SCANNED

APPENDIX 1

New York State Department of Environmental Conservation Regulations,
6 NYCRR Parts 200 and 217

New York State
Department of Environmental Conservation
Rules and Regulations

Part 200

General Provisions [1/3]

(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0306, 19-0311, 19-0319, 70-0109, 71-2103)

[Original rule effective 1/12/75]
[Revisions to § 200.1 and § 200.9, Table 1 with the adoption of Part 202 effective 5/29/05]
[page 1 of 3] Pages in this Part: 1 (Sections 200.1 - 200.8) 2 (Section 200.9) 3 (Section 200.10)

For administrative information about this posting, contact: Division of Air Resources. The Bureau of Mobile Sources and Technology Development at (518) 402-8292 is the contact for technical questions pertaining to Part 218.

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§ 200.1 Definitions.

(a) *Act.* The Federal Clean Air Act, 42 U.S.C. section 7401, *et seq.* , as amended by Public Law 101-549, November 15, 1990.

(b) *Administrator.* The Administrator of the The United States Environmental Protection Agency or designee.

(c) *Air cleaning installation, air cleaning device or control equipment.* Any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the outdoor atmosphere.

waste heat stacks and air cleaning devices or control equipment (including oven patching equipment, door hoods, sheds and other hoods either movable or stationary and with or without water sprays).

(l) *Combustion installation.* An installation, consisting of one or more furnace, device, engine or turbine in which fossil fuel and/or wood is burned with air or oxygen and the air contaminant emissions include only those products resulting from:

(1) combustion of the fuel;

(2) additives or impurities in the fuel; and

(3) material introduced for the purpose of altering air contaminant emissions.

(m) *Commissioner.* Commissioner of Environmental Conservation of the State of New York.

(n) *Confined process.* Any process whose emissions are contained or captured in a hood and then conveyed through a duct, vent or stack prior to discharge to the outer atmosphere.

(o) *Day.* A 24-hour period beginning at midnight.

(p) *Department.* The New York State Department of Environmental Conservation.

(q) *Diesel engine.* An internal combustion engine in which air is compressed to a temperature capable of igniting fuel injected into the cylinders where combustion occurs.

(r) *Distillate oil.* A fuel oil consisting of distilled fractions and having a kinematic viscosity of 5.8 centistokes or less at 100 degrees Fahrenheit. This includes ASTM grade numbers 1 and 2 fuel oil, ASTM grade numbers 1-D and 2-D diesel fuel oil and proposed ASTM grade numbers 1-GT and 2-GT gas turbine fuel oil.

(s) *Emission.* The release of any air contaminant into the outdoor atmosphere.

(t) *Emission point.* Any conduit, chimney, duct, vent, flue, stack or opening of any kind through which air contaminants are emitted to the outdoor atmosphere.

(u) *Emission rate potential.* The maximum rate at which a specified air contaminant from an emission source would be emitted to the outdoor atmosphere in the absence of any control equipment. The emission rate potential of a specified air contaminant from an emission source is calculated by dividing the weight of such contaminant (expressed in pounds) that would be emitted to the outdoor atmosphere during maximum emission conditions in the absence of any control equipment, by the duration (expressed in hours) of such emissions. When an air contaminant is emitted for a period equal to or less than one hour, the emission rate potential is the weight of the contaminant emitted in the absence of any control equipment, divided by one hour, except that for any toxic air contaminant specified by the commissioner, the duration of emissions used in calculating the emission rate potential may be less than one hour. The maximum emission rate used for calculating the emission rate potential is not the emission rate during catastrophic or malfunction conditions.

(ad) *Fuel.* Solid, liquid or gaseous combustible material.

(ae) *Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

(af) *Fugitive emissions.* Emissions of air contaminants which could not reasonably pass through a stack, vent, chimney or other functionally equivalent opening.

(ag) *Hazardous air pollutant.* Set forth below is the list of hazardous air pollutants as of the effective date of this Part:

CAS number	***Chemical name***
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide

57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6.Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1,Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride

114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds

multiplied by the caloric value of the fuel.

(ai) *Incinerator.* Any structure or furnace in which combustion takes place and refuse is used as a fuel, alone or in conjunction with fossil fuel.

(aj) *Iron and/or steel processes.* Processes commonly associated with or necessary to production of iron and steel, excluding ferro-alloys but including, but not limited to, the following:

(1) materials handling systems, including but not limited to systems for handling iron ore, ore pallets, coal, limestone, fluxes, scrap steel sinter, coke, steel alloying ingredients, slag and dust;

(2) blast furnaces for making iron;

(3) sintering processes such as agglomeration including sintering and handling of agglomerated materials, but excluding iron-ore beneficiating processes and processes occurring prior to iron-ore agglomeration such as washing, screening, crushing, blending and materials handling;

(4) basic oxygen furnaces, open hearths and electric furnaces;

(5) iron and/or steel furnaces, except furnaces in jobbing foundries;

(6) molten material transfer and processing operations, including but not limited to teeming, tapping, reladling and casting;

(7) continuous casting operations;

(8) scarfing and other surface defect removal operations, except those in jobbing foundries;

(9) scrap preparation, including scrap melting and burning operations;

(10) molten metal desulfurization operations;

(11) raw material drying systems; and

(12) process furnaces, including soaking pits, annealing furnaces, reheating furnaces and other process furnaces using direct heat transfer.

(ak) *Lowest achievable emission rate (LAER).* The most stringent emission limitation achieved in practice, or which can reasonably be expected to occur in practice for a category of emission sources taking into consideration each air contaminant which must be controlled. In no event shall the application of this term permit a proposed new source or modification to emit any air contaminant in excess of the amount permitted under any applicable emission standard established under 6 NYCRR or 40 CFR.

(al) *Lower Orange County metropolitan area.* The area including the Towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury.

(am) *L.P. gas.* A petroleum hydrocarbon, such as propane, butane or isobutane

utilizes high temperature thermal destruction technologies, including combustion for the recovery of thermal value or for the disposal of municipal solid waste. (*Note* : A municipal solid waste incineration facility may also be a regulated medical waste incineration facility.)

(au) *New York City metropolitan area.* All of the City of New York, and Nassau, Suffolk, Westchester and Rockland Counties.

(av) *Nonattainment area.* Any area of the State not meeting a National Ambient Air Quality Standard (NAAQS) for a specific air contaminant. Nonattainment areas in New York State are as follows:

(1) Severe ozone nonattainment area. The area including the New York City Metropolitan Area and the Lower Orange County Metropolitan Area.

(2) Lower Hudson Valley moderate ozone nonattainment area. The area including Putnam and Dutchess Counties, and all of Orange County except the lower Orange County metropolitan area.

(3) Capital District marginal ozone nonattainment area. The area including Saratoga, Montgomery, Schenectady, Albany, Rensselaer and Greene Counties.

(4) Essex County marginal ozone nonattainment area. That portion of Essex County surrounding Whiteface Mountain above an elevation of 4,500 feet.

(5) Jefferson County marginal ozone nonattainment area. The area including all of Jefferson County.

(6) Niagara Frontier marginal ozone nonattainment area. The area including Niagara and Erie Counties.

(7) New York County PM-10 nonattainment area. The area including all of New York County.

(aw) *Nonroad engine.* (1) Except as specified in paragraph (2) of this subdivision, a nonroad engine is an internal combustion engine:

(i) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);

(ii) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicators of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if:

(i) the engine is used to propel a motor vehicle or a vehicle used solely for

(bg) *Peak shaving generation.* The practice of utilizing on-site generating capacity for use at a facility (excluding emergency generation when the usual sources of heat, power, and lighting are temporarily unavailable) at the request of the primary electricity supplier.

(bh) *Permissible emission rate.* The maximum rate at which air contaminants are allowed to be emitted to the outdoor atmosphere. This includes:

(1) an applicable emission limitation in this Subchapter;

(2) any performance standard contained in title 40 of the Code of Federal Regulations; and

(3) any emission limitation specified by the commissioner as a condition of a permit to construct and/or certificate to operate.

(bi) *Person.* Any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

(bj) *PM10.* Particulate matter or particles with an aerodynamic diameter less than or equal to a nominal 10 micro-meters.

(bk) *Pollutants regulated under section 112(r) of the act.* Set forth below is the list of pollutants regulated under section 112(r) of the act as of the effective date of this Part:

CAS Number	Chemical Name
000075-07-0	Acetaldehyde
000074-86-2	Acetylene [Ethyne]
000107-02-8	Acrolein [2-Propenal]
000107-13-1	Acrylonitrile [2-Propenenitrile]
000814-68-6	Acrylyl chloride [2-Propenoyl chloride]
000107-18-6	Allyl alcohol [2-Propen-l-ol]
000107-11-9	Allylamine [2-Propen-l-amine]
007664-41-7	Ammonia (anhydrous)
007664-41-7	Ammonia (conc 20% or greater)
007784-34-1	Arsenous trichloride
007784-42-1	Arsine
010294-34-5	Boron trichloride [Borane, trichloro-]
007637-07-2	Boron trifluoride [Borane, trifluoro-]
000353-42-4	Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro [oxybis [methane]]-, T-4-
007726-95-6	Bromine
000598-73-2	Bromotrifluorethylene [Ethene, bromotrifluoro-]

000151-56-4	Ethyleneimine [Aziridine]
000075-21-8	Ethylene oxide [Oxirane]
000060-29-7	Ethyl ether [Ethane, 1,1'-oxybis-]
000075-08-1	Ethyl mercaptan [Ethanethiol]
000109-95-5	Ethyl nitrite [Nitrous acid, ethyl ester]
007782-41-4	Fluorine
000050-00-0	Formaldehyde (solution)
000110-00-9	Furan
000302-01-2	Hydrazine
007647-01-0	Hydrochloric acid (conc 37% or greater)
000074-90-8	Hydrocyanic acid
001333-74-0	Hydrogen
007647-01-0	Hydrogen chloride (anhydrous) [Hydrochloric acid]
007664-39-3	Hydrogen fluoride/Hydrofluoric acid (conc 50% or greater) [Hydrofluoric acid]
007783-07-5	Hydrogen selenide
007783-06-4	Hydrogen sulfide
013463-40-6	Iron, pentacarbonyl- [Iron carbonyl ($Fe(CO)_5$), (TB-5-11)-]
000075-28-5	Isobutane [Propane, 2-methyl]
000078-82-0	Isobutyronitrile [Propanenitrile, 2-methyl-]
000078-78-4	Isopentane [Butane, 2-methyl-]
000078-79-5	Isoprene [1,3-Butadinene, 2-methyl-]
000075-31-0	Isopropylamine [2-Propanamine]
000108-23-6	Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]
000075-29-6	Isopropyl chloride [Propane, 2- chloro-]
000126-98-7	Methacrylonitrile [2-Propenenitrile, 2-methyl-]
000074-82-8	Methane
000074-89-5	Methylamine [Methanamine]
000563-46-2	2-Methyl-1-butene
000563-45-1	3-Methyl-1-butene
000074-87-3	Methyl chloride [Methane, chloro-]
000079-22-1	Methyl chloroformate [Carbonochloridic acid, methylester]
000115-10-6	Methyl ether [Methane, oxybis-]
000107-31-3	Methyl formate [Formic acid, methyl ester]
000060-34-4	Methyl hydrazine [Hydrazine, methyl-]
000624-83-9	Methyl isocyanate [Methane, isocyanato-]
000074-93-1	Methyl mercaptan [Methanethiol]

000584-84-9	Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1- methyl-]
000091-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2- methyl-]
026471-62-5	Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-]
010025-78-2	Trichlorosilane [Silane, trichloro-]
000079-38-9	Trifluorochloroethylene [Ethene, chlorotrifluoro-]
000075-50-3	Trimethylamine [Methanamine, N,N-dimethyl-]
000075-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]
000108-05-4	Vinyl acetate monomer [Acetic acid ethenyl ester]
000689-97-4	Vinyl acetylene [1-Buten-3-yne]
000075-01-4	Vinyl chloride [Ethene, chloro-]
000109-92-2	Vinyl ethyl ether [Ethene, ethoxy-]
000075-02-5	Vinyl fluoride [Ethene, fluoro-]
000075-35-4	Vinylidene chloride [Ethene, 1,1-dichloro-]
000075-38-7	Vinylidene fluoride [Ethene, 1,1-difluoro-]
000107-25-5	Vinyl methyl ether [Ethene, methoxy-]

(bl) *Potential to emit.* The maximum capacity of an air contamination source to emit any regulated air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the emission source to emit a regulated air pollutant, including air pollution control equipment and/or restrictions on the hours of operation, or on the type or amount of material combusted, stored, or processed, shall be treated as part of the design if the limitation is enforceable by the department and the administrator. Fugitive emissions, to the extent that they are quantifiable, are included in determining the potential to emit where required by an applicable requirement.

(bm) *Process.* Any activity involving one or more emission sources that emits or has the potential to emit any regulated air pollutant.

(bn) *Process weight.* The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in a process is considered part of the process weight, but liquid and/or gaseous fuel, uncombined water and combustion air are not.

(bo) *Process weight per hour.* The total process weight for any emission source divided by the number of hours during which air contaminants are emitted by such source to the outdoor atmosphere. For continuous processes, process weight should be determined on a daily basis.

(bp) *Pyroprocesses.* That part of cement and lightweight aggregate manufacturing related to the preheating, calcining, sintering, burning and cooling of clinker. Such processes include a means of chemically changing the material processed and do not include physical changes such as perlite or shale expansion.

chlorofluorocarbon-13 (CFC-13)
chlorofluorocarbon-111 (CFC-111)
chlorofluorocarbon-112 (CFC-112)
chlorofluorocarbon-211 (CFC-211)
chlorofluorocarbon-212 (CFC-212)
chlorofluorocarbon-213 (CFC-213)
chlorofluorocarbon-214 (CFC-214)
chlorofluorocarbon-215 (CFC-215)
chlorofluorocarbon-216 (CFC-216)
chlorofluorocarbon-217 (CFC-217)

Group IV

carbon tetrachloride

Group V

methyl chloroform

Note: This list shall also include the isomers of the substances listed above, other than 1,1,2-trichloroethane (an isomer of methyl chloroform).

2. CLASS II SUBSTANCES

hydrochlorofluorocarbon-21 (HCFC-21)
hydrochlorofluorocarbon-22 (HCFC-22)
hydrochlorofluorocarbon-31 (HCFC-31)
hydrochlorofluorocarbon-121 (HCFC-121)
hydrochlorofluorocarbon-122 (HCFC-122)
hydrochlorofluorocarbon-123 (HCFC-123)
hydrochlorofluorocarbon-124 (HCFC-124)
hydrochlorofluorocarbon-131 (HCFC-131)
hydrochlorofluorocarbon-132 (HCFC-132)
hydrochlorofluorocarbon-133 (HCFC-133)
hydrochlorofluorocarbon-141 (HCFC-141)
hydrochlorofluorocarbon-142 (HCFC-142)
hydrochlorofluorocarbon-221 (HCFC-221)
hydrochlorofluorocarbon-222 (HCFC-222)
hydrochlorofluorocarbon-223 (HCFC-223)
hydrochlorofluorocarbon-224 (HCFC-224)
hydrochlorofluorocarbon-225 (HCFC-225)
hydrochlorofluorocarbon-226 (HCFC-226)
hydrochlorofluorocarbon-231 (HCFC-231)
hydrochlorofluorocarbon-232 (HCFC-232)
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hydrochlorofluorocarbon-243 (HCFC-243)
hydrochlorofluorocarbon-244 (HCFC-244)
hydrochlorofluorocarbon-251 (HCFC-251)
hydrochlorofluorocarbon-252 (HCFC-252)
hydrochlorofluorocarbon-253 (HCFC-253)

(cg) *Volatile organic compound (VOC).* Any organic compound which participates in atmospheric photochemical reactions. This includes any organic compounds other than those compounds with negligible photochemical reactivity which are listed below. For purposes of determining compliance with emission limits in this Subchapter, VOC will be measured by test methods in Appendix A of 40 CFR 60 (see table 1, section 200.9 of this Part) or by an alternative method acceptable to the Department on the basis of a demonstration that it is as accurate as the Appendix A method. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with a VOC emission standard. The following compounds are not volatile organic compounds:

(1) carbon monoxide;

(2) carbon dioxide;

(3) carbonic acid;

(4) metallic carbides or carbonates;

(5) ammonium carbonate;

(6) methane;

(7) ethane;

(8) 1,1,1-trichloroethane (methyl chloroform);

(9) trichlorotrifluoroethane (CFC-113);

(10) methylene chloride;

(11) trichlorofluoromethane (CFC-11);

(12) dichlorodifluoromethane (CFC-12);

(13) chlorodifluoromethane (CFC-22);

(14) trifluoromethane (FC-23);

(15) 1,2-dichlorotetrafluoroethane (CFC-114);

(16) chloropentafluoroethane (CFC-115);

(17) perfluorocarbon compounds which are: cyclic, branched, or linear completely fluorinated alkanes; cyclic, branched, or linear completely fluorinated ethers with no unsaturations; cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; or sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine;

(18) dichlorotrifluoroethane (HCFC-123);

(29) acetone;

(30) perchloroethylene (tetrachloroethylene);

(31) methyl acetate;

(32) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); and

(33) 1,3-dicholoro-1,1,2,2,3-pentaflouropropane (HCFC-225cb).

(ch) *Wood.* The fibrous material beneath and including the bark of trees or any derivative fuel or residue thereof, in any unadulterated form, including but not limited to sawdust, sanderdust, wood chips, scraps, slabs, millings, shavings and processed pellets made from wood or other forest residues.

(ci) Maintenance area. Any geographic region of the United States previously designated nonattainment under the act and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the act, as amended (see section 200.9 of this Part).

(cj) PM2.5. Particulate matter or particles with an aerodynamic diameter less than or equal to 2.5 micro-meters based upon a regulatory size cut defined in the Code of Federal Regulations; Appendix L of Part 50 - Reference Method (see Table 1, section 200.9 of this Part) for the determination of fine particulate matter as PM2.5 in the atmosphere.

§ 200.2 Safeguarding information.

Information pertaining to manufacture, production or secret processes submitted in connection with applications, reports, plans and specifications or testing and designated by the person submitting such information as secret or proprietary, shall be kept confidential as provided by Part 616 of this Title dealing with trade secret confidentiality. The quantity and physical and chemical characteristics of actual and allowable air contaminant emissions shall be considered public information.

§ 200.3 False statement.

No person shall make a false statement in connection with applications, plans, specifications and/or reports submitted pursuant to this Subchapter.

§ 200.4 Severability.

If any provisions of this Subchapter are held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions.

§ 200.5 Sealing.

(a) The commissioner may seal an air contamination source to prevent its operation if compliance with this Chapter is not met within the time provided by an order of the commissioner issued in the case of the violation. *Sealing* means labelling or tagging a source to notify any person that operation of the source is prohibited, and also includes physical means of preventing the operation of an air contamination

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duration during which emissions of carbon monoxide, hydrocarbons, oxides of nitrogen and carbon dioxide are measured. (Other test methods will be correlated to the IM240 test. See footnote for table 1a.)

(e) *Light duty truck 1 (LDT1).* Any motor vehicle rated at 6,000 pounds GVWR or less, and which has a basic frontal area of 45 square feet or less, which is:

(1) designed primarily for transporting property, or is a derivation of such a vehicle;

(2) designed primarily for transporting people, and has a capacity of more than 12 persons; or

(3) available with special features enabling off-street or off-highway operation and use.

(f) *Light duty truck 2 (LDT2).* Any motor vehicle rated above 6,000 pounds GVWR, but not greater than 8,500 pounds GVWR, and which has a basic frontal area of 45 square feet or less, which is:

(1) designed primarily for transporting property, or is a derivation of such a vehicle;

(2) designed primarily for transporting people, and has a capacity of more than 12 persons; or

(3) available with special features enabling off-street or off-highway operation and use.

(g) *Light Duty Vehicle (LDV).* A passenger car capable of seating 12 or fewer passengers.

(h) *Model year.* The manufacturer's annual production period for each engine family which includes January 1st of such calendar year, or, if the manufacturer has no production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

(i) *Motor vehicle.* Motor vehicle shall have the same meaning as all of the following terms: *motor vehicle* in section 125 of the Vehicle and Traffic Law (VTL), and the term *limited use automobiles* in section 121-a of the VTL and the term *trailers* in section 156 of the VTL, except for those vehicles specifically set forth in subdivisions 15 NYCRR 79.2(d) and (e).

(j) *New York metropolitan enhanced inspection and maintenance region.* The region comprising the counties of Suffolk (except Fisher's Island), Nassau, Kings, Queens, Richmond, New York, Bronx, Westchester, and Rockland.

(k) *Official emissions inspection station.* A facility that has obtained a license from the commissioner of Motor Vehicles, under section 303 of the VTL, to perform motor vehicle emissions inspections in New York State.

(l) *Phase 2.* The composite value obtained from second 94 through second 239 of

Department of Motor Vehicles pursuant to section 79.25 of 15 NYCRR Part 79.

(c) In accordance with the applicability set forth in section 217-1.2 of this Subpart, no person who owns, operates, or leases a nonelectric or nondiesel powered motor vehicle subject to the requirements of this section shall operate said vehicle, or allow or permit it to be operated, in such a manner that:

(1) for gasoline powered vehicles, the gas cap fails to meet the minimum standard contained in table 2; or

(2) for model year 1996 and newer motor vehicles, the on-board diagnostic system:

(i) fails to function as designed; or

(ii) fails to complete diagnostic routines for necessary supported emission control systems; or

(iii) indicates that the malfunction indicator light fails to illuminate at the starter switch Key-On-Engine-Off position; or

(iv) the malfunction indicator light is illuminated when the engine is running; or

(v) the malfunction indicator light is commanded to be illuminated.

(d) *Table 1a*

Table 1a

VEHICLE EXHAUST EMISSION STANDARDS*
(Start-up Standards)

Light Duty Vehicles

Model Year	***Hydrocarbon***		***Carbon Monoxide***		***Oxides of Nitrogen***	
	(grams per mile)		*(grams per mile)*		*(grams per mile)*	
	Composite	*Phase 2*	*Composite*	*Phase 2*	*Composite*	*Phase 2*
1994+ Tier1	0.80-10.00	0.50-6.00	15.0-150.0	12.0-120.0	2.0-10.0	2.0-10.0
1995	1.20-10.00	0.75-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
1994	1.20-10.00	0.75-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
1993	1.20-10.00	0.75-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
1992	1.20-10.00	0.75-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
1991	1.20-10.00	0.75-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
1990	2.00-10.00	1.25-6.00	30.0-150.0	24.0-120.0	3.0-10.0	3.0-10.0
1989	2.00-10.00	1.25-6.00	30.0-150.0	24.0-120.0	3.0-10.0	3.0-10.0

1990	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	3.5-10.0	3.5-10.0
1989	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	3.5-10.0	3.5-10.0
1988	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	3.5-10.0	3.5-10.0
1987	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1986	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1985	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1984	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1983	7.50-10.00	5.00-6.00	100.0-150.0	80.0-120.0	7.0-10.0	7.0-10.0
1982	7.50-10.00	5.00-6.00	100.0-150.0	80.0-120.0	7.0-10.0	7.0-10.0
1981	7.50-10.00	5.00-6.00	100.0-150.0	80.0-120.0	7.0-10.0	7.0-10.0

	Hydrocarbon	***Carbon Monoxide***
	(ppm at idle)	*(percent at idle)*
1981 and later	220	1.2
1979-1980	300	2.5
1975-1978	300	3.0
1968-1974	700	6.0

Light Duty Trucks 2
(6,001 - 8,500 lbs. GVWR)

Model Year	***Hydrocarbon***		***Carbon Monoxide***		***Oxides of Nitrogen***	
	(grams per mile)		*(grams per mile)*		*(grams per mile)*	
	Composite	*Phase 2*	*Composite*	*Phase 2*	*Composite*	*Phase 2*
1994+ Tier1						
(≤5750 LVW)	1.00-10.00	0.63-6.00	20.0-150.0	16.0-120.0	2.5-10.0	2.5-10.0
(>5750 LVW)	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.0-10.0	4.0-10.0
1995	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.5-10.0	4.5-10.0
1994	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.5-10.0	4.5-10.0
1993	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.5-10.0	4.5-10.0
1992	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.5-10.0	4.5-10.0
1991	2.40-10.00	1.50-6.00	60.0-150.0	48.0-120.0	4.5-10.0	4.5-10.0
1990	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	5.0-10.0	5.0-10.0
1989	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	5.0-10.0	5.0-10.0
1988	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	5.0-10.0	5.0-10.0
1987	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1986	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1985	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1984	3.20-10.00	2.00-6.00	80.0-150.0	64.0-120.0	7.0-10.0	7.0-10.0
1983	7.50-10.00	5.00-6.00	100.0-150.0	80.0-120.0	7.0-10.0	7.0-10.0

(6,000 lbs. GVWR or less)

Model Year	***Hydrocarbon***		***Carbon Monoxide***		***Oxides of Nitrogen***	
	(grams per mile)		*(grams per mile)*		*(grams per mile)*	
	Composite	*Phase 2*	*Composite*	*Phase 2*	*Composite*	*Phase 2*
1994+ Tier1						
(≤3750 LVW)	0.60	0.40	10.0	0.8	1.5	1.5
(>3750 LVW)	0.80	0.50	13.0	10.0	1.8	1.8
1988-1995	1.60	1.00	40.0	32.0	2.5	2.5
1984-1987	1.60	1.00	40.0	32.0	4.5	4.5
1981-1983	3.40	2.00	70.0	56.0	4.5	4.5

	Hydrocarbon	***Carbon Monoxide***
	(ppm at idle)	*(percent at idle)*
1981 and later	220	1.2
1979-1980	300	2.5
1975-1978	300	3.0
1968-1974	700	6.0

Light Duty Trucks 2
(6,001 - 8,500 lbs. GVWR)

Model Year	***Hydrocarbon***		***Carbon Monoxide***		***Oxides of Nitrogen***	
	(grams per mile)		*(grams per mile)*		*(grams per mile)*	
	Composite	*Phase 2*	*Composite*	*Phase 2*	*Composite*	*Phase 2*
1994+ Tier1						
(≤5750 LVW)	0.80	0.50	13.0	10.0	1.8	1.8
(>5750 LVW)	0.80	0.50	15.0	12.0	2.0	2.0
1988-1995	1.60	1.00	40.0	32.0	3.5	3.5
1984-1987	1.60	1.00	40.0	32.0	4.5	4.5
1981-1983	3.40	2.00	70.0	56.0	4.5	4.5

	Hydrocarbon	***Carbon Monoxide***
	(ppm at idle)	*(percent at idle)*
1981 and later	220	1.2
1979-1980	300	2.5
1975-1978	300	3.0
1968-1974	700	6.0

Heavy Duty Trucks
(over 8,500 lbs. GVWR)

	Hydrocarbon	***Carbon Monoxide***

New York State
Department of Environmental Conservation
Rules and Regulations

Subpart 217-2

Existing Subpart 217-2 is repealed

(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-0320, 71-2103, 71-2105; Vehicle and Traffic Law, §§ 301[c], 375.28)

[Original rule effective 9/23/90]
[Revisions to Subparts 217-1, -3, -4, and -5; existing Subpart 217-2 repealed effective 10/30/02]
[This is page 1 of 1 of this Subpart. A complete list of Subparts in this regulation appears in the Chapter 3 contents page. A list of sections in this subpart appears below.]

For administrative information about this posting, contact: Division of Air Resources. The Bureau of Mobile Sources and Technology Development at (518) 402-8292 is the contact for technical questions pertaining to this rule.

Contents:

Subpart (*Motor Vehicle NY 91 Inspection and Maintenance Program Requirements*, §§ 217-2.1-217-2.8) repealed, filed Sept. 30, 2002 eff. 30 days after filing.

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otherwise permitted by section 217-3.3 of this Subpart.

§ 217-3.3 Exceptions.

The prohibitions of section 217-3.2 of this Subpart shall not apply when:

(a) A diesel or non-diesel fueled heavy duty vehicle including a bus or truck is forced to remain motionless because of the traffic conditions over which the operator thereof has no control.

(b) Regulations adopted by Federal, State or local agencies having jurisdiction require the maintenance of a specific temperature for passenger comfort. The idling time specified in section 217-3.2 of this Subpart may be increased, but only to the extent necessary to comply with such regulations.

(c) A diesel or non-diesel fueled engine is being used to provide power for an auxiliary purpose, such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming; or when operation of the engine is required for the purpose of maintenance.

(d) Fire, police and public utility trucks or other vehicles are performing emergency services.

(e) Trucks owned or operated by persons engaged in mining and quarrying are used within the confines of such person's property.

(f) A diesel fueled truck is to remain motionless for a period exceeding two hours, and during which period the ambient temperature is continuously below 25°F.

(g) A heavy duty diesel vehicle, as defined in subdivision 217-5.1(o) of this Part, that is queued for or is undergoing a state authorized periodic or roadside diesel emissions inspection pursuant to Subpart 217-5 of this Part.

(h) A hybrid electric vehicle, as defined in subdivision 217-5.1(r) of this Part, idling for the purpose of providing energy for battery or other form of energy storage recharging.

(i) Heavy duty vehicles used for agricultural purposes on a farm.

(j) Electric powered vehicles.

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inspection stations. During these audits department personnel shall conduct quality control evaluations of the required test equipment, including the following:

(a) a gas audit using gases of known concentrations at least as accurate as those required for regular equipment quality control and comparing these concentrations to actual readings;

(b) a check for tampering, worn instrumentation, blocked filters, and other conditions that would impede accurate sampling;

(c) a check of the measured dilute flowrate in the VMAS unit;

(d) a leak check;

(e) a check to determine that station gas bottles used for calibration purposes are properly labeled and within the relevant tolerances;

(f) functional dynamometer checks addressing coast-down, roll speed and roll distance, inertia weight selection, and power absorption;

(g) a check of the system's ability to accurately detect background pollutant concentrations;

(h) a check of computer logic requirements; and

(i) a check that appropriate cutpoints are used.

§ 217-4.4 Enforcement.

All duties and obligations under this regulation are enforceable pursuant to article 71 of the Environmental Conservation Law.

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(d) *CARB* means the California State Air Resources Board as defined in California's Health and Safety Code, section 39003.

(e) *Certified configuration* means a heavy-duty diesel engine design or a light-duty diesel-powered motor vehicle-engine-chassis design certified as meeting the applicable CARB or EPA emission standards for heavy-duty diesel engines or light-duty diesel-powered motor vehicles manufactured in a given model year.

(f) *Certified inspector* means any person authorized by the NYSDEC, NYSDMV or NYSDOT, after successfully completing the applicable training, to determine whether a HDDV complies with the requirements of Subpart 217-5. NYSDOT fleet certified mechanics authorized to conduct HDDV emission inspections shall be considered certified inspectors for the purpose of conducting the required emissions inspections on a HDDV in the fleet of their employer.

(g) *Diesel engine* means a compression ignition type of internal combustion engine which operates on or is capable of operating on diesel fuel.

(h) *Diesel-fueled vehicle* means a diesel powered vehicle using or capable of using diesel fuel.

(i) *Element of design* means any part or system on a motor vehicle or a motor vehicle engine pertaining to the vehicle's or engine's certified configuration.

(j) *Emission control apparatus* means any device utilized by the vehicle manufacturer and/or the engine manufacturer to control the release of any regulated emission, including any associated component which monitors the function and maintenance of such a device.

(k) *Exhaust emissions* means the emissions (including any liquid or solid particles in the gaseous stream) released into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

(l) *Fleet Self Inspection Facility* means any corporation, business, or facility that employees certifies inspectors and is authorized by NYSDEC, NYSDMV, or NYSDOT to perform emission testing to determine whether any HDDV owned or operated by such entity complies with the requirements of Subpart 217-5.

(m) *Governor* means a mechanism installed on a diesel engine by the original equipment manufacturer for the purpose of limiting the maximum engine RPM.

(n) *Gross vehicle weight rating* or *GVWR* means the value specified by the vehicle manufacturer as the maximum loaded weight of a single or combination vehicle.

(o) *Heavy Duty Diesel Vehicle* (*HDDV*) means a heavy duty vehicle powered by a diesel engine.

(p) *Heavy Duty Vehicle* means a vehicle that has a GVWR exceeding 8,500 pounds and is designed primarily for transporting persons or properties.

(q) *High idle* means the highest engine speed obtainable when the engine is disengaged from the transmission.

to the smokemeter which senses the engine speed in revolutions per minute.

(ai) *SAE J1667* means the Surface Vehicle Recommended Practice incorporated in document number J1667 published by the Society of Automotive Engineers in February 1996, entitled "Snap-Acceleration Smoke Test Procedure for Heavy Duty Diesel Powered Vehicles," as herein incorporated by reference (see Table 1, section 200.9 of this Title).

(aj) *School bus* means a vehicle as defined in section 142 of the VTL.

(ak) *Smokemeter* means smoke measurement equipment designed and manufactured in accordance with specifications set forth in section 217-5.6 of this Subpart. Only a model of a smokemeter certified by NYSDEC and operated in accordance with the manufacturer's operating procedures shall be considered a smokemeter for purposes of this Subpart.

(al) *Tailpipe* means the final downstream section of pipe in the exhaust system of a motor vehicle.

(am) *Ungoverned engine* means a diesel engine designed to be devoid of any mechanical or electronic contrivances designed or intended to limit maximum engine speed.

§ 217-5.2 Applicability.

(a) General: This Subpart applies to all HDDV motor vehicles except for:

(1) authorized emergency vehicles;

(2) vehicles as defined in subparagraphs 401.7(E)(2), (F)(a) and 401.13 of the VTL;

(3) agricultural trucks;

(4) farm type tractors and all terrain type vehicles used exclusively for agriculture or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes;

(5) marine vessels;

(6) hybrid electric vehicles using diesel engines as a power source; and

(7) military designated vehicles, meaning any motor vehicle 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 for training for such purposes.

(b) Annual NYCMA HDDV Emissions Inspection Program. Beginning June 1, 1999, all

1973 and Older	70
1974 - 1990	55
1991 and Newer	40

§ 217-5.4 Vehicle owner/operator requirements.

(a) No person who owns, operates, registers, leases, or rents a HDDV subject to the requirements of this Subpart shall operate said vehicle, or allow or permit it to be operated in the State, if the vehicle:

(1) emits smoke in the exhaust emissions with an opacity which exceeds the smoke opacity standards specified in Table 1 of this Subpart pursuant to the effective dates established in section 217-5.2 of this Subpart, when tested in accordance with procedures set forth in section 217-5.5 of this Subpart;

(2) does not have functioning emission control apparatus as required by specifications of the manufacturer;

(3) has any component, element of design, or emission control apparatus, installed or required to be installed on the vehicle or diesel engine which:

(i) is not functioning and will result in the emission test set forth in section 217-5.5 of this Subpart to be discontinued; or

(ii) has been disconnected, detached, deactivated, tampered with or in any other way rendered inoperable or less effective than designed by the original equipment or vehicle or engine manufacturer, including any action which will result in the emission test set forth in section 217-5.5 of this Subpart to be discontinued.

(b) Except as provided in subdivision 217-5.2(a) of this Subpart, within 12 months of the effective dates listed in section 217-5.2 of this Subpart, and annually thereafter, no person who owns, operates, leases or rents a HDDV registered or required to be registered in the NYCMA shall permit the operation of that HDDV unless the HDDV has had its exhaust emissions tested by a certified inspector within the previous 12 months in accordance with the procedures set forth in section 217-5.5 of this Subpart and the exhaust emission opacity of the vehicle does not exceed the standards specified in Table 1 of this Subpart during the required emission test.

§ 217-5.5 Emissions inspection procedures and test methods.

(a) *General instructions for HDDV Emissions tests*: (1) Equipment to be used in conducting a smoke opacity test on an HDDV in accordance with this subdivision shall satisfy all specifications and standards for a smokemeter as set forth in this Subpart, and be a model certified by NYSDEC pursuant to section 217-5.6 of this Subpart.

(2) Inspectors performing diesel emissions tests of exhaust emissions and inspections of diesel exhaust emission equipment shall be certified by NYSDMV, NYSDOT or NYSDEC to perform HDDV emission inspections and testing, after successfully completing a training program approved by such agencies. Such certified inspectors shall follow SAE J1667 test procedures and, when specified,

defect(s) are repaired. Determine that the HDDV is in violation of section 217-5.4 of this Subpart if corrective action to repair the HDDV is not taken.

(ix) If, at any time before or during the inspection of a HDDV, continuous blue smoke is observed in the exhaust emissions for more than three seconds, discontinue the testing and determine that the vehicle is in violation of section 217-5.4 of this Subpart.

(x) At the conclusion of the emissions inspection of a HDDV by a certified inspector, print a copy of the test report produced by the smokemeter certified in accordance with section 217-5.6(a) of this Subpart and provide the report to the vehicle owner or operator.

(4) Vehicles found in violation of this Subpart are not subject to impoundment or otherwise prevented from engaging in commerce as a result of this Subpart.

(b) *Annual NYCMA HDDV* Emissions Inspections.

(1) Certified Inspectors performing annual HDDV emissions inspections shall:

(i) only affix a valid emission certificate of inspection to a HDDV that has met the emission and inspection requirements set forth in this Subpart;

(ii) issue test result to the HDDV owner/operator for each test performed; and

(iii) only issue test result to the owner/operator for the specific vehicle that has been tested.

(2) Certified NYSDMV ODEIS and/or fleet self inspection facilities shall:

(i) be licenced/registered by the appropriate New York State agency to perform HDDV emissions testing and inspection;

(ii) conspicuously display licences required under section 217-5.5(b)(2)(i) of this Subpart;

(iii) maintain test equipment in accordance with this section, manufacturer's specification, and SAE J1667;

(iv) maintain a current copy of SAE J1667 at facility;

(v) not pass any HDDV which does not meet the requirements set forth in section 217-5.4 of this Subpart;

(vi) not test or allow to test the exhaust emission on any HDDV which has been disqualified from testing for any reason until the reason for disqualification has been corrected;

(vii) issue test results to the HDDV owner/operator for each test performed;

(iv) the engine RPM at high idle for each snap;

(v) the inspection date, time and location;

(vi) the name and certification number of the certified inspector;

(vii) the exhaust pipe diameter or engine horsepower;

(viii) the smoke opacity standard;

(ix) pass or fail of test results compared to appropriate smoke opacity standard;

(x) the HDDV registrant or operator name and license plate number and state of issuance;

(xi) the vehicle identification number (VIN); and

(xii) the engine model year.

(3) The smokemeter shall be capable of:

(i) retaining data pertaining to the previous forty (40) tests and outputting data via an RS-232 connector; and

(ii) multiple printouts of parameters specified in paragraph (2) of this subdivision.

(b) The testing procedures for the snap acceleration smoke opacity test, required in accordance to this subdivision, shall be performed on HDDVs as follows:

(1) Determine the engine horsepower from the engine identification plate or engine serial number. Refer to Table 2 of this Subpart and input the nominal stack size into the smokemeter. If the engine identification plate is missing, inaccessible or illegible, measure the outside diameter of the exhaust pipe extending from the exhaust manifold with a precision caliper or equivalent gauge, rounding to the nearest inch.

(2) During an annual emissions inspection only, performed at an ODEIS:

(i) affix the RPM sensor to the engine of the vehicle according to the instructions of the smokemeter manufacturer;

(ii) insert the engine oil temperature sensor into the oil dipstick tube and into the crankcase oil according to the instructions of the smokemeter manufacturer; and

(iii) connect the engine RPM and oil temperature sensors to the smokemeter according to the instructions of the smokemeter manufacturer.

(3) Affix the smokemeter according to the instructions of the manufacturer to the end of the exhaust pipe of the vehicle. For full-flow smokemeters, ensure

301 and over	5

(c) A smokemeter used to measure smoke opacity in the exhaust emissions of a HDDV during a roadside emissions or NYSDOT bus inspection does not need to include the following specifications:

(1) an engine oil temperature sensor; and

(2) an engine RPM sensor.

§ 217-5.7 Enforcement and penalties.

(a) Enforcement of this Subpart may only be performed by authorized state or municipal law enforcement officials, and certified inspectors authorized by NYSDOT, NYSDMV, or NYSDEC to inspect and test HDDVs in accordance with this Subpart. Additionally, roadside or random HDDV emissions inspections will be performed at a public or quasi-public location designated by the New York State Commissioner of Transportation with the concurrence of NYSDEC and, where appropriate, the New York State Thruway Authority in accordance with the requirements set forth in this section.

(b) The following penalties will apply to the owner/operator of any HDDV found in violation of any provision of section 217-5.4(a) of the Subpart:

(1) first violation: $700.00;

(2) second and subsequent violations: $1300.00; and

(3) the penalties will be reduced to $150.00 for the first violation and $500.00 for the second and subsequent violations of section 217-5.4(a) of the Subpart provided:

(i) the violation is corrected and the vehicle is retested and reinspected at a NYSDMV ODEIS no later than 30 days after the issuance of the summons or appearance ticket; and

(ii) acceptable proof of repair or adjustment is submitted to the court or administrative tribunal on or before the return date of the summons or appearance ticket in the following form:

(*a*) a NYSDEC / NYSDMV form entitled "Proof of HDDV Repair" certified by both the repair facility and reinspection station; and

(*b*) an itemized bill of repairs from the repair facility.

(c) The following penalties will apply to the owner/operator of any HDDV found in violation of any provision of section 217-5.4(b) of the Subpart:

(1) first violation: $700.00;

(2) second and subsequent violations: $1,300.00; and

engine emission certificate of conformance are properly installed. The cost for replacement of missing emission control apparatus or governing devices or warranty repairs does not count towards the hardship waiver cost; and

(2) repairs and adjustments have been properly made and documented and the cost equals or exceeds the value contained in Table 3 for the proper GVWR category. The waiver amounts contained in Table 3 may be adjusted by the NYSDEC to account for increases in the Consumer Price Index (CPI).

Table 3

Minimum Hardship Waiver Repair Costs By GVWR of HDDV

Gross vehicle weight rating (GVWR in Lbs)	***Minimum repair cost for hardship waiver***
8,501 to 18,000	$1,000
18,001 to 26,000	$2,000
Over 26,000	$4,000

(b) The commissioner or a commissioner's representative reserves the right to inspect a vehicle and proof of repair before or after the waiver is issued to verify that the repairs have been made and associated repair costs have been documented.

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