

PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO AIR QUALITY, CHAPTER 391-3-1

The Rules of the Department of Natural Resources, Chapter 391-3-1, Air Quality Control are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific Rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed to be deleted.]

Rule 391-3-1-.02(2), “Emission Limitations and Standards,” subparagraph (ooo) thereof, relating to “Heavy-Duty Diesel Engine Requirements,” is being amended to read as follows:

(ooo) Heavy-Duty Diesel Engine Requirements.

1. For the purpose of this rule, the following definitions shall apply:
 - (i) “California Air Resources Board” or “CARB” means the governmental body for the state of California that regulates air emissions;
 - (ii) “Executive Order” means a document issued by the California Air Resources Board certifying that a specified engine family or model year vehicle has met all applicable requirements of Title 13 of the California Code of Regulations (CCR) for certification and sale in California;
 - (iii) “Division” means the Environmental Protection Division of the Georgia Department of Natural Resources;
 - (iv) “Heavy-duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater;
 - (v) “Heavy-duty motor vehicle” means a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater;
 - (vi) “Model year” means the manufacturer’s annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis;

- (vii) “Motor vehicle” means any self-propelled vehicle that is used for transporting persons or commodities on public roads;
- (viii) “New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser;
- (ix) “New motor vehicle engine” means a new engine in a motor vehicle;
- (x) “Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person that in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale;
- (xi) “Ultra-small volume manufacturer” means any manufacturer with California sales less than or equal to 300 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model year based on the average number of vehicles and engines sold by the manufacturer in the previous three consecutive model years;
- (xii) “Urban bus” means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine, or of a type normally powered by a heavy heavy-duty diesel engine, with a load capacity of fifteen (15) or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or token, rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, e.g., restrooms, large luggage compartments, and facilities for stowing carry-on luggage; and
- (xiii) “Emergency vehicle”, shall have the same meaning as the term under section 165 of the California Vehicle Code;
- (xiii) “Gross vehicle weight rating” means the weight specified by the manufacturer as the loaded weight of a single vehicle; and
- (xiv) “Military tactical vehicle and equipment” means a motor vehicle or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

2. The Division hereby adopts and incorporates by reference the exhaust emission standards ~~(and associated performance test procedures)~~ for model year 2005 and subsequent model year heavy-duty diesel engines adopted by the California Air Resources Board on December 12, 2002, and as subsequently amended by CARB on October 20, 2005, and October 27, 2005, including associated performance test procedures and idling requirements. These standards are found in section 1956.8 of Title 13 of the California Code of Regulations, which incorporates by reference the test procedures for determining compliance with the standards.
3. No person who is a resident of this state or who operates an established place of business within this state, shall sell, lease, rent, import or deliver in this state; lease, purchase, acquire or receive in this state; or offer for sale, lease or rental in this state (or attempt or assist in any such prohibited action) any of the following types of motor vehicles or engines that are intended primarily for use or for registration in this state, unless the manufacturer of the engine has received an Executive Order:
 - (i) A 2005 or subsequent model year heavy-duty diesel engine;
 - (ii) A new motor vehicle equipped with a 2005 or subsequent model year heavy-duty diesel engine; or
 - (iii) A motor vehicle with a new 2005 or subsequent model year heavy-duty diesel engine.
4. Notwithstanding subparagraph 3 above, the requirements of this rule shall not apply to:
 - (i) A model year 2005 or 2006 heavy-duty diesel engine manufactured by an ultra-small volume;
 - (ii) A heavy-duty diesel engine intended for use in an urban bus;
 - (iii) An engine if, following a technology review, the California Air Resources Board determines that it is inappropriate to require compliance for heavy-duty diesel engines of that particular model year and engine family;
 - (iv) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen;
 - (v) A vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;

- (vi) A motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. Section 7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state provides satisfactory evidence to the Georgia Department of Revenue and/or Georgia Department of Motor Vehicle Safety of the previous residence and registration;
 - (vii) An emergency vehicle;
 - (viii) A military tactical vehicle or equipment; or
 - (ix) Any other vehicles exempted by section 43656 of the California Health and Safety Code.
5. Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any heavy-duty diesel engine requirements adopted by such Board on December 12, 2002, and as subsequently amended by CARB on October 20, 2005, and October 27, 2005, shall be applicable to all such engines and motor vehicles subject to this rule that are sold, leased or rented; offered for sale, lease or rental; or registered in Georgia; except where the manufacturer demonstrates to the Division's satisfaction, within 21 days of issuance of such California Air Resources Board action, that this action is not applicable to such engines or vehicles in Georgia.
 6. No heavy duty vehicle that is manufactured after April 1, 2007, may be sold, leased or registered in this State unless (1) it contains an engine certified by CARB as meeting all requirements of section 1956.8, Title 13, California Code of Regulations that apply to MY 2007 and subsequent engines and (2) the sale, lease or registration of such vehicle will not result in a violation of the phase-in, averaging, banking or trading or early incentive provisions of this rule.
 7. No person may at any time remove or render inoperative any device or element of design, installed on or in a heavy duty vehicle or heavy duty diesel engine in compliance with this section, either by act of commission or by act of omission.
 8. No person may manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any heavy duty vehicle or heavy duty diesel engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with this section.
 9. Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to sections 2113 through 2121 of Title 13 of the California Code of Regulations shall extend to all applicable engines and motor vehicles subject to this rule that are sold, leased or rented; offered for sale, lease or rental; or registered in Georgia; except where the manufacturer demonstrates to the Division's satisfaction, within 21 days of approval of the campaign by the California Air Resources Board, that this campaign is not applicable to such engines or vehicles in Georgia.

10. A person who imports, sells, delivers, leases or rents an engine or motor vehicle that is subject to the requirements of this rule shall retain for at least 5 years records sufficient to determine whether such person is in compliance with the requirements of this section. This includes, but is not limited to, the Certificate of Compliance for the engine installed in the vehicle, the Certificate of Origin of the vehicle, records concerning the transaction, and the vehicle registration for each applicable year.
11. For the purposes of determining compliance with this rule, commencing with the 2005 calendar year, each person that meets the requirements of subparagraph 7 above shall submit annually to the Division, within 60 days of the end of each calendar year, a report documenting the total sales and/or leases of engines and motor vehicles for each engine family over the calendar year in Georgia.
12. No person shall sell, lease, rent, or import a heavy-duty vehicle for use in this State if such vehicle is equipped with a 2007 Model Year or later diesel engine, unless such vehicle has a permanent label on the inside of the left-hand door of the vehicle that certifies (1) the emissions level to which the installed engine has been certified and (2) that the engine manufacturer is in compliance with the phase-in, banking and emission requirements of this rule. If the vehicle does not have a left hand door, the permanent label must be displayed in a similar fashion where the driver is expected to enter the vehicle. Upon approval by the Director, an alternative method may be used in lieu of attaching the permanent label inside of the vehicle.
13. The manufacturer of any engine to which this rule applies shall attach a permanent label on a readily visible location of the engine that certifies (1) the emissions level to which the engine has been certified and (2) that the manufacturer is in compliance with the phase-in, banking and emission requirements of this rule.
14. The manufacturer of any vehicle to which this rule applies shall attach a permanent label on the inside of the left-hand door of the vehicle that certifies (1) the emissions level to which the engine has been certified and (2) that the manufacturer is in compliance with the phase-in, banking and emission requirements of this rule. If the vehicle does not have a left hand door, the permanent label shall be attached in a similar fashion where the driver is expected to enter the vehicle. Upon approval by the Director, an alternative method may be used in lieu of attaching the permanent label inside of the vehicle. At the time of the initial sale of the vehicle to a consumer and subsequently, upon request of the owner of any vehicle subject to the requirements of this section, the manufacturer of such vehicle shall provide the owner with a certificate of origin, a certificate of compliance and an identification of the emissions level to which the installed engine is certified.
15. Upon request of a duly authorized official of this State, the manufacturer of any engine or vehicle subject to the requirements of this Part shall provide such official with a certificate of origin, a certificate of compliance and an identification of the emissions level to which the installed engine is certified.

16. Each subparagraph of this rule shall be deemed severable. If any subparagraph of this rule is held to be invalid, the remainder shall continue in full force and effect.

Authority: O.C.G.A. Section 12-9-1 et seq., as amended.