

GEORGIA HEAVY-DUTY DIESEL ENGINE REQUIREMENTS
ENFORCEMENT PLAN
AIR PROTECTION BRANCH
ENVIRONMENTAL PROTECTION DIVISION
JANUARY 15, 2004

The Clean Air Act, Section 101(a)(3), states that the prevention and control of air pollution at its source is the primary responsibility of States and local governments. The Georgia Air Quality Act, Section 12-9-2., declares it to be public policy of the State of Georgia to preserve, protect, and improve air quality; to control emissions; and to attain and maintain Ambient Air Quality Standards so as to safeguard the public health, safety, and welfare. If compliance with these laws is to be maintained, an enforcement strategy must be established and implemented that can remedy alleged violation(s) of these statutes within a reasonable time period.

Georgia's Air Quality Act provides sufficient motivation and incentive to encourage emissions sources to comply with the requirements of the Act and the Air Quality Control Rules promulgated thereunder. These incentives include: the use of a civil penalty of up to but not more than \$25,000 per day for each day an alleged violation occurs, injunctive relief, or the assessment of noncompliance penalties.

The purpose of this document is to set forth the enforcement strategy for the Georgia Heavy-Duty Diesel Engine Requirements Rule, 391-3-1-.02(ooo), to ensure compliance with State requirements. The Air Protection Branch of the Environmental Protection Division (EPD) has established a written, branch-wide enforcement policy. This Heavy-Duty Diesel Engine Requirements Rule enforcement plan is intended to supplement the Branch enforcement policy. This plan is not intended to be inflexible. There may be changes and modifications in the future or it may be applied within some discrepancy limits because of an unusual circumstance that would render normal procedures inappropriate.

First and foremost, EPD shall require record keeping and annual reporting to the Division from all parties that sell or lease heavy-duty diesel vehicles or engines in the State of Georgia, so as to minimize the opportunities for selling and/or leasing noncompliant engines. EPD will provide on-going program review, including field audits as needed, to ensure that all required record keeping and annual reporting are satisfactorily completed. A portion of the field audits will include inspection of heavy-duty diesel vehicles and engines at dealer locations to ensure that they have been issued a California Air Resources Board Executive Order (CARB).

Secondly, EPD will perform field audits of fleet vehicles periodically at company locations. The audits will be used to verify that heavy-duty diesel vehicle and engines purchased and operated in Georgia are compliant with the Heavy-Duty Diesel Engine Requirements rule.

Last but not least, EPD subscribes to the precept that an effective outreach program is vital to the success of any regulatory undertaking. The Division will continue to work with persons and entities subject to regulation under the Heavy-Duty Diesel Engine Requirements Rule to ensure full knowledge of all regulatory requirements.

The Heavy-Duty Diesel Engine Requirements Rule 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. The Rule requires that any new on-road heavy-duty diesel vehicle or engine sold, leased, rented, imported or delivered in the state must have a CARB Executive Order. This requirement is also imposed on any new on-road heavy-duty diesel vehicle or engine leased, purchased, acquired, or received or offered for sale, lease or rent.

The Heavy-Duty Diesel Engine Requirements Rule requires any “person” who imports, sells, delivers, leases, or rents an engine or motor vehicle that is subject to the rule to retain records concerning the transaction for at least 3 years following the transaction and to submit annually a report documenting the total sales and /or leases of engines and motor vehicles for each engine family over the calendar year in Georgia.

The requirement that new on-road heavy-duty diesel vehicles or engines must have a CARB Executive Order begins with the 2005 model year. The Rule is in effect for the entire State of Georgia.

In any event where an associate of EPD has evidence of a violation of heavy-duty diesel vehicles or engines being sold, leased, rented, imported, delivered, purchased, acquired, received, or offered for sale, lease, or rent in the State of Georgia that does not have a CARB Executive Order or non-submittal of an annual report, a Notice of Violation (NOV) is to be sent to the alleged violator.

The NOV letter is to include at a minimum the following information:

1. Responsible party's name and location of the alleged violation
2. The engine families delivered or received without a CARB Executive Order (the violation).
3. Citation of the Rule being violated.
4. Date the violation was observed.
5. Note of any related enforcement action(s) previously taken against the violator, i.e., NOV, Consent Order (EEO or CO), Administrative Order (AO), etc.
6. A 20-day response date for submission of any additional documentation requested.

NOV letters will be signed by a staff member, but reviewed and approved by the supervising Unit Manager prior to mailing. The NOV is to be sent, certified mail, to the alleged violator within 10 days of the determination of non-compliance.

Upon receipt of an NOV response, an EPD associate will review the documentation provided for compliance with regulatory requirements. In the case of a finding of full compliance, EPD will resolve the NOV by issuing a written Notice of Compliance to the party or parties involved. In

the case of a finding of non-compliance, EPD will determine if a formal enforcement proceeding is required. In the case where no formal enforcement is required, EPD will resolve the NOV by issuing a written letter of warning to the party or parties involved.

If an acceptable response to the NOV is not received within the time period specified in the NOV, then a Consent Order will be prepared and sent to the alleged violator within 30 days of the response date established in the original NOV. The Consent Order shall include certain minimal provisions as noted below. The Consent Order transmittal letter will be prepared for the signature of the Program Manager, if the proposed monetary settlement is less than \$10,000 (or Director, if greater than \$10,000). All copies of the Order and supporting documentation will be immediately placed in the Division's confidential files. The Order must be signed by an official representative of the violator and returned to EPD within 30 days of the proposal date. Once a Consent Order is executed by the Director, the original Order will then be placed in the public file along with all other supporting documentation.

A Consent Order is to provide at a minimum the following provisions:

1. Sufficient documentation to establish what statutory requirements is allegedly in violation, and the evidence that documents the alleged violation(s).
2. Specific steps and dates by which compliance must be achieved.
3. A civil penalty for the alleged violation(s) calculated in accordance with the Heavy-Duty Diesel Engine Requirements Penalty Policy.
4. Requirement for a final report from the violator detailing all actions taken to remedy the violation.

A Consent Order may establish additional requirements that are specifically crafted to address any special circumstances relating to the alleged violation(s). The extent of such provisions depends on the nature, frequency, duration, magnitude, and other considerations surrounding the situation. Other provisions that could be used in an Order include, but are not limited to:

1. A schedule of milestone dates and events that when completed will lead to compliance within a reasonable time period.
2. Penalty(ies) for not meeting any milestone date(s).
3. A monetary settlement for each day the alleged violator was determined to be in a noncompliant status.
4. A requirement for intermediate progress reports.

During the Consent Order negotiation process, an EPD associate may consider alternative proposals to a monetary settlement figure in any case where a positive, readily quantifiable, and enforceable air quality benefit can be clearly demonstrated. In any such case, the air quality benefit must be accrued within the State of Georgia and preferably within a designated ozone or

particle pollution (PM2.5) nonattainment area, must provide for long-term implementation and must be formalized by enforceable, special provision.

Depending on the severity of a violation and other circumstances, any or all of the steps leading up to a Consent Order may be eliminated and/or the response time may be shortened significantly in order to obtain compliance more rapidly.

In any instance where a Consent Order cannot be negotiated, the Director may refer the situation to the Department of Law for legal assistance, start civil penalty procedures under Section 23 of the Act, or use other means appropriate to remedy the alleged violation(s).