

<b>Regulatory Analysis Form</b>	This space for use by IRRC
---------------------------------	----------------------------

(1) Agency  
 Department of Environmental Protection

**RECEIVED**  
 DEC 21 REC'D 3:30pm

(2) I.D. Number (Governor's Office Use)  
 #7-422

~~INDEPENDENT REGULATORY  
 REVIEW COMMISSION~~  
 IRRC Number: **2658**

(3) Short Title  
 Diesel Vehicle Idling; and Auxiliary Power Systems

(4) PA Code Cite  
 Title 25 Environmental Protection  
 Section 121.1 and Chapter 126,  
 Subchapters F and G

(5) Agency Contacts & Telephone Numbers  
 Primary Contact: Michele Tate, 772-4768  
 Secondary Contact: Kelly Heffner, 783-8727

(6) Type of Rulemaking (Check One)  
 Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?  
 No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed rulemaking would apply to diesel-powered commercial motor vehicles at locations where they load, unload or park. The definition of "commercial motor vehicle" would include highway vehicles weighing 10,001 pounds or more, including trucks and buses. It would not include off-road vehicles, such as construction or agricultural equipment. The proposed regulation would restrict any person from idling a commercial motor vehicle, or allowing such idling to occur, for more than five minutes during any sixty-minute period at locations where these vehicles load, unload or park. The proposal would, therefore, hold facility owners responsible for idling occurring on their property. Certain exemptions are allowed for temperature, maintenance and safety considerations and for passenger buses (including school buses) and bus terminals. A temperature-based exemption for occupied vehicles with sleeper berths would be provided until April 30, 2010. There would be no temperature exemption if a vehicle is parked at a location at which stationary idle reduction technology facilities (specifically, electrified parking spaces) are provided and unoccupied. Mobile idle-reduction technologies, such as auxiliary power systems (APS), used by a truck operator on a model year (MY) 2006 truck or older in order to forego idling the main truck engine could be used without restriction. Operators of vehicles containing a MY 2007 or newer engine and using an APS could either route the exhaust of the APS through the engine's particulate emission control system or exhibit a label issued by the California Air Resources Board (CARB) under 13 CCR § 2485(c)(3)(A)(1) (relating to airborne toxic control measure to limit diesel-fueled commercial motor vehicle idling) indicating that the APS meets certain particulate matter emission control requirements. Alternatively, the truck operator could

idle the main engine if the engine exhibits a label issued by CARB under 13 CCR § 1956.8(a)(6)(C) (relating to exhaust emissions standards and test procedures – 1985 and subsequent MY heavy-duty engines and vehicles). Engines meeting 13 CCR § 1956.8(a)(6)(C) are unlikely to exist until MY 2010.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 5 of the Air Pollution Control Act (APCA)(35 P.S. §4005), subsection (a)(1) grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution (35 P.S. §4005(a)(1)). Subsection (a)(7) grants the Board the authority to adopt regulations designed to reduce emissions from motor vehicles (35 P.S. §4005(a)(7)), and subsection (a)(8) grants the Board the authority to adopt regulations to implement the provisions of the CAA (35 P.S. §4005(a)(8)).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No. However, on October 18, 2006, the Clean Air Board of Central Pennsylvania (CAB) filed a petition for rulemaking, requesting that the Environmental Quality Board (EQB) adopt regulations to restrict the idling of commercial diesel-powered vehicles. The statement of policy in 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions – statement of policy) establishes the procedures for the Department's response to such petitions. On January 17, 2007, the EQB accepted the CAB's petition for study. Notice of the EQB's acceptance of the petition was published in the *Pennsylvania Bulletin* on January 27, 2007, at 37 Pa.B. 477. Upon the EQB's acceptance of the petition, the Department had 60 days to prepare a report evaluating the petition, including whether the EQB should approve the action requested in the petition. In accordance with 25 Pa Code §23.7 (relating to response to report), the Department provided a copy of the completed report to the petitioner for a 30-day response period. The petitioner submitted a response, after which the Department submitted a final report to the EQB. The Department's report recommended that the Department pursue a statewide regulation restricting idling of diesel-powered commercial motor vehicles. On May 16, 2007, the EQB concurred with the Department's recommendation and directed that the Department develop a proposed regulation for consideration at the Board's September 2007 meeting.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed regulation would reduce the amount of diesel exhaust emitted to the ambient air through unnecessary idling and through the use of APS and would thus improve public health. Diesel exhaust emissions have adverse health and environmental effects because they contribute to levels of particulates and ground-level ozone for which EPA has established National Ambient Air Quality Standards (NAAQS), to protect human health and the environment with an adequate margin of safety. Diesel exhaust emissions also have adverse health effects when individuals are exposed directly.

Fine particles or PM<sub>2.5</sub> (particles with a diameter of 2.5 micrometers or less) in the atmosphere are made up of a complex mixture of components. Some, like diesel particulate, are emitted directly into the air ("primary" sources) and others, such as sulfate and nitrate, form in the air as a result of various chemical reactions ("secondary" sources). The health effects associated with exposure to PM<sub>2.5</sub> are significant and the evidence for these effects is compelling. Premature mortality, aggravation of existing respiratory and cardiovascular disease, decreased lung function and asthma attacks have been attributed to exposure.

The NAAQS for PM<sub>2.5</sub> was established in 1997 at 15 micrograms per cubic meter on an annual basis and 65 micrograms per cubic meter over 24 hours. In 2004, EPA designated eight areas in Pennsylvania,

comprising all or part of 19 counties as not attaining the NAAQS.

In October 2006, EPA tightened the 24-hour PM<sub>2.5</sub> standard to 35 micrograms per cubic meter. Litigation to compel EPA to lower the annual standard to less than 15 micrograms per cubic meter to be adequately protective of health is underway; Pennsylvania has joined that litigation. Based on data from 2003-2005, all of the areas designated by EPA in 2004 and several additional areas would violate the revised 24-hour standard. Pennsylvania will submit designation recommendations to EPA in December 2007; EPA is anticipated to finalize designations for the revised standard in late 2009.

Ground-level ozone, the other pollutant directly of concern in this rulemaking, is not emitted directly to the atmosphere, but is formed by a photochemical reaction between volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) in the presence of sunlight. Heavy-duty vehicles contributed about 25 percent of all NO<sub>x</sub> emissions in Pennsylvania in 2002. (Compared to gasoline-powered vehicles, diesel vehicles are not a significant source of VOCs.) Repeated exposure to ozone pollution may cause a variety of adverse health effects for healthy people and those with existing conditions, including difficulty in breathing, chest pains, coughing, nausea, throat irritation, and congestion. It can exacerbate bronchitis, heart disease, emphysema, and asthma, and reduce lung capacity. Ozone can aggravate asthma, causing more asthma attacks, increased use of medication, more medical treatment and more frequent visits to hospital emergency clinics. Ozone also has adverse effects on vegetation (forests and food crops) and, through deposition, contributes to pollution in the Chesapeake Bay.

The current ground-level ozone standard set by EPA is 0.08 parts per million averaged over eight hours. In 2004, EPA designated 37 counties in Pennsylvania as eight-hour ozone nonattainment areas. Redesignation requests and maintenance plans for 32 counties and an attainment demonstration for the five-county Philadelphia Interstate Area (comprising Bucks, Chester, Delaware, Montgomery and Philadelphia counties) are being processed by EPA for approval as revisions to the State Implementation Plan. On June 20, 2007, EPA proposed a more protective 8-hour ozone standard and is under court order to finalize the revised NAAQS by March 12, 2008. Recommendations for attainment and nonattainment areas must be submitted to EPA in June 2009; final action by EPA would be due in June 2010. The designations would take effect 60 days after after EPA publishes a notice in the *Federal Register*.

There are several co-benefits of reducing idling, which will benefit all citizens of the Commonwealth. Because the United States increasingly relies on imported fuel for transportation needs, reducing idling will contribute to the country's energy independence. Also, reducing idling reduces carbon dioxide (CO<sub>2</sub>) emissions. EPA estimates that idling heavy-duty vehicles can consume about one gallon of diesel fuel for every hour of idling time, adding more than a pound of CO<sub>2</sub>, the major greenhouse gas (GHG). The idling of a typical long-haul truck contributes about 19 metric tons of CO<sub>2</sub> annually.

Pennsylvania's strategy to attain and maintain the particulate matter and ozone standards over the long term in the Commonwealth includes a complement of state and federal control measures, of which this idling regulation would become a part.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Some ozone non-attainment areas in the Commonwealth that are most affected by pollution emitted from idling trucks will continue to be exposed to unnecessary emissions. Truck traffic is expected to increase considerably in the future; without this regulation, the amount of idling occurring in the Commonwealth could also increase. New cost-effective technology is available that satisfies common sense approaches toward idling reductions to reduce emissions. The estimated fuel savings can pay for a typical APS purchase

and installation in several years.

Some of the areas of the Commonwealth that are above the established particulate matter standard support heavy truck traffic and emissions. These areas would miss an opportunity to reduce emissions from a very cost-effective solution without this regulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All Pennsylvania citizens will benefit from requiring truck operators to use cost-effective alternatives to idling the main truck engine during rest breaks and periods of loading and unloading. In addition, all people living downwind in other states will benefit from reducing emissions. When this regulation takes effect in 2009, idling emissions are estimated to account for about 3,225 tons of NOx, 60 tons of particulate matter per year, and 90 tons of VOC, according to a study completed for the Department by Michael Baker Jr., Inc. The Department expects that, once the temperature exemption expires, the proposed regulation would reduce diesel-powered commercial motor vehicles idling by half and that a corresponding 50 percent reduction of emissions would occur. Therefore, the Department estimates that the regulation would reduce emissions by about 1,610 tons of NOx, 30 tons of particulate matter, and 45 tons of VOC. Although all counties in the Commonwealth will benefit, the counties in which more air pollution from idling is produced will benefit more. For instance, idling trucks in Cumberland and Luzerne Counties produce about 20 percent of all idling emissions in the Commonwealth. Cumberland and Luzerne Counties presently have a combined population of 530,000 people.

Vehicle operators, who are the people closest to diesel exhaust, will benefit most. The air that they breathe will be cleaner and their sleeper berths much quieter if power is supplied by alternative idling technology, leading to a more rested truck driver. The National Transportation Safety Board has cited fatigue as a major cause of accidents in which long-haul trucks are involved. Nearly 500,000 trucks in the nation are dedicated to long-haul trips. Since trucking companies need to replace truck drivers constantly due to high turnover rates, more truck operators would be affected than there are number of trucks. It is possible that most, if not all, long-haul drivers will idle in Pennsylvania at some time. Including bus drivers and local drivers in the Commonwealth, there are nearly 1,000,000 drivers who may benefit through reduced exposure to diesel emissions.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

In the short run, truck owners may be adversely affected since they may need to provide upfront capital funds to purchase an APS. A small trucking company sometimes has difficulty raising the initial capital investment for an APS. Nevertheless, in the long run, the truck owner should save money due to the short payback time of the capital costs associated with retrofitting a truck with an APS, and the corresponding savings in fuel costs. Truck plaza owners and operators will be required to make an effort to reduce idling on their property, especially after the temperature exemption expires in 2010. Reduced idling should save truck operators fuel – as much as one gallon per hour -- and could possibly deprive truck plazas of fuel sales, which is the main revenue source for these operations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Truck owners and operators, and truck plaza and warehouse owners and managers will need to be aware of this regulation and comply with portions of it. There will be nearly 500,000 trucks in the country that travel distances that may require travel rest. Including bus drivers and local drivers in the Commonwealth who will be subject to the regulation, there are nearly 1,000,000 drivers who may be subject to this regulation. In addition, owners and managers at 260 truck stops and 300 warehouses and intermodal facilities in the Commonwealth will be required to comply.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Department has had on-going communication with CAB since CAB filed its petition for rulemaking. The Department held a meeting with the Pennsylvania Motor Truck Association and their members, and the American Truck Associations, and contacted the National Association of Truck Stop Operators. The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking on July 26, 2007. The AQTAC concurred with the Department's recommendation to seek EQB approval of the proposed rulemaking. The Department also consulted with the Citizens' Advisory Council and the Small Business Compliance Advisory Committee.

The Department has consulted with the Department of Transportation (PennDOT) during development of the proposed rulemaking, in accordance with section 5(a)(7) of the APCA, 35 P.S. § 4005(a)(7). The department also consulted with the Pennsylvania State Police.

The Department is recommending three public hearings to accept comments from the general public. The Department will also actively solicit comments from the affected industries in anticipation of and during the public comment period by addressing association meetings or other events.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

The overall benefit to the regulated community in the first four years of this program (2009-2012) should total at least \$163 million. This estimate was calculated by subtracting projected costs from projected savings for all years in the table in Question No. 20 and summing the results. When the temperature exemption in the proposed regulation expires, most long-haul commercial diesel vehicles will need to retrofit their vehicles or purchase new vehicles that include equipment that offers an alternative to idling. Although the initial costs for purchasing this equipment can be expensive, the fuel savings should offset the costs within several years. The Department's estimate demonstrates that the savings due to this regulation should surpass the costs in 2011, and that the regulated community should see a payback of its initial investment by 2012.

Because of Pennsylvania's key role in freight transportation, Pennsylvania's adoption of this regulation will make it difficult for most long-haul trucks across the nation to avoid complying with idling regulations. The Department conservatively assumed that most long-haul trucks in the nation are likely to travel through Pennsylvania in order to service the Northeast economy. States of the Northeastern United States have a combined gross domestic product that would rank third in the world among all countries. This market is too attractive for trucking companies to ignore. Currently, long-haul trucks that travel the Northeast corridor can avoid complying with idling regulations in neighboring states by idling in Pennsylvania. Adoption of a Pennsylvania statewide regulation will end this practice.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures, which may be required.

Diesel-powered commercial motor vehicles owned by local governments will be largely unaffected by this regulation because they do not typically travel long haul distances or contain sleeper cabs. Local governments will not likely incur net costs. They could enjoy savings of approximately \$2.80 per hour per vehicle (at current diesel fuel prices) when their vehicles that are covered by the regulation, such as commercial vehicles in queue at a construction site, burn less fuel by idling less. These vehicles use approximately one gallon of fuel per hour to idle.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures, which may be required.

Diesel-powered commercial motor vehicles owned by local governments will be largely unaffected by this regulation because they do not typically travel long haul distances or contain sleeper cabs. Local governments will not likely incur net costs. They could enjoy savings of approximately \$2.80 per hour per vehicle (at current diesel fuel prices) when their vehicles that are covered by the regulation, such as commercial vehicles in queue at a construction site, burn less fuel by idling less. These vehicles use approximately one gallon of fuel per hour to idle.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 2007	FY +1 Year 2008	FY +2 Year 2009	FY +3 Year 2010	FY +4 Year 2011	FY +5 Year 2012
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0	0	0	380,337,310	584,350,720	601,817,560
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	380,337,310	584,350,720	601,817,560
<b>COSTS:</b>						
<b>Regulated Community</b>	0	0	0	878,605,819	261,973,997	262,981,101
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	878,605,819	261,973,997	262,981,101
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	12,699,750	18,942,000	18,942,000
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	2,050,250	3,058,000	3,058,000
<b>Total Revenue Losses</b>	0	0	0	14,750,000	22,000,000	22,000,000

(20a) Explain how the cost estimates listed above were derived.

See also the responses to Questions #17-19. In the first year of the program, costs exceed savings because of the temperature exemptions and because it was assumed that some operators buy alternative technology outright rather than financing.

Diesel-powered commercial motor vehicles can avoid idling restrictions in New York and New Jersey by idling in Pennsylvania. If Pennsylvania adopts idling restrictions, vehicle operators will find it more difficult to avoid finding alternatives to long-term idling, such as purchasing an APS. Since many trucking fleets travel through the Northeast, the Department believes that many, if not all, owners of long-haul commercial diesel trucks will need to purchase some type of APS before the 2010 (FY+3) temperature exemption expires. Companies are unlikely to purchase this equipment before then. Partial fleet retrofitting is unlikely; entire fleets are expected to be retrofitted. Pennsylvania's idling restrictions may be the prime motivator for all fleets to retrofit their long haul trucks with idling restriction technologies.

Costs and savings were estimated by using the EPA Smartway Calculator located online at [www.epa.gov](http://www.epa.gov). Typical values supplied by EPA were used unless better data was available. Costs were estimated by deriving the number of long-haul diesel-powered commercial motor vehicles that may have the opportunity to make a delivery or provide travel rest for their operators in Pennsylvania and multiplying

the initial cost of an APS, interest on a loan, and any change in maintenance costs. Local trucks were not included because they are unlikely to need to purchase an APS to avoid idling in most cases.

The Department used the national 2002 Vehicle Inventory and Use Survey (Vehicle Survey) prepared by the United States Census to develop the population of trucks that could be affected by this regulation. The survey classifies the truck population into trucks that travel within certain distance categories. The Department assumed that a truck's state of registration was either the state of operation or near it. All trucks in the country that travel more than 350 miles were assumed to be long-haul trucks that would need to have an APS installed to supply power after the Pennsylvania temperature exemption expires in April 2010. The Vehicle Survey for 2002 suffered from a large number of unreported vehicles, 716,000 total trucks and 64,000 long-haul trucks. The Department distributed unreported vehicles among the states proportional to the states' reported truck populations and further separated them into trip lengths. Some long-haul trucks registered in Pennsylvania or in neighboring states were not considered to be candidates to idle in Pennsylvania. In sum, the total number of trucks estimated to be eligible for idling in Pennsylvania is approximately 390,000 for 2002. The 2002 population was grown by 3 percent annually until 2007, when it reached 452,000. Currently, there is a glut of underused commercial diesel trucks on the market due to a large pre-buy of MY 2006 trucks. The pre-buy allowed trucking companies to avoid buying more expensive 2007 vehicles with new pollution control equipment. It is not expected that there will be large growth in the fleet for the next several years. This number is expected to be nearly the same in 2009 due to the pre-buy.

The Department eliminated trucks that were included in the cost analysis for California's regulation, since these trucks are already required to install an APS. The Department also eliminated trucks that may fall under New Jersey and New York's idling regulation, such as those that operate in intermodal facilities. After eliminating long-haul trucks subject to idling regulations in these states, the population subject to this regulation is 377,000. The Department estimates that only 50 percent of the diesel-powered commercial motor vehicle owners will purchase equipment as an idling alternative as a result of this regulation. The Department expects some truck companies to choose other ways to deal with the regulation, such as ignoring it, using truck stop electrification facilities or developing more reliance on team drivers when possible. Some bigger trucking companies, such as YRC International, already house their drivers in motels on certain routes. With the high price for fuel, this practice is expected to continue. Also, some truck owners have already purchased APS; higher fuel prices will likely force more owners to purchase more APSs in the near future whether or not this regulation is adopted. Therefore, the total number of trucks that are expected to install some type of APS as a result of this regulation will be approximately 188,500. These trucks idle about 1800 hours per year on average according to the Department's consultant's report, *Quantification of Pennsylvania Heavy-Duty Diesel Vehicle Idling and Emissions - Final Report*.

Installation of some type of APS will be the only realistic alternative to providing the needed power to a truck cab for many companies in order to meet idling restriction requirements. Truck manufacturers, trucking companies, and CARB believe that the best idling reduction technology has yet to be developed. While the state-of-the-art APS today that delivers air conditioning or heating and enough power to run all of the appliances in a truck cab costs between \$5,000 and \$8,500, the reliability and performance will be better and cost less in the future. The Department used an average price of \$6,500 for the APS that are expected to be installed on diesel-powered commercial motor vehicles for model years up to 2007 and a worst-case estimate of \$10,000 for APS that are expected to be installed on model year 2007 and later vehicles that will be required to display a California label. A worst-case estimate was used for model years 2007 and beyond because the Department cannot predict at this time what alternative idling technology will be available or desirable in the future. The Department believes that truck owners will

purchase an APS or other alternative idling technology, either through an upfront purchase or loan. The average interest rate of a loan was assumed to be about 8 percent. The loan interest rate is based on the financial state of the trucking company. The Department assumed about half of all purchases would involve a loan. Annual truck fleet growth of 3 percent was assumed after 2010. A 10-year fleet turnover was assumed.

The 519 advanced truck stop electrification parking spaces located in the Commonwealth currently operate at about 25 percent utilization. In 2010, after the temperature exemption expires, that number should approach 65 percent utilization. The Department calculated the projected fuel savings and cost of idling at these facilities.

No additional costs were added for the requirement that diesel-powered APS for vehicles with MY 2007 or newer engines reroute their exhaust. It is the Department's understanding that there are no specific costs associated with rerouting; however, the acceptance of this practice under warranty provisions is currently under discussion at the federal level. The Department is seeking comment on this requirement. Costs associated with meeting California's alternative compliance strategies and thus exhibiting a label are not necessarily attributable to this regulation because they would already be attributable to meeting California requirements. Pennsylvania is merely allowing those vehicle owners and operators who have vehicles meeting those requirements additional flexibility when stopping in Pennsylvania.

Pennsylvania truck stops may lose revenue since trucks idling less may purchase less fuel. The Department estimated revenue losses by using the number of truck parking spaces in the state and multiplying by the spaces' utilization rates per day, average hours of idling per day, average amount of fuel saved per hour, current cost of the fuel (\$2.369 per gallon, \$2.75 minus \$0.381 for state tax on diesel fuel), and the number of days in a year. In fiscal year + 3, the Department assumed that the proposed rulemaking would only have an effect for about two-thirds of a year. In addition, it was assumed that about 25 percent of truck operators, who normally idle for travel rest, would find alternatives to purchasing an APS for complying with the regulation. The Commonwealth's Motor License Fund may lose revenue since reduced fuel purchases would reduce the amount of tax revenue collected. The Commonwealth currently collects \$0.381 per gallon of diesel fuel purchased.

(20b) Provide the past three-year expenditure history for programs affected by the regulation.

No programs were affected by the regulation over the last three years

<b>Program</b>	<b>FY-3 (FY 04-05)</b>	<b>FY-2 (FY 05/06)</b>	<b>FY-1 (FY 06/07)</b>	<b>Current FY (FY 07/08)</b>
Clean Air Fund Mobile and Area Facilities (233-20084)	\$8,144,000	\$8,231,000	\$13,061,000	\$9,604,000
Environmental Program Management (161-10382)	\$37,594,000	\$37,049,000	\$36,868,000	\$39,909,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Truck owners will likely recoup their capital investment with savings on fuel purchases and decreased maintenance costs for the main engine within several years after installing an APS. Since the investment in the equipment will be paid back before the life cycle of the equipment expires, there should be a net direct financial benefit. Reduced idling will lower concentrations of harmful air pollutants with ensuing health benefits that will result in lower medical costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

In the past, the Department provided a grant to a non-profit group to develop an outreach program that encouraged school districts to adopt "no idling" policies and helped educate districts and school bus drivers of the benefits of restricting idling emissions. Although this program seemed to have some immediate success in curtailing idling in school buses, an outreach program would not be as effective as a regulatory program. Diesel-powered commercial motor vehicles produce the vast majority of idling emissions in the Commonwealth during periods of travel rest. Most commercial motor vehicles that idle in the Commonwealth at travel rest are based out of state and would be unreachable with an outreach program. Truck stop owners are unwilling to help enforce idling prohibitions against their customers in the absence of regulation.

The Department had considered developing a model rule that local municipalities in the Commonwealth could adopt, as EPA did. The trucking industry supported the EPA effort because the industry wanted more consistency among regulatory jurisdictions. EPA hosted a number of workshops across the country that allowed parties such as local and state governments, major trucking fleets, trucking associations, bus association, and other companies to provide input for the development of the model rule. The model rule was published in April 2006. Although a number of municipalities in the Commonwealth are considering adopting local ordinances, the trucking industry has stated that it prefers a state regulation to a patchwork of local ordinances.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Department considered the petitioner's proposed language, EPA's Model State Idling Law (EPA420-S-06-001), and the two existing local regulations adopted by the City of Philadelphia and Allegheny County. As the regulation was developed, the Department used the petitioner's proposed language as a starting point. An effort was made not to create regulatory conditions that would contradict provisions within the existing local regulations in the Commonwealth when practical and to incorporate provisions of the EPA State Model Law, since it resulted from input from national industry representatives.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Federal standards do not address idling of commercial motor vehicles. EPA has been proactive in supporting states' efforts in developing highway vehicle idling restriction regulations and recognizes their value in attaining and maintaining both the 8-hour ozone and fine particulate matter NAAQS. Nevertheless, it would be impossible for EPA to enforce a regulation on a national scale. EPA believes it is most appropriate for the states to develop and enforce idling restriction regulations.

It is an appropriate time to develop this regulation because cost-effective technology exists that will not only significantly reduce emissions of NOx and fine particulate matter but also save truck operators money in a

short timeframe. The payback on the original capital investment for an APS from fuel savings occurs within several years, depending on financing options.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put Pennsylvania at a competitive disadvantage with other states. A large number of state and local governments have adopted idling restriction regulations. All but two (West Virginia and Ohio) of the states bordering the Commonwealth have adopted idling restriction regulations. Our regulation will be similar to the regulations of our bordering states and will not have a significantly different effect on commerce than do those regulations. Pennsylvania welcomes diesel-powered commercial motor vehicles from many states to our highways and these vehicles will all need to comply with this regulation. As stated above, cost savings will result from this regulation.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department will hold three public hearings. In addition, the Department will solicit and welcome additional opportunities to educate the affected industry on the proposed rulemaking and to obtain their input at already-scheduled meetings of associations.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

This regulation creates no new paperwork for the regulated community at large, with one exception. Violating vehicle operators who wanted to claim the exemption under 126.603(4) would have to submit timely documentation of a repair to the enforcing agency.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Department has incorporated provisions into the proposed rulemaking that will exempt operators of diesel-powered commercial motor vehicles from the idling restrictions so that power can be provided to essential functions of the truck and equipment attached to the truck. Some examples of these functions and equipment include: wheelchair lifts, mixers, compactors, power-takeoff drives, and safety equipment like lights. Agricultural equipment is not affected by this regulation.

The proposed rulemaking also gives exemptions to certain businesses and organizations that require commercial diesel vehicles to idle for safety reasons. These vehicles include armored cars, emergency vehicles, and military equipment. The regulation requires that diesel-powered commercial motor vehicles not idle when the temperature is between 40°F and 75°F. The regulation gives an exemption that also allows truck operators to idle during their travel rest periods until May 1, 2010 when it is expected that auxiliary

power systems will be installed on all diesel-powered commercial motor vehicles that support travel rest.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation is anticipated to be in effect by December 2008. In addition, a provision in the regulation will be triggered in April 2010 when all diesel-powered commercial motor vehicles that are operated for the sole purpose of providing driver comfort during travel rest will no longer be exempted through the use of the ambient temperature provisions. At this point, vehicles that are used for providing travel rest will need to be outfitted with an APS or use other strategies to eliminate idling.

(31) Provide the schedule for continual review of the regulation.

The regulation will continue to be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

DEC 21 REC'D

INDEPENDENT REGULATORY  
REVIEW COMMISSION

3:30pm

DO NOT WRITE IN THIS SPACE

#2658

Copy below is hereby approved as to form and legality.  
Attorney General

*[Signature]*

By: (Deputy Attorney General)

NOV 27 2007

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-422

DATE OF ADOPTION October 16, 2007

*[Signature]*

BY TITLE KATHLEEN A. MCGINTY  
CHAIRPERSON

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY *[Signature]*  
Andrew C. Clark

NOV 7 2007  
DATE OF APPROVAL

(Deputy General Counsel)  
(~~Chief Counsel - Independent Agency~~)  
(Strike inapplicable title)

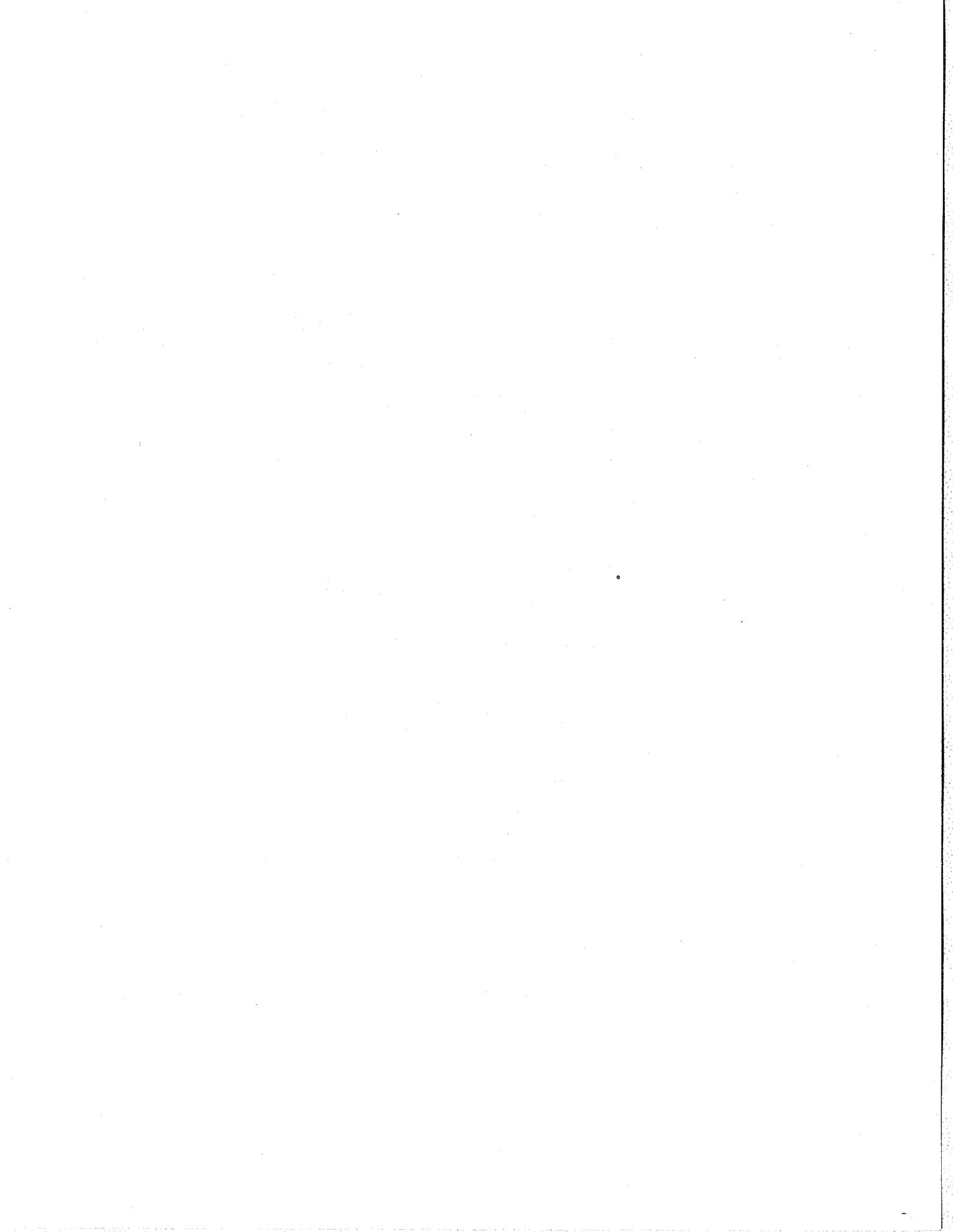
Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

Diesel Vehicle Idling and Auxiliary Power Systems

25 Pa. Code, Chapters 121 and 126



**Notice of Proposed Rulemaking**  
**Department of Environmental Protection**  
**Environmental Quality Board**  
**(25 Pa. Code, Chapters 121 and 126, Subchapters F and G)**  
**Diesel Vehicle Idling; and Auxiliary Power Systems**

**Preamble**

The Environmental Quality Board (Board, EQB) proposes to amend 25 Pa. Code Chapter 126 (relating to motor vehicle and fuels programs) by adding a new Subchapter F (relating to diesel vehicle idling) and a new Subchapter G (relating to auxiliary power systems), as set forth in Annex A. The proposed rulemaking establishes an idling restriction of 5 minutes in a 60-minute period for diesel-powered commercial motor vehicles, with a number of exemptions. The proposed rulemaking also regulates the use of diesel-powered auxiliary power systems for diesel-powered commercial motor vehicles with model year 2007 and newer engines. The proposed rulemaking adds definitions to Section 121.1 (relating to definitions) for auxiliary power system, commercial motor vehicle, gross combination weight rating, highway and idling.

This proposal was adopted by the Board at its meeting of October 16, 2007.

**A. Effective Date**

These amendments will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

**B. Contact Persons**

For further information, contact Arleen Shulman, Chief, Mobile Sources Section, P.O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 787-9702, or Kristen Campfield Furlan, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.depweb.state.pa.us>).

**C. Statutory Authority**

The proposed rulemaking is being made under section 5 of the Air Pollution Control Act (APCA) (35 P. S. § 4005), which in subsection (a)(1) grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution, in subsection (a)(7) grants the Board the authority to adopt regulations designed to reduce emissions from motor vehicles and in subsection (a)(8) grants the Board the authority to adopt regulations to implement the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401--7642).

#### **D. Purpose and Background**

The purpose of this proposed rulemaking is to establish restrictions on the idling of diesel-powered commercial motor vehicles and on the related use of certain auxiliary power systems (APS) in order to reduce exposure to harmful emissions and to help attain and maintain health-based air quality standards. The idling and APS use restrictions would provide air quality benefits to citizens in this Commonwealth, particularly those in areas where diesel-powered commercial motor vehicles congregate. Because idling of diesel-powered commercial motor vehicles consumes approximately one gallon of fuel per hour, vehicle owners and operators would not only realize cost savings by complying with this proposed rulemaking but would also contribute to the country's energy independence. With a statewide regulation, operators of diesel-powered vehicles can easily identify where and when idling is restricted. Having a statewide regulation should also discourage boroughs, townships, cities and counties from enacting their own idling restrictions. On October 18, 2006, the Clean Air Board of Central Pennsylvania (CAB) filed a petition for rulemaking, requesting that the Environmental Quality Board (EQB) adopt regulations to restrict the idling of commercial diesel-powered vehicles. The statement of policy in 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions – statement of policy) establishes the procedures for the Department's response to rulemaking petitions. On January 17, 2007, the EQB accepted the CAB's petition for study. Notice of the EQB's acceptance of the petition was published in the *Pennsylvania Bulletin* on January 27, 2007, at 37 Pa.B. 477. Upon the EQB's acceptance of the petition, the Department had 60 days to prepare a report evaluating the petition, including whether the EQB should approve the action requested in the petition. In accordance with 25 Pa. Code §23.7 (relating to response to report), the Department provided a copy of the completed report to the petitioner for a 30-day response period. The petitioner submitted a response, after which the Department submitted a final report to the EQB. The Department's report recommended that the Department pursue a statewide regulation restricting idling of diesel-powered commercial motor vehicles. On May 16, 2007, the EQB concurred with the Department's recommendation and directed that the Department develop a proposed regulation for consideration at the Board's September 2007 meeting.

The Department concurs with the petitioner's assessment of the impacts of diesel exhaust emissions. Diesel exhaust emissions have adverse health and environmental effects because they contribute to levels of particulates and ground-level ozone and have adverse health effects when individuals are exposed directly.

The United States Environmental Protection Agency (EPA) is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and the environment: ozone, particulate matter, nitrogen oxides, carbon monoxide, sulfur dioxide, and lead. The Clean Air Act established two types of NAAQS: primary standards set limits to protect public health; and secondary standards set limits to protect public welfare, including protection against visibility impairment, damage to animals, crops, vegetation, and buildings.

In 1997, EPA established more protective ozone and fine particulate primary and secondary NAAQS to protect public health and to ensure an adequate margin of safety. Fine

particles or PM<sub>2.5</sub> (particles with a diameter of 2.5 micrometers or less) in the atmosphere are made up of a complex mixture of components. Some, like diesel particulate, are emitted directly into the air ("primary" sources) and others, such as sulfate and nitrate, form in the air as a result of various chemical reactions ("secondary" sources). The health effects associated with exposure to PM<sub>2.5</sub> are significant, and the evidence for these effects is compelling. Premature mortality, aggravation of existing respiratory and cardiovascular disease, decreased lung function and asthma attacks have been attributed to exposure.

The NAAQS for PM<sub>2.5</sub> was established in 1997 at 15 micrograms per cubic meter on an annual basis and 65 micrograms per cubic meter over 24 hours. In 2004, EPA designated eight areas in Pennsylvania, comprising all or part of 19 counties, as not attaining the NAAQS.

In October 2006, EPA tightened the 24-hour PM<sub>2.5</sub> standard to 35 micrograms per cubic meter. Based on data from 2003-2005, all of the areas designated by EPA in 2004 and several additional areas would violate the revised 24-hour standard. Pennsylvania plans to submit attainment and nonattainment designation recommendations to EPA in December 2007 for the designation of specific nonattainment areas for the revised 24-hour standard; EPA is anticipated to finalize those designations in December 2009 with an April 2010 effective date. Revisions to the State Implementation Plan will be due to EPA in April 2013.

EPA and other agencies have evaluated the health effects of direct exposure to diesel particulate matter. The small size of diesel exhaust particles allows them to be drawn deeply into the lungs. Diesel particulates are, for the most part, even smaller than 2.5 micrometers. EPA has said that long-term exposure to diesel particulate exhaust is likely to pose a lung cancer hazard. Exposure to diesel particulates has non-cancer and acute effects as well, including throat and eye irritation and inflammation, exacerbation of existing respiratory and allergic conditions, and exacerbated risk of heart attacks. Studies indicate children living near highways have more lung and breathing problems than other children. Children may also be exposed to more diesel exhaust inside diesel school buses, especially in idling buses that queue. People commuting to work in almost any mode of transportation along truck routes are exposed to high levels of diesel fine particulate matter.

Ground-level ozone, the other pollutant directly of concern in this rulemaking, is not emitted directly to the atmosphere but is formed by a photochemical reaction between volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) in the presence of sunlight. Heavy-duty vehicles contributed about 25 percent of all NO<sub>x</sub> emissions in Pennsylvania in 2002. (Compared to gasoline-powered vehicles, diesel vehicles are not a significant source of VOCs.) Repeated exposure to ozone pollution may cause a variety of adverse health effects for healthy people and those with existing conditions, including difficulty in breathing, chest pains, coughing, nausea, throat irritation, and congestion. It can exacerbate bronchitis, heart disease, emphysema and asthma, and reduce lung capacity. Ozone can aggravate asthma, causing more asthma attacks, increased use of medication, more medical treatment and more frequent visits to hospital emergency clinics. Ozone also has adverse effects on vegetation (forests and food crops) and, through deposition, contributes to pollution in the Chesapeake Bay.

The current ground-level ozone standard set by EPA is 0.08 parts per million averaged over eight hours. In 2004, EPA designated 37 counties in Pennsylvania as eight-hour ozone nonattainment areas. Redesignation requests and maintenance plans for 32 counties and an attainment demonstration for the five-county Philadelphia Interstate Area (comprising Bucks, Chester, Delaware, Montgomery and Philadelphia counties) are being processed by EPA for approval as revisions to the State Implementation Plan. On June 20, 2007, EPA proposed a more protective 8-hour ozone standard and is under court order to finalize the revised NAAQS by March 12, 2008. Recommendations for attainment and nonattainment areas must be submitted to EPA in June 2009; final action by EPA would be due in June 2010. The designations would take effect 60 days after EPA publishes a notice in the *Federal Register*.

The Department estimates that diesel-powered commercial motor vehicles idle approximately 27.2 million hours a year in the Commonwealth. Idling during rest stops at truck stops and rest areas accounts for nearly 78 percent of this total. Long duration idling (namely, idling lasting more than 15 minutes) amounts to about 22.3 million hours a year, 95 percent of which has been estimated to be due to truck travel rest. Some idling, such as that from individual vehicles idling at smaller facilities, may be difficult to quantify and has not been included.

The amount of idling by long-haul trucking is directly influenced by federal requirements. The United States Department of Transportation's (U.S. DOT) "hours of service" regulations include specific requirements for rest by truck drivers. Drivers may rest roadside or at truck stops, rest stops, motels or street locations near their loading or unloading points. During their rest periods, some drivers run their engines to operate heat and air conditioning or to avoid opening windows for their own personal security. Some drivers operate auxiliary equipment for comfort (such as for using a microwave oven or television) or to keep the engine warm in extreme temperatures. The habits of drivers may also play a significant role in how APS are used.

Technology exists to assist drivers in reducing idling during their rest periods. These are of two types: equipment provided on the vehicle (on-board or mobile) and equipment provided at parking spaces (stationary).

On-board bunk heaters, cab heaters and APS can provide climate control, engine warming and power to run household-type appliances. At present, much of this equipment is diesel-powered, but alternatives to diesel-powered APS are increasingly available. These smaller engines generally use about 1/10<sup>th</sup> the fuel that a main engine would use to idle. Costs per truck to have an APS range from less than \$1,000 for a bunk heater to \$10,000 for some APS capable of supplying power for all services when the main engine is off. While running these smaller engines reduces fuel use, running a diesel-powered APS on a vehicle with a model year (MY) 2007 or newer engine may result in more particulate emissions than running the main engine, because particulate filters reduce emissions from these newer main engines.

Stationary equipment or parking space electrification is also increasingly available throughout the Commonwealth and the United States. Electrification refers to a technology that harnesses an electrical system to provide the truck or locomotive operator with climate control and other needs, eliminating the need to idle the main engine. Pennsylvania currently has nine

truck stops where stand-alone electrified parking spaces are available. The only additional equipment needed by the vehicle operator is an inexpensive window adapter to ensure that the service module fits securely. The service module itself provides climate control, electricity, Internet and telephone connections. Another stationary system provides plug-in stations only; truck operators need to have or rent supplementary connection equipment to operate heating, air conditioning and appliances.

While school buses may not contribute a large number of idling hours, they idle near children, and protection of children from unnecessary direct exposure to diesel particulate exhaust is important. Students who ride buses generally ride them every school day. The students may be exposed to diesel exhaust when school buses queue at pick-up and drop-off locations. Auxiliary equipment to heat or cool school buses is not available, but EPA has found that there is no need for long-duration idling to warm up buses for either passenger or engine protection. Transit and tour buses face similar passenger comfort issues. Management strategies, such as providing lounges for bus drivers, can reduce idling; technology is not necessary.

It is estimated that highway vehicles will emit about 180,000 tons of NO<sub>x</sub> and 3,250 tons of PM<sub>2.5</sub> in 2009. The heaviest trucks, which account for most of the idling, generally contribute 37% of the NO<sub>x</sub> and 38% of the highway emissions. These estimates account for the cleaner technology required of MY 2007 and newer engines, using assumptions in EPA's approved highway motor vehicle model, MOBILE 6.2. When this proposed regulation takes effect in 2009, it is estimated that idling emissions will account for about 3,325 tons of NO<sub>x</sub>, 90 tons of volatile organic compounds (VOCs) and 60 tons of particulate matter per year. This estimate does not include an anticipated increase in idling hours from the present time because no statewide data exists upon which to base the estimate. The benefits of this proposed rulemaking could be greater if hours spent in Pennsylvania in travel rest increase significantly. Assumptions about idling emissions were those provided by EPA in its *Guidance for Quantifying and Using Long Duration Truck Idling Emission Reductions in State Implementation Plans and Transportation Conformity* (2004). The Department expects that, once the temperature exemption for trucks with sleeper berths expires, the proposed regulation would reduce diesel-powered commercial motor vehicles idling by half and that a corresponding 50 percent reduction of emissions would occur. Therefore, the Department estimates that the proposed rulemaking would reduce emissions by about 1,610 tons of NO<sub>x</sub>, 45 tons of VOC and 30 tons of particulate matter once the temperature exemption expires.

Because the United States increasingly relies on imported fuel for transportation needs, reducing idling will contribute to the country's energy independence. Another benefit of reducing idling is the reduction of carbon dioxide (CO<sub>2</sub>) emissions. EPA estimates that idling heavy-duty vehicles can consume about one gallon of diesel fuel for every hour of idling time, adding more than a pound of CO<sub>2</sub>, the major greenhouse gas (GHG). The idling of a typical long-haul truck contributes about 19 metric tons of CO<sub>2</sub> annually.

The experience of several other jurisdictions shows that involving property owners in enforcement and outreach is key to reducing idling, especially at locations associated with truck travel rest. This may be the case because drivers, who typically travel nationally and even internationally, may not be aware of a state's rules and may have little incentive to pay the fines.

To encourage assistance from property owners, some states reduce fines for facilities that post signs and take other steps to reduce idling. The Department will consider these and other approaches to obtaining compliance as this rulemaking proceeds, and specifically seeks comment on approaches to obtaining compliance.

Idling restrictions have been adopted by 14 states, the District of Columbia and many local jurisdictions, including Pennsylvania's two most populated urban areas, Philadelphia and Allegheny counties. The federal government does not regulate commercial highway diesel vehicle idling, and generally considers the regulation of these vehicles in use to be the prerogative of state government. In March 2006, recognizing that reducing unnecessary diesel vehicle idling would be a public health benefit and that a multiplicity of state and local rules was a "barrier to greater implementation of idling control technologies," EPA released a model state idling law. (EPA Model State Idling Law, EPA420-S-06-001) The model was a result of five workshops across the country in which affected stakeholders participated.

In developing the proposed rulemaking, the Department considered the petitioner's suggested language, the EPA model law and the existing regulations of the Philadelphia and Allegheny county health departments.

The Department consulted with the Department of Transportation (PennDOT) during development of the proposed rulemaking, in accordance with section 5(a)(7) of the APCA, 35 P.S. § 4005(a)(7). The Department also consulted with the Pennsylvania State Police.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking on July 26, 2007. The AQTAC concurred with the Department's recommendation to seek EQB approval of the proposed rulemaking. The Department also consulted with the Citizens' Advisory Council and the Small Business Compliance Advisory Committee.

This proposed rulemaking is reasonably necessary to achieve and maintain the eight-hour ozone and PM<sub>2.5</sub> NAAQS. The proposed regulations, if adopted, will be submitted to the EPA as a revision to the State Implementation Plan.

#### **E. Summary of Regulatory Requirements**

The proposed rulemaking adds definitions for the following terms to § 121.1 (relating to definitions): "auxiliary power system," "commercial motor vehicle," "GCWR-gross combination weight rating," "highway," and "idling."

The proposed definition of "auxiliary power system" describes equipment that may be installed on a vehicle in lieu of operating the main diesel engine.

The proposed definition of "commercial motor vehicle" is adapted from the definition in 49 CFR 390.5 (relating to definitions). The proposed definition limits the scope of the proposed rulemaking to vehicles designed for or used on a highway that are above a certain weight or passenger capacity or carry hazardous materials in quantities requiring placarding. Vehicles

covered by the definition of "commercial motor vehicle" would include most trucks used for business purposes, transit and tour buses and school buses. The definition is not intended to cover vehicles that would only otherwise be covered by the use of a separate engine for cargo refrigeration in the tractor portion of a tractor-trailer.

The proposed definitions of "GCWR-gross combination weight rating" and "highway" are the same as in the Pennsylvania Motor Vehicle Code (75 Pa.C.S.A. § 102 (relating to definitions)).

The proposed definition of "idling" specifies that, for purposes of this subchapter, idling is operating a main propulsion engine of a vehicle without moving.

The proposed rulemaking adds § 126.601 (relating to applicability), which states that the diesel vehicle idling requirement applies to owners and operators of diesel-powered commercial motor vehicles and owners and operators of locations at which diesel-powered commercial motor vehicles load, unload or park. The locations affected include, for example, warehouses, terminals, truck stops, other retail locations, schools, parking lots, rest areas and roadway rights-of-way. The proposed rulemaking would regulate idling at off-road sites by highway vehicles, but not by construction, agricultural or other off-road vehicles or equipment, or by locomotives, marine vessels or aircraft.

The proposed rulemaking adds § 126.611 (relating to idling restriction) to prevent persons subject to this subchapter from causing or allowing the engine of a commercial diesel vehicle to idle more than 5 minutes in any 60-minute period, except as provided in § 126.612 (relating to exemptions). This time limitation is in the EPA model law and was suggested by the petitioner. Most idling takes place in conjunction with truck travel rest at truck stops and rest stops, and the Department's study found that shared responsibility by facilities and vehicle owners and operators is essential to reduce idling effectively. Therefore, the provision has been written to include owners and operators of locations at which diesel-powered commercial motor vehicles load, unload or park.

The proposed rulemaking adds § 126.612 (relating to exemptions), which describes a number of situations in which the idling restriction would not apply. These situations are listed below.

Section 126.612(a)(1) allows idling by vehicles equipped with sleeper berths when idling is necessary in cold or hot weather for purposes of driver comfort. The exemption expires on May 1, 2010, as suggested by the petitioner. The expiration provision is mirrored in the EPA model rule, and is designed to allow businesses the opportunity to identify, finance and install mobile idling reduction equipment before the exemption's expiration. Affordable idling reduction strategies already exist. Not only will they reduce air pollution from idling, but they also should reduce operating costs for diesel fleets by decreasing fuel use. DEP has had a financial assistance program for small businesses for pollution prevention and energy efficiency since July 2004 that can help these diesel vehicle owners purchase on-board idling reduction equipment. The exemption also recognizes that stationary idling reduction equipment, specifically electrified parking spaces, is available within the Commonwealth and is currently

underutilized. Because using stationary idling reduction equipment is preferable to idling from a pollution perspective, the exemption would not apply if parking is available at an electrified parking space. The petitioner recommended allowing the temporary temperature exemption only if the vehicle was parked at a fleet trucking terminal, commercial truck stop or PennDOT designated rest area. The proposed language makes the temporary exemption available no matter where the vehicle is parked, but also restricts its applicability to occupied vehicles with sleeper berths, as in the EPA model rule.

Section 126.612(a)(2) allows idling for passenger buses with passengers onboard when idling is necessary to provide heating or air conditioning for the passengers. It allows a maximum of 15 minutes in a 60-minute period, in recognition that heating and cooling of a bus, rather than of a truck cab, takes longer. The exemption primarily is patterned after the EPA model rule. The petitioner suggested allowing idling for 10 minutes prior to passenger boarding; however, that could have been dependent upon too many schedule and passenger arrival variables. The petitioner suggested that idling be allowed any time passengers are on board; however, EPA found that 15 minutes is a sufficient amount of time to condition a bus. The EPA model rule suggests that this exemption expire five years after a state implements a financial assistance program to allow bus owners to identify, finance and install equipment to replace idling. The Department has not proposed an expiration date for this exemption and is seeking comment on whether affordable idling reduction technology exists to cool a passenger bus adequately by means other than operation of the main engine.

Section 126.612(a)(3) allows idling when necessary for active loading or unloading of property or passengers. In most cases, idling is not necessary for active loading or unloading. Idling could be necessary when, for example, a facility requires a driver to remain inside the cab. The Department is seeking comment on whether to expand this exemption to include, for example: idling that is necessitated by a delay in loading or unloading due to an unforeseen facility-related problem during hot or cold weather; and, idling in specific situations in which vehicles are lining up to load or unload.

Section 126.612(a)(4) allows idling when necessary to operate work-related mechanical or electrical equipment. Examples include trash compaction equipment, mixing equipment for concrete trucks, lifts for cargo or passengers and straight truck refrigeration. The exemption does not apply when idling for cabin comfort or to operate nonessential on-board equipment.

Section 126.612(a)(5) allows idling when required by on-road traffic or other obstruction on the highway, a stop signal or the direction of an official directing traffic, since these are normally circumstances outside the driver's control. This exemption applies only to on-road traffic conditions and does not apply to queuing for loading or unloading. The Department is seeking comment on whether an exemption should be allowed for vehicles waiting to load or unload and how such an exemption should be worded, including conditions.

Section 126.612(a)(6) allows idling when idling is required as part of a state or federal safety inspection. Idling must be necessary to perform the operations.

Section 126.612(a)(7) allows idling when idling is required for maintenance, servicing or repair of the vehicle, and for diagnostic operations for maintenance, servicing or repair. Idling must be necessary to perform the operations.

Section 126.612(a)(8) allows idling when necessary to operate defrosters, maintain temperature or refrigerate cargo to prevent a health or safety emergency or during the period in which equipment is being installed to prevent such an emergency. It also allows idling if required by federal, state or local safety regulations.

Section 126.612(a)(9) allows idling of vehicles when necessary for vehicles being used in emergency or training situations. It does not allow idling while the vehicle is not acting in emergency or training mode.

Section 126.612(a)(10) allows idling for an armored vehicle when idling is necessary while a person remains inside to protect the security of the cargo.

Section 126.612(a)(11) allows idling by a school bus during queuing for the sequential discharge or pickup of students when idling is necessary because the physical configuration of the school or the school's surrounding streets does not allow for stopping. This exemption is likely to be useful in limited situations, such as some urban settings, in which there may be no reasonable alternative to idling.

While several of these exemptions were identified in EPA's report on its model law development as "common sense," participants in EPA's process felt it was important to articulate the exemptions to ensure appropriate interpretation and enforcement by enforcing officials. Even though some of these exemptions were not included in the petitioner's suggested regulation, they have been included in this proposed rulemaking. They include portions of paragraph (4), all of paragraphs (6) and (10) and subsection 126.612(c) discussed below.

Subsection 126.612(b) allows idling for vehicles displaying a label indicating that the NO<sub>x</sub> emissions from the vehicle are low enough that the vehicle is allowed to idle without restriction in California. This subsection does not *require* that a vehicle's emissions meet California's standards applicable to unrestricted idling; it simply allows an exemption if they do.

Section 126.612(c) allows idling if idling is due to mechanical difficulties over which the driver has no control. These situations are rare. An example would be a problem with the alternator. If the regulation were enforced against a driver, the enforcement action would be abandoned if the driver demonstrated within the specified time limits that the claimed mechanical problem existed and was fixed. Participants in EPA's model law development suggested that a requirement to submit paperwork to the enforcing agency would prevent abuse of this exemption.

Section 126.612(d) allows a local government or local air authority with idling regulations predating the adoption of this proposed rulemaking as a final rulemaking to approve alternative compliance plans for bus terminals to minimize idling.

Proposed Subchapter G would ensure that emission reductions realized from the proposed rulemaking continue as MY 2007 and newer heavy-duty engines become more prevalent in vehicles traveling in and through the Commonwealth. Engines that are MY 2007 and newer are required by both EPA and the California Air Resources Board (CARB) to control particulate emissions to very low levels. Diesel engine and vehicle makers have chosen to meet the 2007 engine requirements primarily by using particulate filters and other equipment to remove the particulates from the engines' exhaust. These filters are normally installed in the exhaust system of the main engine. APS that are powered by small diesel engines have their own exhaust systems. Even though these small engines use about 1/10<sup>th</sup> the fuel of the main propulsion engine, they generally emit more particulate matter per hour than the main engine. Vehicle fleet operators might choose to purchase these smaller engines as an idling alternative despite the higher particulate emissions because of the fuel savings. Therefore, proposed Subchapter G requires the exhaust of APS used on vehicles with MY 2007 or newer engines to be routed through the main engine's exhaust system upstream of the particulate filter. In practice, this is generally done in ways that are visible to an enforcing official without opening the engine or cabin compartment. The Department is seeking comment on the implications of this provision for vehicle owners and manufacturers.

According to a survey conducted by the American Trucking Associations, almost one-half of all vehicles with sleeper berths in the country may be driven in California, and therefore, will have to be prepared to comply with California's idling and APS use regulations. CARB allows alternatives to re-routing the exhaust of the APS. CARB also provides that these systems be labeled so that idling enforcement officials can easily identify vehicles that are compliant through use of these alternatives. The proposed rulemaking provides that the APS, if labeled according to California requirements, may operate in Pennsylvania when used on vehicles with MY 2007 or newer engines. The proposed rulemaking does not regulate the use of APS on vehicles with MY 2006 or older engines.

## **F. Benefits, Costs and Compliance**

### **Benefits**

All citizens in the Commonwealth will benefit from reduced direct exposure to diesel emissions produced by idling commercial motor vehicles. Reduced diesel emissions will also assist the Commonwealth in maintaining the fine particulate and ground-level ozone standards. However, more air pollution from idling is produced in some counties than others because of the concentration of travel rest facilities. These counties will benefit more. For instance, idling trucks in Cumberland and Luzerne counties produce about 20 percent of all idling emissions in the Commonwealth.

When this regulation takes effect in 2009, it is estimated that idling emissions will account for about 3,325 tons of NO<sub>x</sub>, 90 tons of VOC and 60 tons of particulate matter per year. This estimate does not include an anticipated increase in idling hours from the present time because no statewide data exists upon which to base the estimate. The benefits of this proposed rulemaking could be greater if hours spent in Pennsylvania in travel rest increase significantly. Assumptions about idling emissions were those provided by EPA in its

*Guidance for Quantifying and Using Long Duration Truck Idling Emission Reductions in State Implementation Plans and Transportation Conformity* (2004). The Department expects that, once the temperature exemption expires, the proposed regulation would reduce diesel-powered commercial motor vehicles idling by half and that a corresponding 50 percent reduction of emissions would occur. Therefore, the Department estimates that the proposed rulemaking would reduce emissions by about 1,610 tons of NO<sub>x</sub>, 45 tons of VOC and 30 tons of particulate matter once the temperature exemptions for trucks with sleeper berths expires.

Because the United States increasingly relies on imported fuel for transportation needs, reducing idling will contribute to the country's energy independence. Another benefit of reducing idling is the reduction of CO<sub>2</sub> emissions. EPA estimates that idling heavy-duty vehicles can consume about one gallon of diesel fuel for every hour of idling time, adding more than a pound of CO<sub>2</sub>, the major GHG. The idling of a typical long-haul truck contributes about 19 metric tons of CO<sub>2</sub> annually.

Vehicle operators, the people in the closest proximity to diesel exhaust, will benefit most, particularly drivers of long-haul vehicles. In addition to cleaner air, the noise of their sleeper berth should decrease if power is supplied by an alternative idling technology. This should lead to a more rested truck driver. The National Transportation Safety Board has cited fatigue as a major cause of accidents in which long-haul trucks are involved. Nearly 500,000 trucks in the nation are dedicated to long-haul trips. Since trucking companies need to replace truck drivers constantly due to high turnover rates, more truck operators would be affected than there are number of trucks. It is possible that most, if not all, long-haul drivers will idle in Pennsylvania at some time. Including bus drivers and local drivers in the Commonwealth, there are nearly 1,000,000 drivers who may benefit through reduced exposure to diesel emissions.

The proposed rulemaking can provide consistency in idling regulations in the Commonwealth for the industry, as well as encourage consistency in other states in which Pennsylvania vehicles may idle. Pennsylvania's adoption of this proposed rulemaking will make it difficult for most long-haul trucks across the nation to avoid complying with idling regulations, since most long-haul trucks in the nation are likely to travel through Pennsylvania. Pennsylvania's adoption of the proposed rulemaking will encourage more vehicle operators across the country to invest in long-term, permanent alternatives to idling and, when installing APS on vehicles with MY 2007 or newer engines, to ensure that the APS usage will be less polluting.

### **Compliance Costs**

Savings due to this proposed rulemaking are expected to exceed the costs in 2011, and by 2012 the regulated community will see a payback of their initial investment in equipment that would replace idling for travel rest. The overall benefit to the regulated community in the first five years of this program (2009-2015) should total at least \$163 million. The costs associated with the regulation are investments in equipment to provide climate control and electrical power without idling the main engine, primarily during required periods of rest. While this proposed rulemaking would apply to more vehicles than just trucks with sleeper cabs, shorter-haul

vehicles, transit buses and school buses are not likely to invest in such equipment. The savings are directly attributable to decreases in fuel use. The anticipated decreases in fuel use could reduce revenue to Pennsylvania diesel fuel vendors (truck stops and other retail outlets) by as much as \$14 to \$22 million per year.

### **Compliance Assistance Plan**

The Department plans to educate the regulated community through associations of truck and bus fleet operators, the industry media (including newsletters and radio stations serving the trucking community), large truck stops and operators of other locations where vehicles idle. The information provided would include information about the idling restrictions and financial assistance programs that may be available through the Commonwealth and the federal government for purchase or lease of mobile idling reduction equipment. At present, these financial assistance programs are available for small businesses.

### **Paperwork Requirements**

This proposed rulemaking creates no new paperwork for the regulated community at large, with one exception. Violating vehicle operators who wish to claim the exemption under Section 126.612(a)(4) would have to submit timely documentation of a repair to the enforcing agency.

### **G. Pollution Prevention (if applicable)**

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This regulation prevents pollution by either requiring a pollution source (namely, vehicle engines) to be shut off and by encouraging the use of alternative, less polluting equipment when idling is necessary.

### **H. Sunset Review**

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

### **I. Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 21, 2007, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate

Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

**J. Public Comments**

***Written Comments*** - Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 17, 2008. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by March 17, 2008. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

***Electronic Comments*** - Comments may be submitted electronically to the Board by completing and submitting the online form at [www.depweb.state.pa.us/RegComments](http://www.depweb.state.pa.us/RegComments) by March 17, 2008. If an acknowledgement of electronic comments is not received by the sender within two working days, the comments should be retransmitted at the above website to ensure receipt.

**K. Public Hearings**

The Environmental Quality Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held as follows:

February 12, 2008  
1:00 p.m.

Lehigh County Government Center  
17 South Seventh Street  
Allentown, PA 18101-1614

February 13, 2008  
3:00 p.m.

Department of Environmental Protection  
Rachel Carson State Office Building  
Room 105  
400 Market Street  
Harrisburg, PA 17105

February 15, 2008  
1:00 p.m.

Department of Environmental Protection  
Southwest Regional Office  
Waterfront A and B Conference Room  
400 Waterfront Drive  
Pittsburgh, PA 15222

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

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Environmental Quality Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

BY:

KATHLEEN A. MCGINTY  
Chairperson  
Environmental Quality Board

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

ARTICLE I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

SUBPART C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

\* \* \* \* \*

*Auxiliary power system*—A device installed on a commercial motor vehicle to provide electrical, mechanical or thermal energy to the primary diesel engine or the cab, sleeper berth or bus passenger compartment as an alternative to idling the primary diesel engine.

\* \* \* \* \*

*Commercial motor vehicle* -- A self-propelled motor vehicle used on a highway to transport passengers or property when the vehicle meets one or more of the following conditions:

- (i) The vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater.
- (ii) The vehicle is designed or used to transport more than 8 passengers, including the driver, for compensation.
- (iii) The vehicle is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.
- (iv) The vehicle is used in transporting material found by the Secretary of the United States Department of Transportation to be hazardous under 49 U.S.C. § 5103 (relating to general regulatory authority) and transported in a quantity requiring placarding under regulations prescribed by the Secretary of the United States Department of Transportation under 49 CFR, subtitle B, chapter I, subchapter C (relating to hazardous materials regulations).

\* \* \* \* \*

**GCWR -- Gross combination weight rating**—The value specified by the manufacturer as the loaded weight of a combination motor vehicle.

\* \* \* \* \*

**Highway**—The entire width between the boundary lines of every way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel. The term includes a roadway open to the use of the public for vehicular travel on grounds of a college, university, public or private school, or public or historical park.

\* \* \* \* \*

**Idling**—For purposes of Chapter 126, Subchapter F (relating to diesel vehicle idling), the operation of the main propulsion engine of a commercial motor vehicle while the vehicle is stationary. *(Editor's note: An unrelated definition of this term is expected to be published for comment in the Pennsylvania Bulletin later this year in a proposed amendment to Chapter 129 (relating to standards for sources) concerning glass melting furnaces. The later of these two rulemakings to be published as a final rulemaking will include both definitions.)*

\* \* \* \* \*

*(Editor's note: Subchapters F and G are new and are printed in regular type to enhance readability.)*

## CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS

\* \* \* \* \*

### Subchapter F. DIESEL VEHICLE IDLING

#### GENERAL PROVISIONS

##### § 126.601. Applicability.

This subchapter applies to owners and operators of diesel-powered commercial motor vehicles and owners and operators of locations at which diesel-powered commercial motor vehicles load, unload or park.

## RESTRICTIONS ON DIESEL VEHICLE IDLING

### § 126.611. Idling restriction.

No person subject to this subchapter may cause or allow the engine of a diesel-powered commercial motor vehicle to idle for more than 5 minutes in a 60-minute period, except as provided in § 126.612 (relating to exemptions).

### § 126.612. Exemptions.

(a) A diesel-powered commercial motor vehicle may idle beyond the time allowed in § 126.611 (relating to idling restriction) for one or more of the following reasons:

(1) When idling is necessary for an occupied vehicle equipped with a sleeper berth compartment to operate air conditioning or heating during a rest period and the outside temperature at the location of the vehicle is less than 40 degrees or greater than 75 degrees Fahrenheit. This exemption expires May 1, 2010. This exemption does not apply if the vehicle is parked at a location equipped with stationary idle reduction technology that is available for use.

(2) When idling is necessary for a passenger bus to provide heating or air conditioning when non-driver passengers are onboard. For the purposes of this exemption, the bus may idle for up to 15 minutes in a 60-minute period.

(3) When idling is necessary for active loading or active unloading of property or passengers.

(4) When idling is necessary for a vehicle to operate work-related mechanical or electrical operations other than propulsion.

(5) When a vehicle must remain motionless because of one or more of the following:

(i) Traffic or other obstruction on the highway.

(ii) An official traffic control device or signal.

(iii) The direction of a uniformed police officer or other person authorized to direct traffic under 67 Pa. Code § 101.2 (relating to persons authorized to direct traffic).

(6) When idling is necessary as part of a state or federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection.

(7) When idling is necessary for maintenance, servicing, repairs or diagnostic purposes, provided idling is required for this activity.

(8) When idling is necessary to operate defrosters, heaters, air conditioners or cargo refrigeration equipment, or to install equipment, in order to prevent a safety or health emergency and not for the purpose of a rest period, or as otherwise required by federal or state motor carrier safety regulations or local requirements.

(9) When idling is necessary for a police, fire, ambulance, public safety, military or other vehicle while being used in an emergency or training capacity.

(10) When idling is necessary for an armored vehicle while a person remains inside the vehicle to guard the contents.

(11) When idling by a school bus during queuing for the sequential discharge or pickup of students is necessary because the physical configuration of a school or the school's surrounding streets does not allow for stopping.

(b) The restriction on idling set forth in § 126.611 does not apply to a vehicle that has a model year 2007 or newer engine and exhibits a label issued by CARB under 13 CCR § 1956.8(a)(6)(C) (relating to exhaust emissions standards and test procedures – 1985 and subsequent model heavy-duty engines and vehicles) showing that the vehicle's engine meets an optional NOx idling emission standard.

(c) A person will not be considered in violation of § 126.611 (relating to idling restriction) for idling that exceeds 5 minutes in a 60-minute period if each of the following occurs:

(1) The vehicle owner or operator asserts at the time of the exceedance that the vehicle idled more than 5 minutes in a 60-minute period due to a mechanical problem over which the driver had no control.

(2) The vehicle owner or operator demonstrates to the Department or other enforcing agency within 10 business days of exceeding the idling restriction that the mechanical problem has been identified and repaired.

(d) A county, city, town, township, borough or local air authority with idling regulations in existence before \_\_\_\_\_ (*Editor's note: The blank refers to the effective date of this proposed rulemaking*) may approve alternative compliance plans for bus terminals to minimize idling.

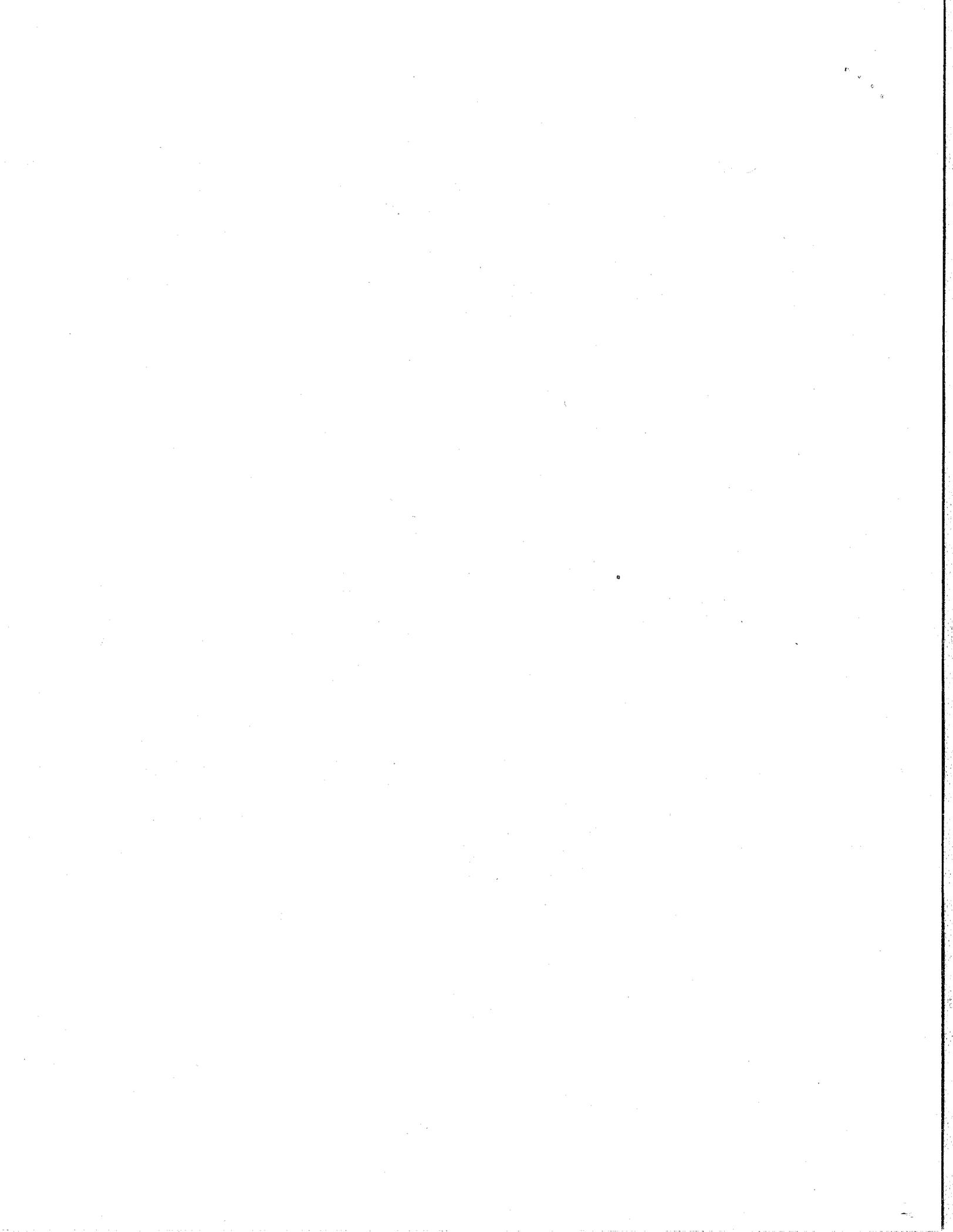
## Subchapter G. AUXILIARY POWER SYSTEMS

### § 126.701. Applicability

This subchapter applies to owners and operators of diesel-powered commercial motor vehicles with a model year 2007 or newer engine.

§ 126.702. Auxiliary power system.

For a diesel-powered commercial motor vehicle with a model year 2007 or newer engine, an auxiliary power system powered by a diesel-powered internal combustion engine may only be used in the Commonwealth if its exhaust is routed through the exhaust system of the main propulsion engine. This requirement does not apply if the vehicle or auxiliary power system exhibits a label issued by CARB under 13 CCR § 2485(c)(3)(A)(1) (relating to airborne toxic control measure to limit diesel-fueled commercial motor vehicle idling) for the auxiliary power system.





Pennsylvania Department of Environmental Protection

---

Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063  
December 21, 2007

Policy Office

717-783-8727

Kim Kaufman, Executive Director  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA 17101

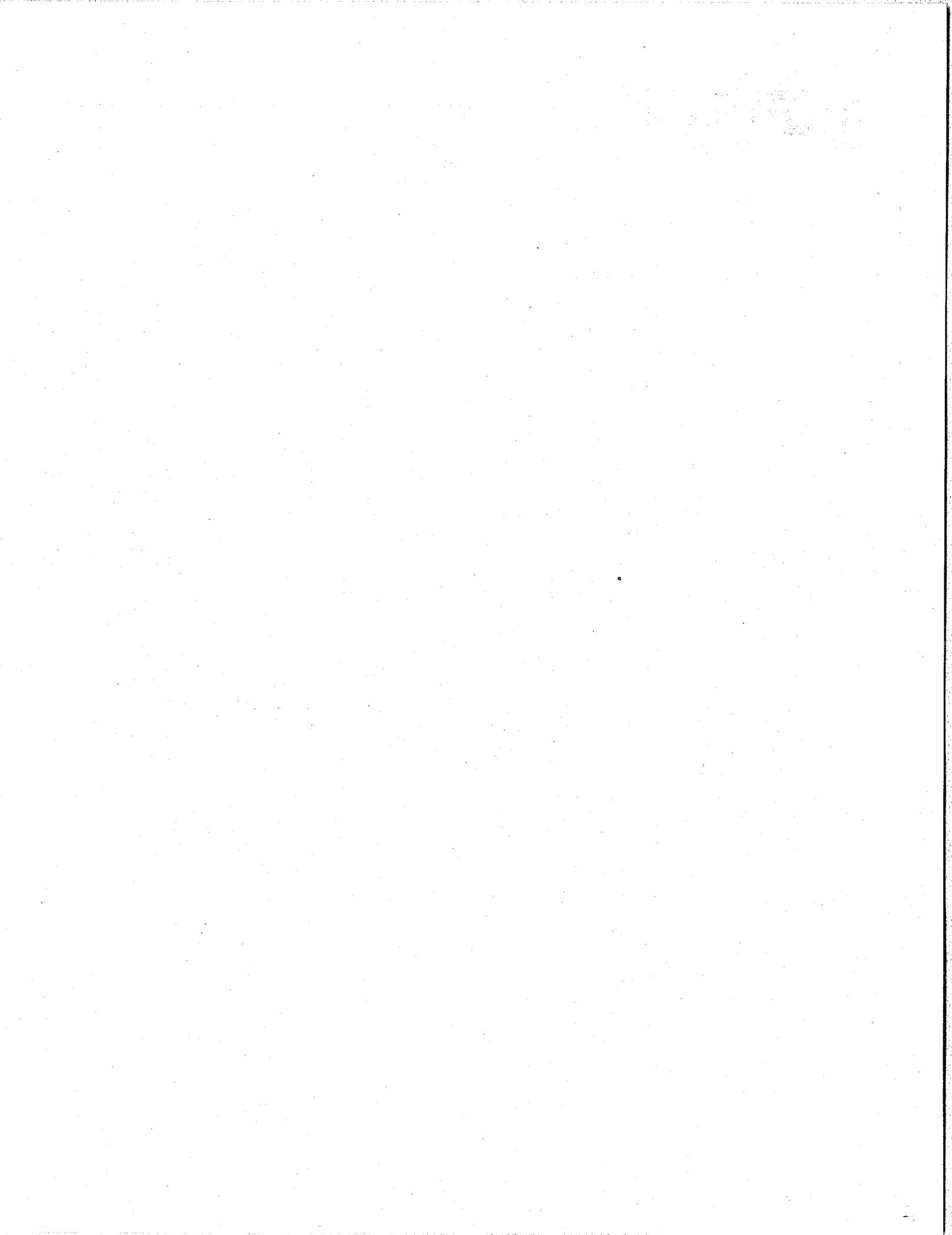
Re: Proposed Rulemaking: Diesel Vehicle Idling and Auxiliary Power Systems  
(25 Pa. Code, Chapters 121 and 126, Subchapters F and G) (#7-422)

Dear Mr. Kaufman:

Enclosed is a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on January 12, 2008, with a 65-day public comment period, that will conclude on March 17, 2008. Three public hearings have been scheduled for this proposal as indicated in the enclosed Preamble of this rulemaking. The Environmental Quality Board (EQB) adopted this proposal on October 16, 2007.

The proposed rulemaking, initiated through a petition to the EQB by the Clean Air Board of Central Pennsylvania, would restrict any person from idling a commercial motor vehicle, or allowing such idling to occur on their property, for more than five minutes during any sixty-minute period at locations where these vehicles load, unload or park. Exemptions are provided in the proposed rulemaking to allow idling under certain circumstances, including exemptions for idling during hot and cold weather (expires May 1, 2010), for maintenance and safety considerations and for active loading or unloading of passenger buses (including school buses). The proposed rulemaking allows idling of vehicles with model year (MY) 2007 and subsequent model years that display a label issued by the California Air Resources Board (CARB), indicating that the vehicle meets a more stringent NOx emission limit than other MY 2007 or newer commercial diesel-powered vehicles.

The rulemaking also proposes restrictions on the use of Auxiliary Power Systems (APS) by requiring that commercial motor vehicles with MY 2007 or newer have the APS exhaust routed through the exhaust system of the vehicle's main propulsion engine. In lieu of this requirement, drivers may opt to exhibit a CARB-issued label on their vehicle indicating that the APS engine meets a verified particulate matter control strategy established by CARB. Mobile idle-reduction technologies, such as APSs used by vehicle operators on MY 2006 vehicles or older may be used without restriction under the proposed rulemaking.



The Department consulted with the Department of Transportation and the Pennsylvania State Police during the development of the proposed rulemaking. In addition, the Department presented the draft proposed rulemaking to the Air Quality Technical Advisory Committee (AQTAC), the Citizens Advisory Council and the Pennsylvania Small Business Assistance Program Compliance Advisory Committee. On July 26, 2007, AQTAC concurred with the rulemaking and urged the Department to proceed with the draft proposed rulemaking to the EQB.

The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey to the agency its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions submitted by the Commission, as well as the Committees and public commentators, prior to final adoption of the regulation.

Please contact me at the number above if you have any questions or need additional information.

Sincerely,



Michele L. Tate  
Regulatory Coordinator

Enclosures

CONFIDENTIAL

SECRET

ADDITIONAL INFORMATION

CONFIDENTIAL

SECRET

ADDITIONAL INFORMATION



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7- 422

SUBJECT: Diesel Vehicle Idling and Auxiliary Power Systems

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolerated Regulation
  - a.  With Revisions
  - b.  Without Revisions

**RECEIVED**

**DEC 21 REC'D**

INDEPENDENT REGULATORY  
REVIEW COMMISSION

3:30 pm

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
12/21/07	<i>D Neuf</i>	Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
12/21/07	<i>Jenice R. Pariso</i>	Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
12/21/07	<i>Pat Har</i>	Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
12/21/07	<i>Pat Har</i>	Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
12/21/07	<i>Joni E Wilmark</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
12/21/07	<i>Maya Garas</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

