

Caution:

This draft regulation is provided solely to facilitate public consultation under section 16 of the Environmental Bill of Rights, 1993. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the draft regulation are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION to be made under the Environmental Protection Act for Vehicle Emissions.

Definitions

1. In this Regulation,

“DTC” means a diagnostic trouble code, which is an alphanumeric code generated by an OBD system when a monitor detects a condition indicating that a component of the vehicle is not functioning properly;

“heavy diesel commercial motor vehicle” has the same meaning as in Regulation 628 (Vehicle Permits) made under the Highway Traffic Act;

“Ministry of Transportation” means the Ministry of the Minister of Transportation or such other member of the Executive Council to whom the responsibility for the administration of the Highway Traffic Act respecting section 7 of that Act may be assigned or transferred under the Executive Council Act;

“model year” means the model year of a motor vehicle set out in the vehicle permit issued by the Ministry of Transportation under the Highway Traffic Act;

“OBD system” means an on-board diagnostic system, which is a computer-based system that controls and monitors the performance of major powertrain and emission control systems and associated control modules;

“vehicle emissions report” means a vehicle emissions report referred to in section 13.

Emissions Standards

OBD system indicates malfunction

2. No person shall operate or cause or permit the operation of a motor vehicle if a malfunction indicator light of an OBD system is illuminated and the OBD system has an active emission-related DTC.

Visible emissions

3. No person shall operate or cause or permit the operation of a motor vehicle from which there is a visible emission for more than five seconds in any one-minute period.

Heavy diesel vehicle, roadside opacity test

4. (1) No person shall operate or cause or permit the operation of a heavy diesel vehicle if, according to a roadside opacity test, the opacity of the vehicle's emissions exceeds the percentage specified in the following Table for vehicles of that model year:

Item	Column 1 Model Year of Heavy Diesel Vehicle	Column 2 Opacity Percentage
1.	1990 and older	If the vehicle is not a school bus, 40% If the vehicle is a school bus, 30%
2.	1991 to 2007	30%
3.	2008 and newer	20%

(2) For the purpose of this section, a roadside opacity test is a test that measures opacity using a procedure set out in the document entitled "Roadside Opacity Test Procedure for Heavy Diesel Vehicles", as it may be amended from time to time. The document is available on a website of the Government of Ontario.

(3) In this section,

"heavy diesel vehicle" means a motor vehicle that operates on diesel fuel and has a manufacturer's gross vehicle weight rating of more than 4,500 kilograms.

EMISSIONS CONTROL SYSTEMS AND DEVICES

Proper operation of emissions-control components

5. (1) For the purpose of subsections 22 (2) and 23 (2) of the Act, a system or device to prevent or lessen the discharge of any contaminant must operate as it was originally intended to operate.

(2) Without limiting the generality of subsection (1), the system or device is not operating as it was originally intended to operate if it has a defect specified for the system or device in the following Table:

Item	Column 1 System or Device	Column 2 Defects
1.	Catalytic converter (all types)	Catalytic converter is cracked, leaking or perforated
2.	Diesel exhaust fluid system and selective catalytic reduction	1. Damaged or insecure tank 2. Seepage of diesel exhaust fluid at any location in the diesel exhaust fluid system that is great enough to form drops 3. Missing storage tank filler cap 4. Empty or contaminated storage tank

Item	Column 1 System or Device	Column 2 Defects
		5. Incorrect mixture in the storage tank
3.	Diesel particulate filter and regeneration system	1. System is cracked, leaking or perforated 2. System is patched in any manner other than by welding
4.	Evaporative emission controls (fuel vapour recovery system)	1. System is cracked, leaking or perforated 2. Missing fuel tank filler cap
5.	Nitrogen oxide storage catalyst	1. Catalyst converter is cracked, leaking or perforated 2. Catalyst converter is patched in any manner other than by welding
6.	Positive crankcase ventilation system	System is cracked, leaking or perforated

Replacement of system or device, subs. 22 (4) of the Act

6. The following types of systems and devices are prescribed for the purpose of subsection 22 (4) of the Act as systems and devices that may be used to replace a system or device:

1. A system or device that is manufactured by the manufacturer of the system or device that is being replaced, and,
 - i. is identical to or equivalent to the system or device that is being replaced, or
 - ii. is manufactured as a replacement for the system or device that is being replaced.
2. A system or device that is approved by one or more of the following bodies as a replacement for the system or device that is being replaced:
 - i. The Bureau of Automotive Repair.
 - ii. The California Air Resources Board.
 - iii. The United States Environmental Protection Agency.
 - iv. A body similar to those mentioned in subparagraphs i to iii that is specified by the Director.

Pollution control for assembled vehicles

7. No person shall assemble a motor vehicle using various components unless the motor of the vehicle has all the systems and devices to prevent or lessen the discharge of any contaminant that would usually be installed, attached or incorporated by the manufacturer of the motor.

Motor replacement

8. No person shall replace a motor in a motor vehicle unless,
- (a) the replacement motor is designed to meet emission standards at least as stringent as those achieved by the original motor with all its original systems and devices to prevent or lessen the discharge of any contaminant attached and functioning; and
 - (b) the replacement motor has all systems and devices to prevent or lessen the discharge of any contaminant usually installed, attached or incorporated by the manufacturer of the replacement motor.

Tampering

9. (1) No person shall tamper, or cause or permit a person to tamper, by,
- (a) removing, bypassing, defeating or rendering inoperative all or part of a system or device to prevent or lessen the discharge of any contaminant installed on, attached to or incorporated in any motor or motor vehicle, including for greater certainty an OBD system; or
 - (b) modifying a motor or motor vehicle in any way that results in increased emissions from the level to which it was originally designed or certified by the manufacturer of the motor or motor vehicle.

(2) No person shall sell or offer, expose or advertise for sale, a system or device the main purpose of which is to carry out any of the actions described in subsection (1).

Heavy Diesel Commercial Motor Vehicles —Emissions Testing and Report

Who may issue vehicle emissions report

10. (1) A person is authorized to issue a vehicle emissions report if the person,
- (a) has successfully completed, within the previous 24 months, a course satisfactory to the Director with respect to the testing of air emissions and OBD systems of heavy diesel commercial motor vehicles; and
 - (b) the person has not been given a notice referred to in subsection (2).

(2) The Director may give a notice to a person mentioned in subsection (1) if the Director is of the opinion that the person is incompetent or otherwise unfit to issue a vehicle emissions report and may, in the notice, require the person to successfully complete one or more courses specified by the Director to address the incompetence or unfitness.

(3) Before the Director gives a notice to a person under subsection (2), the Director shall give the person a draft of the notice and an opportunity to make written submissions to the Director during the period that ends seven days after the draft is given.

Where testing must take place

11. Testing for the purpose of a vehicle emissions report must take place at a facility that is the subject of an agreement, entered into between a business and the Crown, known as a,

- (a) Heavy Duty Diesel Vehicle Emissions Test Facility Performance Contract; or
- (b) Mobile Heavy Duty Diesel Vehicle Emissions Test Facility Performance Contract.

Preconditions for test

12. A heavy diesel commercial motor vehicle shall not be tested for the purpose of a vehicle emissions report if any of the following circumstances apply:

1. The vehicle has visible emissions for more than five seconds in any one-minute period.
2. The vehicle has a missing fuel cap or fuel cap that fits improperly.
3. The vehicle has exhaust leaks.
4. The motor governor fails, malfunctions or is maladjusted.
5. The vehicle identification number is missing or does not match the vehicle permit.
6. There is a device attached to the data link connector.
7. The testing may cause a risk to health or safety.
8. The testing may cause damage to equipment, to property or to the vehicle.

Conditions for vehicle emissions report indicating a pass

13. (1) A person who is authorized to issue a vehicle emissions report, and who tests a heavy diesel commercial motor vehicle and determines that the vehicle is in a condition such that if it were operated the operator would be in compliance with section 4, shall issue a vehicle emissions report indicating a pass to a person who owns or has management or control of the vehicle.

(2) The vehicle shall also be tested, for informational purposes, for whether an OBD system has an active emission-related DTC, and the vehicle emissions report shall indicate the emission-related DTCs, if any.

(3) Subsection (2) does not apply in the following cases:

1. The vehicle has a manufacturer's gross weight rating of more than 6,350 kilograms.
2. The vehicle has a model year that is before 2007.
3. The OBD system of the vehicle is not able to communicate with an OBD test unit, and, one of the following criteria is met:

- i. The vehicle has been identified on the list entitled “Heavy Diesel Commercial Motor Vehicle OBD Exemption List”, as it may be amended from time to time. The list is available on a website of the Government of Ontario.
- ii. An alternate on-board diagnostic scan tool is able to communicate with the OBD system, and the person authorized to issue a vehicle emissions report informs the Director of the vehicle’s vehicle identification number.

(4) For the purpose of this section, if there is reason to believe that the model year of the motor differs from the model year of the vehicle, the Director may give written notice to the owner of the vehicle that this section applies as if the model year of the vehicle is the model year of the motor.

Test procedure, etc.

14. For the purpose of section 13,

- (a) testing the OBD system must be performed using the equipment and procedures set out in the agreements mentioned in section 11 that are applicable to the vehicle being tested; and
- (b) testing compliance with section 4 must be performed using the procedure set out in the document entitled “Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles”, also known as “SAE J 1667”, published by the Society of Automotive Engineers, dated February 1996, or a procedure that, in the opinion of the Director, is equivalent.

Vehicle that cannot be tested

15. (1) The Director may, on request, make a determination as to whether it is not reasonably possible to test a vehicle.

(2) If the Director determines that it is not reasonably possible to test the vehicle, the Director shall notify the Ministry of Transportation that it is not reasonably possible to test the vehicle.

False reports

16. No person shall create, distribute or use a document or permit the creation, distribution or use of a vehicle emissions report that indicates a pass if the criteria set out in section 13 are not met or if the vehicle has not been tested for compliance in accordance with this Regulation.

Miscellaneous

Service of certain orders and of vehicle emissions reports

17. An order under section 18 or 157 of the Act or vehicle emissions report may be given to a person who owns or has management or control of one or more motor vehicles by leaving a copy of the order or report with the driver of any of the vehicles.

Clarification

18. For greater certainty, if a provincial officer issues an order under section 157 of the Act, the order may, in accordance with clause 157 (3) (a) of the Act, require the person to whom it is directed to do one or more of the following things in relation to achieving compliance with a provision of Part III of the Act or of this Regulation:

1. Cause repairs to be done to the motor vehicle.
2. Take steps specified in the notice to determine compliance with one or more provisions of Part III of the Act or of this Regulation.
3. If the vehicle is a heavy diesel commercial motor vehicle, obtain a vehicle emissions report mentioned in section 13.

Amendment to this Regulation

19. Section 13 is revoked and the following substituted:

Conditions for vehicle emissions report indicating a pass

13. (1) A person who is authorized to issue a vehicle emissions report, and who tests a heavy diesel commercial motor vehicle, shall issue a vehicle emissions report indicating a pass to a person who owns or has management or control of the vehicle, if the following criteria are met:

1. No more than three non-continuous monitors of the vehicle's OBD systems are "Not Ready".
2. One of the following scenarios is true:
 - i. The malfunction indicator light is commanded off.
 - ii. The malfunction indicator light is commanded on, and the vehicle's OBD system does not have any active emission-related DTCs.
3. If the vehicle were operated the operator would be in compliance with section 4.

(2) Paragraphs 1 and 2 of subsection (1) do not apply in the following cases:

1. The vehicle has a manufacturer's gross weight rating of more than 6,350 kilograms.
2. The vehicle has a model year that is before 2007.
3. The OBD system of the vehicle is not able to communicate with an on-board diagnostic test unit, and, one of the following criteria is met:
 - i. The vehicle has been identified on the list entitled "Heavy Diesel Commercial Motor Vehicle OBD Exemption List", as it may be amended from time to time. The list is available on a website of the Government of Ontario.
 - ii. An alternate on-board diagnostic scan tool is able to communicate with the OBD system, if the person authorized to issue a vehicle emissions report informs the Director of the vehicle's vehicle identification number.

(3) For the purpose of this section, if there is reason to believe that the model year of the motor differs from the model year of the vehicle, the Director may give written notice to the owner of the vehicle that this section applies as if the model year of the vehicle is the model year of the motor.

Revocation of Other Regulation, Commencement and Short Title

Revocation

20. Ontario Regulation 361/98 is revoked.

Commencement

21. [Commencement]