.A.C. 7:27-14.5(d)1 and (e)1 shall perform the test as follows:

1.-4. (No change.)

(b) An inspector conducting an indicator light check test to determine a diesel vehicle's compliance with the inspection requirements at N.J.A.C. 7:27-14.5(d)2 shall perform the test as follows:

1. Determine if the check engine light is functional as follows:

i. Turn off the motor vehicle's engine;

ii. Turn the motor vehicle ignition system to the KOEO position;

iii. If the check engine light is not functional, the motor vehicle has failed the indicator light check test; and

iv. If the check engine light is functional and remains illuminated with the engine on, the motor vehicle has failed the inspection;

2. If the vehicle is equipped with a DPF, determine if the DPF is functional as follows:

i. If the motor vehicle is in regeneration mode, then the vehicle cannot be inspected;

ii. Turn off the motor vehicle's engine;

iii. Turn the motor vehicle ignition system to the KOEO position; and

iv. If the DPF light is not functional, the motor vehicle has failed the indicator light check test;

3. If the vehicle is equipped with a SCR, determine if the SCR is functional as follows:

i. Turn off the motor vehicle's engine;

ii. Turn the motor vehicle ignition system to the KOEO position;

iii. If the SCR light is not functional, the motor vehicle has failed the indicator light check test;

iv. If the DEF tank gauge indicates empty or no fluid, the motor vehicle has failed the inspection.

(c) An inspector conducting a visual fuel leak test to determine a motor vehicle's compliance with the visual fuel leak test requirements at N.J.A.C. 7:27-14.5(d)3 and (e)3 shall examine the fuel system for the presence of any leaking fuel. If any fuel is visibly leaking from the motor vehicle, the motor vehicle has failed the visual fuel leak test.

[page=2059] 7:27B-4.8 Procedures for the on-board diagnostics inspection

(a) The procedure for the OBD inspection, to be used to determine a diesel vehicle's compliance with the OBD inspection requirements at N.J.A.C. 7:27-14.5 is as follows:

1.-12. (No change.)

(b) (No change.)

SUBCHAPTER 5. AIR TEST METHOD 5: TESTING PROCEDURES FOR GASOLINE-FUELED MOTOR VEHICLES

7:27B-5.1 Definitions

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

...

"Data link connector" or "DLC" means a standardized nine- or 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

...

"OBD-eligible" means capable of receiving an OBD inspection as determined by the Department in accordance with N.J.A.C. 7:27-15.5(j).

...

7:27B-5.2 General instructions for all tests

(a) An inspector, conducting an emissions test on a gasoline-fueled motor vehicle pursuant to any provision of this subchapter, including, but not limited to, N.J.A.C. 7:27B-5.3 through 5.8, shall perform the test in accordance with the following general procedures:

1. (No change.)
2. Prior to testing, turn off all vehicle accessories, including, but not limited to, air conditioning, heating, defroster, radio and lights; and
3. Prior to testing, ensure that the motor vehicle emission testing equipment is calibrated in accordance with the manufacturer's requirements.

(b)-(c) (No change.)

7:27B-5.3 Procedures for the visible smoke test for gasoline-fueled motor vehicles

(a) (No change.)

7:27B-5.4 Procedure for the visual fuel leak test

An inspector conducting a visual fuel leak test to determine a motor vehicle's compliance with the visual fuel leak test requirements at N.J.A.C. 7:27-15.5 shall examine the vehicle's fuel system for the presence of any leaking fuel. If any fuel is visibly leaking from the motor vehicle, the motor vehicle has failed the visual fuel leak test.

7:27B-5.5 Emission control apparatus examination procedure

(a) The procedure for examination of the emission control apparatus of a motor vehicle equipped with one or more catalytic converters as original equipment, required at N.J.A.C. 7:27-15.5, consists of a visual check to determine whether one or more properly installed catalytic converters is present on the motor vehicle.

(b) A motor vehicle originally equipped with one or more catalytic converters shall fail the emission control apparatus compliance examination if:

1. The vehicle is not equipped with the same number of catalytic converters with which it was originally equipped; and
2. Any catalytic converter is not in the same location as originally equipped.

(c) A motor vehicle that has failed the emission control apparatus compliance examination in accordance with (b) above shall be properly equipped with one or more replacement catalytic converters certified according to EPA procedures and subsequently reinspected. The reinspection shall be conducted in accordance with (b) above.

7:27B-5.6 Procedure for the on-board diagnostics inspection

(a) The procedure for the OBD inspection, to be used to determine a motor vehicle's compliance with the OBD inspection requirements at N.J.A.C. 7:27-15.5, is as follows:

1.-13. (No change.)

(b) The OBD inspection procedure is largely a process whereby the motor vehicle testing equipment and the motor vehicle's OBD system interface and exchange information. As such, the description of the on-board diagnostics inspection procedure at (a) above is a brief, simplified description that does not contain explicit technical details. A more detailed flow chart version, reflecting the logic flow of pass and fail determinations within the procedure, as well as the Department's OBD equipment specifications, which contain additional technical details, are available

electronically by contacting the Department's Bureau of Mobile Sources at (609) 292-7953.

(c) In the case of a motor vehicle that is equipped with an OBD system but that is not OBD-eligible, as determined by the Department in accordance with N.J.A.C. 7:27-15.5(j), the procedure to be used to determine compliance with the OBD inspection requirements at N.J.A.C. 7:27-15.5, is as follows:

1.-4. (No change.)

5. If the motor vehicle has failed the OBD inspection described in (c)1 through 4 above, the reinspection of the motor vehicle shall include a repeat of the procedure described in (c)1 through 4 above.

7:27B-5.7 Procedure for the visual fuel cap test

(a) The procedure to determine a motor vehicle's compliance with the visual fuel cap test requirements at N.J.A.C. 7:27-15.5 is as follows:

1. Examine the vehicle to determine if all fuel caps with which the vehicle is required to be equipped are physically present and properly attached to cover and seal each fuel tank inlet. If so, the motor vehicle shall be deemed to have passed the visual fuel cap test; and

2. If the vehicle is equipped by the manufacturer with a capless fuel filler system, examine the vehicle to determine if the capless fuel filler is intact, shows no signs of excessive wear, and appears to seal properly. If so, the motor vehicle shall be deemed to have passed the visual fuel cap test.

7:27B-5.8 Specifications for motor vehicle testing equipment for use in the New Jersey Enhanced Inspection and Maintenance Program

Equipment used for performing the OBD inspection, as set forth at N.J.A.C. 7:27B-5.6, shall be approved by the Department as provided at N.J.A.C. 7:27B-5.2(c) and shall conform with the provisions of 40 CFR 85-2231, and all subsequent revisions thereto, incorporated herein by reference.