



States' Biofuels Statutes

STATE OF COLORADO

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Current through the 2013 Legislative Session of the Colorado General Assembly.

§ 42-4-306. Powers and duties of commission--automobile inspection and readjustment program--basic emissions program--enhanced emissions program--clean screen program

(1) The commission shall develop and evaluate motor vehicle inspection and readjustment programs for the enhanced program area and basic program area and may promulgate such regulations as may be necessary to implement and maintain the necessary performance of said programs consistent with the federal act.

(2) The commission shall develop and formulate training and qualification programs for state-employed motor vehicle emissions compliance officers to include annual auditor proficiency evaluations.

(3)(a)(I)(A) The commission shall promulgate rules and regulations for the training, testing, and licensing of emissions inspectors and emissions mechanics and the licensing of inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and the authorization of enhanced inspection centers; the standards and specifications for the approval, operation, calibration, and certification of exhaust gas and evaporative emissions measuring instrumentation or test analyzer systems; and the procedures and practices to ensure the proper performance of inspections, adjustments, and required repairs.

(B) Specifications adopted by the commission for exhaust gas measuring instrumentation in the program areas shall conform to the federal act and federal requirements, including electronic data transfer, and may include bar code capabilities.

(C) Upon the adoption of specifications for measuring instruments and test analyzer systems, the division in consultation with the executive director may let bids for the procurement of instruments that meet federal requirements or guidelines and the standards of the federal act. The invitation for bids for test analyzer systems for the basic program and the inspection-only facilities in the enhanced program shall include, but shall not be limited to, the requirements for data collection and electronic transfer of data as established by the commission, service and maintenance requirements for such instruments for

the period of the contract, requirements for replacement or loan instruments in the event that the purchased or leased instruments do not function, and the initial purchase or lease price. On and after June 5, 2001, each contract for the purchase of such instruments shall have a term of no more than four years.

(II) Points of no greater than five percent shall be assigned to those respondents that make the greatest use of Colorado goods, services, and the participation of small business. Licensed inspection and readjustment stations, inspection-only facilities, fleet inspection stations, and motor vehicle dealer test facilities, if applicable, which are required to purchase commission-approved test analyzer systems shall purchase them pursuant to the bid procedure of the department of personnel.

(III) Mobile test analyzer systems for motor vehicle dealer test facilities shall comply with commission specifications developed pursuant to subparagraph (I) of this paragraph (a).

(b)(I) For the enhanced emissions program, the commission shall develop system design standards, performance standards, and contractor requirements. Upon the adoption of such criteria, the division in consultation with the executive director may, according to procedures and protocol established in the "Procurement Code", articles 101 to 112 of title 24, C.R.S., enter into a contract for the design, construction, equipment, maintenance, and operation of enhanced inspection centers to serve affected motorists. The criteria for the award of such contract shall include, but shall not be limited to, such criteria as the contractor's qualifications and experience in providing emissions inspection services, financial and personnel resources available for start-up, technical or management expertise, and capacity to satisfy such requirements for the life of the contract.

(II) Inspection procedures, equipment calibration and maintenance, and data storage and transfer shall comply with federal requirements and may include bar code capability. The system shall provide reasonable convenience to the public.

(III) Points of no greater than five percent shall be assigned to those respondents who make the greatest use of Colorado goods, services, and participation of small businesses.

(IV) On and after May 26, 1998, any contract for inspection services shall have a term of no more than five years and shall be subject to rebidding under the provisions of this paragraph (b).

(V)(A) Notwithstanding any contrary provision in the "Procurement Code", articles 101 to 112 of title 24, C.R.S., or this article, any contract for inspection services may be renewed for a term not to exceed two years, after which the contract may be renewed for a single term of up to four years or rebid; except that inspection fees during any such four-year renewal contract shall be as determined under section 42-4-311(6).

(B) The commission shall have rule-making authority to implement any environmental protection agency-approved alternative emissions inspection services or technologies, including on-board diagnostics, so long as such inspection technologies provide SIP credits equal to or greater than those currently in the SIP.

(4)(a) The commission shall develop a program to train and examine all applicants for an emissions

inspector or emissions mechanic license. Training of emissions inspectors who are employed at enhanced inspection centers within the enhanced emissions program area shall be administered by the contractor subject to the commission's oversight. Emissions mechanic training shall be performed by instructors certified in accordance with commission requirements. Training classes shall be funded by tuition charged to the participants unless private or federal funds are available for such training. The qualifications and licensing examination for emissions inspectors, excluding such inspectors at enhanced inspection centers, who shall be authorized by and under the direction of the contractor, shall include a test of the applicant's knowledge of the technical and legal requirements for emissions testing, knowledge of data and emissions testing systems, and an actual demonstration of the applicant's ability to perform emissions inspection procedures.

(b) Emissions inspector and emissions mechanic licenses shall expire two years after issuance. The commission shall establish technical standards for renewing emissions inspector and emissions mechanic licenses to include requirements for retraining on a biennial schedule.

(c) The commission shall establish minimum performance criteria for licensed emissions inspectors and emissions mechanics.

(5) The commission shall perform its duties, as provided in sections 42-4-301 to 42-4-316, with the cooperation and aid of the division.

(6)(a) The commission shall develop and adopt, and may from time to time revise, regulations providing inspection procedures for detection of tampering with emissions-related equipment and on-board diagnostic systems and emissions standards for vehicle exhaust and evaporative gases, the detection of chlorofluorocarbons, and smoke opacity, as prescribed in section 42-4-412, with which emissions standards vehicles inspected in accordance with section 42-4-310 would be required to comply prior to issuance of certification of emissions compliance. Such inspection procedures and emissions standards shall be proven cost-effective and air pollution control-effective on the basis of detailed research conducted by the department of public health and environment in accordance with section 25-7-130, C.R.S., and shall be designed to assure compliance with the federal act, federal requirements, and the state implementation plan. Emissions standards shall be established for carbon monoxide, exhaust and evaporative hydrocarbons, oxides of nitrogen, and chlorofluorocarbons.

(b)(I) The commission shall adopt regulations which provide standards for motor vehicles and shall adopt by December 1 of each subsequent year standards for motor vehicles of one additional model year.

(II) Standards for carbon monoxide, exhaust and evaporative hydrocarbons, and oxides of nitrogen shall be no more stringent than those established pursuant to the federal act and federal requirements. The cut-points established for such standards prior to December 1, 1998, shall not be increased until on or after January 1, 2000.

(c) The commission shall recommend to the general assembly no later than December 1, 1998, adjustment or repair procedures to be followed for motor vehicles of the model year 1984 or a later model year which do not meet the applicable emissions standards. Notwithstanding the provisions of subsection (7) of this section, such recommended procedures may require the replacement or repair of

emissions control components of such motor vehicles.

(d) Test procedures may authorize emissions inspectors or emissions mechanics to refuse testing of a vehicle that would be unsafe to test or that cannot physically be inspected, as specified by the commission; except that refusal to test a vehicle for such reasons shall not excuse or exempt such vehicle from compliance with all applicable requirements of this part 3.

(7)(a) The commission shall by regulation require the owner of a motor vehicle for which a certification of emissions control is required to obtain such certification. Such regulation shall provide:

(I) That a certification of emissions compliance be issued for the vehicle if, at the time of inspection or, after completion of required adjustments or repairs, the exhaust and evaporative gases and visible emissions from said vehicle comply with the applicable emissions standards adopted pursuant to subsection (6) of this section, and that applicable emissions control equipment and diagnostic systems are intact and operable, and, for model year 1995 and later vehicles, compliance with each applicable emissions-related recall campaign, or remedial action, as defined by the federal act, has been demonstrated.

(II)(A) That a certification of emissions waiver be issued for the motor vehicle if, at the time of inspection, the exhaust gas or evaporative emissions from said vehicle do not comply with the applicable emissions standards but said vehicle is adjusted or repaired by a registered repair technician or at a registered repair facility within the enhanced program area, or at a licensed inspection and repair station within the basic program area, whichever is appropriate, to motor vehicle manufacturer specifications and repair procedures as provided by regulation of the commission.

(B) Such specifications shall require that such motor vehicles be retested for exhaust gas emissions and evaporative emissions, if applicable, after such adjustments or repairs are performed, but, except as provided in section 42-4-310(1)(d), no motor vehicle shall be required to receive additional repairs, maintenance, or adjustments beyond such specifications or repairs following such retest as a condition for issuance of a certification of emissions waiver.

(C) A time extension not to exceed the period of one inspection cycle may be granted in accordance with commission regulation to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements pursuant to commission regulation have not been met, but such extension may be granted only once per vehicle.

(D) Notwithstanding any provisions of this section, a temporary certificate of emissions control may be issued by state AIR program personnel for vehicles required to be repaired, if such repairs are delayed due to unavailability of needed parts.

(E) The results of the initial test, retests, and final test shall be given to the owner of the motor vehicle.

(F) The issuance of temporary certificates shall be entered into the main computer data base for the AIR program through the use of electronic records.

(G) The commission is authorized to reduce the emissions-related repair expenditure limit established in

section 42-4-310(1)(d)(III) for hydrocarbons and oxides of nitrogen if applicable federal requirements are met, and the environmental protection agency has approved a maintenance plan submitted by the state to ensure continued compliance with such federal requirements.

(b)(I) The commission shall by regulation provide that no vehicle shall be issued a certificate of emissions compliance or waiver if emissions control equipment and diagnostic or malfunction indicator systems, including microprocessor control systems, are not present, intact, and operational, if repairs were not appropriate and did not address the reason for the emissions failure, or if the vehicle emits visible smoke.

(II) The commission shall provide by regulation that no model year 1995 or later vehicle shall be issued a certificate of emissions control unless compliance with each applicable emissions-related recall campaign or remedial action, as defined in the federal act, has been demonstrated.

(8)(a) The commission may exempt motor vehicles of any make, model, or model year from the periodic inspection requirements of section 42-4-310.

(b) Pursuant to section 42-4-310(1), the commission may increase the effective duration of certifications of emissions compliance issued for new motor vehicles without inspection.

(9)(a)(I) The commission shall continuously evaluate the entire AIR program to ensure compliance with the state implementation plan and federal law. Such evaluation shall be based on continuing research conducted by the department of public health and environment in accordance with section 25-7-130, C.R.S. Such evaluation shall include assessments of the cost-effectiveness and air pollution control-effectiveness of the program.

(II) The commission shall establish on a case-by-case basis and pursuant to final order any area of a county included in the basic emissions program area pursuant to section 42-4-304(2) which shall be incorporated into the enhanced emissions program because it violates national ambient air quality standards on or after January 1, 1996, as established by the environmental protection agency.

(b) Such evaluation shall include a determination of the number of motor vehicles that fail to meet the applicable emissions standards after the adjustments and repairs required by subsection (7) of this section are made. If the commission finds that a significant number of motor vehicles do not meet the applicable emissions standards after such adjustments or repairs are made, the commission shall develop recommendations designed to improve the air pollution control-effectiveness of the program in a cost-effective manner.

(c) The evaluation shall also include an assessment of the methods of controlling or reducing exhaust gas emissions from motor vehicles of the model year 1981 or a later model year that are equipped with microprocessor-based emissions control systems and on-board diagnostic systems. Such evaluation shall include, if necessary for such motor vehicles, the development of more accurate alternative procedures to include the adjustments and repairs specified in subparagraph (II) of paragraph (a) of subsection (7) of this section, and such alternative procedures may require the replacement of inoperative or malfunctioning emissions control components. Such alternative procedures shall be designed to achieve control of emissions from such motor vehicles which is equivalent to or greater than the control

performance level provided by performance standards established pursuant to the federal act.

(d) Such evaluation shall also include an annual assessment of in-use vehicle emissions performance levels by random testing of a representative sample of at least one-tenth of one percent of the vehicles subject to the enhanced emissions program requirements.

(10) The commission shall develop and implement, and shall revise as necessary, inspection procedures to detect tampering, poor maintenance, mis-fueling, and contamination of emissions control systems to include proper operation of on-board diagnostic systems.

(11)(a) The commission, with the cooperation of the department of public health and environment, the department of revenue, the contractor, and the owners or operators of the inspection and readjustment stations, inspection-only facilities, and motor vehicle dealer test facilities, shall implement an ongoing project designed to inform the public concerning the operation of the program and the benefits to be derived from such program.

(b)(I) The commission shall, as part of such project and with the cooperation of the department of public health and environment, the department of revenue, the contractor, and the owners or operators of the inspection and readjustment stations and inspection-only facilities prepare and cause the distribution of consumer protection information for the benefit of the owners of vehicles required to be inspected pursuant to section 42-4-310.

(II) This information shall include an explanation of the program, the owner's responsibilities under the program, the procedures to be followed in performing the inspection, the adjustments and repairs required for vehicles to pass inspection, cost expenditure limits pursuant to section 42-4-310(1)(d) for such adjustments or repairs, the availability of diagnostic information to aid repairs, and a listing of registered repair facilities and technicians, and the package may include information on other aspects of the program as the commission determines to be appropriate.

(c) In addition to distribution of such information, the commission shall actively seek the assistance of the electronic and print media in communicating such information to the public and shall utilize such other means and manners of disseminating the information as are likely to effectuate the purpose of the program.

(12)(a) The commission, with the cooperation of the executive director of the department of public health and environment, shall conduct or cause to be conducted research concerning the presence of pollutants in the ambient air, which research shall include continuous monitoring of ambient air quality and modeling of sources concerning their impacts on air quality. Such research shall identify pollutants in the ambient air which originate from motor vehicle exhaust gas emissions and shall identify, quantify, and evaluate the ambient air quality benefit derived from the automobile inspection and readjustment program, from the federal new motor vehicle exhaust emissions standards, and from changes in vehicle miles traveled due to economic or other factors. Each such evaluation shall be reported separately to assess the air pollution control-effectiveness and cost-effectiveness of the pollution control strategy.

(b)(I) The commission with the cooperation of the department of public health and environment shall cause to be conducted a pilot study of the feasibility and costs of implementing remote sensing

emissions detection technology as a potential supplemental maintenance strategy for areas that have attained applicable standards. This pilot study shall be conducted in the metropolitan Greeley, Weld county area with results and recommendations to be made available in January, 1998.

(II) The executive director of the department of public health and environment is authorized to enter into an agreement with a contractor in accordance with section 42-4-307(10)(a) for the purchase of equipment and any assistance necessary for this study.

(13) The commission shall identify vehicle populations contributing significantly to ambient pollution inventories utilizing mobile source computer models approved by the environmental protection agency. The commission shall develop and implement more stringent or frequent, or both, inspection criteria for those vehicles with such significant pollution contributions.

(14)(a) Consistent with section 42-4-305, the commission shall promulgate technical rules and regulations governing quality control and audit procedures to be performed by the department of revenue as provided in section 42-4-305. Such regulations shall address all technical aspects of program oversight and quality assurance to include covert and overt performance audits and state implementation plan compliance.

(b) To ensure compliance with the state implementation plan and federal requirements the commission shall promulgate technical rules and regulations to address motor vehicle fleet and motor vehicle dealer inspection protocol and quality control and audit procedures.

(15) The commission shall provide for additional enforcement of the inspection programs by encouraging the adoption of local ordinances and active participation by local law enforcement personnel, parking control, and code enforcement officers against vehicles suspected to be out of compliance with inspection requirements.

(16)(a)(I) The commission shall promulgate rules and regulations governing the issuance of emissions-related repair waivers consistent with section 42-4-310.

(II) Within the enhanced program area waivers shall only be issued by authorized state personnel and enhanced inspection center personnel specifically authorized by the executive director.

(b) The issuance of all waivers shall be controlled and accountable to the main computer database for the AIR program by electronic record to ensure that maximum allowable waiver rate limits for both program types, as defined by the federal act, are not exceeded.

(17) For the enhanced emissions program, the commission shall promulgate rules and regulations establishing a network of enhanced inspection centers and inspection-only facilities within the enhanced emissions program area consistent with the following:

(a)(I) Owners, operators, and employees of enhanced inspection centers and independent inspection-only facilities within the enhanced program area are prohibited from engaging in any motor vehicle repair, service, parts sales, or the sale or leasing of motor vehicles and are prohibited from referring vehicle owners to particular providers of motor vehicle repair services; except that minor repair of

components damaged by center or facility personnel during inspection at the center or facility, such as the reconnection of hoses, vacuum lines, or other measures pursuant to commission regulation that require no more than five minutes to complete, may be undertaken at no charge to the vehicle owner or operator if authorized.

(II) The operation of a motor vehicle dealer test facility shall not be considered to be engaging in any motor vehicle repair service, parts sales, or the sale or leasing of motor vehicles by a member of the state trade association operating such motor vehicle dealer test facility.

(b) Owners, operators, and employees of enhanced inspection centers shall ensure motorists and other affected parties reasonable convenience. Inspection services shall be available prior to, during, and after normal business hours on weekdays, and at least five hours on a weekend day.

(c) Owners, operators, and employees of enhanced inspection centers shall take appropriate actions, such as opening additional lanes, to avoid exceeding average motorist wait times of greater than fifteen minutes by designing optimized single- or multi-lane high-volume throughput systems.

(d) Owners or operators of enhanced inspection centers may develop, and are encouraged to develop, and implement alternate strategies including but not limited to off-peak pricing to reduce end-of-the-month wait times.

(e) The network of enhanced inspection centers shall be located to provide adequate coverage and convenience. At a minimum, the number of enhanced inspection centers shall be equivalent to the network that existed on January 1, 2000, and the hours of operation shall be determined by the contract.

(f) Within the enhanced emissions program area the commission shall provide for the operation of licensed inspection-only facilities. Applicable facility and inspector licensing, inspection procedures, and criteria shall be pursuant to rule and regulation of the commission and compliance with federal requirements. Inspection-only facilities shall be authorized to provide inspection services for all classes of motor vehicles as defined in section 42-4-304(18) of the model year 1981 and older. Inspection-only owners or operators, or both, shall comply with paragraph (a) of this subsection (17).

(18) For the basic emissions program, inspection stations within the basic emissions program area which are licensed in accordance with section 42-4-308 may conduct inspections or provide motor vehicle repairs as well as offer emissions inspection services.

(19) The commission shall give at least sixty days' notice to the executive director prior to conducting any rule-making hearing pursuant to this article, except where the commission finds that an emergency exists under section 24-4-103(6), C.R.S. The executive director shall participate as a party in any such hearing. Prior to promulgating any rule under this article, the commission shall consider the potential budgetary and personnel impacts any such rule may have on the department of revenue.

(20)(a) The commission shall develop and maintain a small business technical assistance program through the automobile inspection and repair program to provide information and to aid automotive businesses and technicians. As an element of this program, the commission shall develop a voluntary program for the training of registered repair technicians, to be funded by tuition charged to the

participants, unless federal or private funds are made available for such training.

(b) For the enhanced emissions program, the commission shall provide for the voluntary registration of repair facilities and repair technicians within the enhanced emissions program area. Emissions-related repair effectiveness shall be monitored and periodically reported to participating facilities and technicians. Technical assistance shall be provided to those repair technicians and repair facilities needing improvement in repair effectiveness. The commission shall require that emissions-related repair effectiveness information regarding registered repair facilities be made available to the public.

(21)(a) The commission shall investigate and develop other supplemental or alternative motor vehicle related emissions reduction strategies, including but not limited to “cash for clunkers”, which may complement or enhance the performance of the AIR program. Such strategies must be creditable under the state implementation plan and be proven cost-effective.

(b) Deleted by Laws 2002, Ch. 233, § 5, eff. Aug. 7, 2002.

(22) The commission shall develop rules and regulations with respect to emissions inspection procedures and standards of motor vehicles which operate on alternative motor fuels including but not limited to compressed natural gas, liquid petroleum gas, methanol, and ethanol. Such rules and regulations shall be developed for both the basic emissions program and the enhanced emissions program. The commission shall evaluate whether dual fuel motor vehicles should be inspected on both fuels and whether such vehicles shall be charged for one or two inspections.

(23)(a) The commission shall promulgate rules governing the operation of the clean screen program. Such rules shall authorize the division to commence the clean screen program in the basic emissions program area commencing as expeditiously as possible. Such rules shall authorize the division to extend, if feasible, the clean screen program to other parts of the state upon request of the lead air quality planning agencies for each respective area. Such rules shall govern operation of the clean screen program pursuant to the contract or service agreement entered into under section 42-4-307(10.5). Such rules shall determine the percentage of the vehicle fleet targeted for the clean screen program, which percentage shall develop a target of the eligible vehicle fleet that meets air quality needs. Such rules shall specify emission levels for vehicles in the same manner as for other vehicles in the emissions program. The commission may, upon written request of the Pikes Peak area council of governments, exclude the El Paso county portion of the basic emissions program area from the clean screen program if the department of public health and environment receives written notification from the Pikes Peak area council of governments to such effect by June 1, 2001.

(b) The rules promulgated pursuant to paragraph (a) of this subsection (23) may also authorize the division to commence the clean screen program in the enhanced emissions program area commencing January 1, 2002, or as soon thereafter as is practical. The clean screen program may be implemented in the enhanced emissions program area only if the commission makes such a determination on or after July 1, 2001.

Credits: Added by Laws 1994, S.B.94-1, § 1, eff. Jan. 1, 1995. Amended by Laws 1995, H.B.95-1362, § 108, eff. July 1, 1995; Laws 1995, S.B.95-173, § 9, eff. May 25, 1995; Laws 1998, Ch. 238, § 3, eff. May 26, 1998; Laws 2001, Ch. 278, § 3, eff. June 5, 2001; Laws 2002, Ch. 233, § 5, eff. Aug. 7, 2002;

Laws 2003, Ch. 241, § 2, eff. Aug. 6, 2003.