

# DEPARTMENT OF REVENUE

## Division of Motor Vehicles – Emissions Program

### RULE 1 - DIESEL INSPECTION PROGRAM

#### 1 CCR 204-1

#### **Basis and Purpose**

~~The Department of Revenue Division of Motor Vehicles Emission section rules, regulations and licensee requirements to establish the working and operational instructions for the conduct of licensed Diesel Emissions Inspection stations and inspectors.~~

~~The rules, regulations and requirements will furnish guidelines and establish an enforcement mechanism for Regulation Number 12 of the Colorado Air Quality Control Commission and all applicable statutes establishing the Diesel Emissions Inspection Program in Colorado.~~

#### **Statutory Authority**

~~Sections 42-4-401 through 42-4-414 C.R.S.~~

#### **RULE 1 — DEFINITIONS**

~~100.0 “**Adequate Facility**” means a location capable of meeting the requirements of the Air Quality Control Commission Regulation Number 12, 5 CCR 1001-15, the rules of the Department of Revenue, applicable statutes, zoning and business regulations.~~

~~101.0 “**Administrative Hold**” means a temporary order by the Department to cease all licensed activities due to administrative deficiencies on the part of the licensee.~~

~~102.0 “**Air Environmental Systems Technician (AEST)**” means those persons employed by the Department of Revenue for licensing and enforcement of the Air Program and the Diesel Emissions Inspection Program.~~

~~103.0 “**AQCC**” means Air Quality Control Commission.~~

~~104.0 “**Certificate of Qualification**” means an official certificate issued by the Division to candidates who have successfully passed the qualification test, required in order to become licensed as a Diesel Emissions Inspector in the Diesel Emissions Inspection Program.~~

~~105.0 “**Certification of Diesel Smoke Opacity Compliance**” also known as “**Certification of Emissions Control**” (CEC) is a document which indicates that~~

~~the smoke (opacity) emissions from the vehicle comply with the applicable smoke opacity limits at the time of inspection or after required adjustments or repairs and re-inspection. New diesel vehicles (MSO or MCO), are not required to undergo compliance inspection until the vehicle has reached its fourth model year, but shall display a window sticker, known as a Certification of Emissions Control.~~

~~106.0 “**Certification of Diesel Smoke Opacity Waiver**” also known as “**Certification of Emissions Waiver**” is a document which indicates that the smoke (opacity) emissions from the vehicle do not comply with applicable smoke opacity limits at the time of inspection, adjustments or smoke-related repairs have been completed.~~

~~107.0 “**Cooling Fan**” means a fan meeting regulations set forth in Regulation Number 12, Part B, used to maintain normal operating temperature of light-duty diesel vehicles during the diesel inspection.~~

~~108.0 “**Data Media**” means the external electronic backup used to record the results of the opacity inspection.~~

~~109.0 “**Department**” means the Colorado Department of Revenue.~~

~~110.0 “**Diesel Emissions Inspection**” means an inspection of a diesel powered vehicle performed by a licensed inspector, employed by a licensed station, pursuant to section 42-4-406, C.R.S. using the procedures and provisions set forth in Part B of AQCC Regulation Number 12, and Department rules.~~

~~111.0 “**Diesel Emissions Inspection Program**” (DOIP) means the opacity inspection program for diesel powered vehicle emissions established by sections 42-4-401 through 42-4-414, C.R.S. as amended and AQCC Regulation Number 12, Part B, Herein referred to as Diesel Emissions Inspection Program.~~

~~112.0 “**Diesel Emissions Inspection Station**” means a facility qualified and licensed to perform Diesel Emissions Inspections for light or heavy-duty diesel vehicles or both in accordance with requirements set forth in section 42-4-407, C.R.S., as amended, Regulation Number 12, Part B, as promulgated by the AQCC, and the rules promulgated by the Colorado Department of Revenue and section 42-4-405, C.R.S., for the inspection of vehicles. Light-Duty Diesel Inspection Station inspects vehicles 14,000 pounds GVWR or less. Heavy-Duty Diesel Inspection Station inspects diesel vehicles 14,001 pounds GVWR and greater. Light & Heavy-Duty Diesel Inspection Station and single axle inspects both light-duty and heavy-duty diesel vehicles.~~

~~113.0 “**Diesel Emissions Inspector**” means an individual licensed to perform Diesel Emissions Inspections on vehicles required under section 42-4-406, C.R.S., who is employed at a licensed Diesel Emissions Inspection Station and is qualified in accordance with AQCC, Regulation Number 12, Part B and the Department of Revenue.~~

- ~~114.0 “**Diesel Re-test or Re-inspection**” means a type of inspection performed when accompanied by a DVIR indicating an initial diesel emissions inspection failure. Re-inspection test shall be performed within 30 days at the location of the first inspection.~~
- ~~115.0 “**Diesel Vehicle Inspection Report**” (DVIR) means an official report form generated by a Diesel Inspection station approved by the Department of Revenue and/or the Division.~~
- ~~116.0 “**Division**” is the Air Pollution Control Division of the Colorado Department of Public Health and Environment.~~
- ~~117.0 “**Emissions Control Systems**” are those parts, assemblies, or systems originally installed by the manufacturer in or on a vehicle for the specific purpose of reducing emissions.~~
- ~~118.0 “**Gross Vehicle Weight Rating**” (GVWR) means the weight specified by the vehicle manufacturer as the maximum allowable loaded weight (vehicle empty weight plus the driver, passengers and payload) of a single vehicle.~~
- ~~119.0 “**Heavy-Duty Diesel Vehicle**” as applicable to the Diesel Emissions Inspection Program refers to diesel vehicles 14,001 pounds GVWR or greater.~~
- ~~120.0 “**Inspectors Number**” means the numeric identifier issued by the Department assigned to every licensed Diesel Inspector at the time of licensing.~~
- ~~121.0 “**Light-Duty Diesel Vehicle**” as applicable to the Diesel Emissions Program refers to diesel vehicles of 14,000 pounds GVWR or less.~~
- ~~122.0 “**Manufacturer’s Statement of Origin**” (MSO) or “**Manufacturer’s Certificate of Origin**” (MCO) means a certificate issued by the manufacturer of a new motor vehicle which describes the vehicle and assigns it to a dealer, distributor or individual.~~
- ~~123.0 “**Neutral Density Filter (Certified)**” means an optical quality filter certified and calibrated by the Division which reduces the amount of transmitted light, an amount that is dependent on the filter’s optical density rating, uniformly across the visible light spectrum for the purpose of verifying the accuracy of the opacity meters.~~
- ~~124.0 “**Normal Business Hours**” are Monday through Friday, 8:00 a.m. to 5:00 p.m., with the exception of national holidays, temporary closures with notice and approved by the Department.~~
- ~~125.0 “**Opacity Meter**” is an electronic optical instrument that is used to measure the opacity of diesel exhaust, certified and approved by the Division for use in the Diesel Emissions Inspection Program.~~

~~126.0 “Opacity Meter Calibration Form” means the official form provided by the Division for recording weekly opacity meter calibration procedures, to be kept on file at the inspection station and made available to the Department’s AEST compliance officers upon request during station inspections.~~

~~127.0 “Opacity Testing” means the testing of motor vehicles using procedures prescribed in Regulation Number 12, Part B, and Department rules and regulations in order to determine the magnitude (expressed as a percentage) of obscured light (opacity) due to exhaust constituents, mainly fine particles.~~

~~128.0 “Routinely Operated or Principally Operated” means operated for 90 consecutive days in any twelve-month period.~~

~~129.0 “Thermometer” means a certified laboratory grade ambient temperature measuring device with a range of at least 20° Fahrenheit through 120° Fahrenheit, and an attested accuracy of at least  $\pm 1^\circ$  Fahrenheit with increments of 1°, with protective shielding and approved by the Department.~~

~~130.0 “Verification of Vehicle Identification Number (VOVIN)” means a form issued by the Department to record vehicle information from a physical inspection. (Form DR2395).~~

## **RULE II**

### ~~(200.0) — GEOGRAPHIC AREA OF APPLICABILITY:~~

~~The geographical area for the Diesel Emissions Inspection Program is set forth in section 42-4-304 (20), C.R.S.~~

### ~~(201.0) — VEHICLES ELIGIBLE FOR DIESEL EMISSIONS INSPECTION PROGRAM:~~

~~This regulation shall apply to all diesel-fueled motor vehicles as defined in section 42-4-401 (5), C.R.S. except those diesel-powered vehicles subject to the provisions of Regulation Number 12, Part A (Diesel Fleet Self-Certification Program), pursuant to section 42-4-414, C.R.S.~~

~~(a) — Any evidence in establishing an exemption from all or any part of the Diesel Emissions Inspection requirements shall be submitted to the Division. Those exemptions approved by the Division are forwarded to the Department for certification.~~

### ~~(202.0) — CONDITIONS FOR ISSUANCE OF CERTIFICATION OF EMISSIONS CONTROL:~~

~~(a) — A diesel vehicle that is registered or required to be registered in the program area, or routinely operates in the program area, or is principally operated from a terminal, maintenance facility, branch, or division located within the program area~~

~~shall not be sold, registered for the first time in the program area or reregistered, unless such vehicle has been issued a Certification of Emissions Control.~~

- ~~(b) For used diesel vehicle sales transactions conducted within the AIR Program area, a Certification of Diesel Emissions Control shall be required at the time of sale, if such certification is within twelve months of the expiration of the Certificate of Emission Compliance issued when the vehicle was new. It is the seller's responsibility to comply with the inspection provisions.~~
- ~~(c) A Certification of Diesel Emissions Control shall be issued by a licensed diesel inspection station to any diesel vehicle that has been inspected and tested according to the procedures in Regulation Number 12, Part B, Sections IV and V.~~
- ~~(d) A Certification of Diesel Emissions Waiver shall be issued by the Department to any diesel vehicle which has been re-inspected after failing the initial opacity inspection procedure as prescribed in Regulation Number 12, Part B, Section III, and exceeds the applicable smoke opacity limits as stated in Regulation Number 12, Part B, Section V, and for which proper presentation of documented evidence of expenditures for smoke emissions related adjustments and repairs have been made that equal or exceed minimum dollar expenditures as follows:
  - ~~(1) For light-duty diesel vehicles (14,000 pounds GVWR or less), a minimum expenditure of **\$750.00** shall be made in an attempt to comply with smoke opacity standards.~~
  - ~~(2) For heavy-duty diesel vehicle (14,001 pounds GVWR or greater), a minimum expenditure of **\$1,500.00** shall be made in an attempt to comply with smoke opacity standards.~~
  - ~~(3) Documented proof of smoke emissions repair costs for the specific failing vehicle shall be in the form of an itemized bill, invoice, work order, manifest, or statement, for the following types of work and/or parts in accordance with Regulation Number 12, Part B, Section I.D.7.~~~~
- ~~(e) All diesel vehicles in the emissions program area shall be inspected as required in 42-4-406 C.R.S., for the purpose of registration or change of ownership. All new diesel vehicles (MSO or MCO) are not required to undergo the opacity compliance inspection until the vehicle has reached its fourth model year, but shall display a Certification of Emissions Compliance.~~

### **RULE III**

#### **(300.0) GENERAL REQUIREMENTS FOR LICENSING**

- ~~(a) Application for a Diesel Emissions Program License(s) shall be made on forms issued by the Department.~~

- ~~(b) — Applicants shall demonstrate to the Department the ability to conform to the applicable motor vehicle laws, Regulation Number 12, Part B, Colorado Air Quality Control Commission, and the rules and regulations contained herein.~~
- ~~(c) — Applicants shall be employed by a licensed Diesel Emissions Inspection station.~~
- ~~(d) — No person or business shall be represented as a licensed diesel inspector or licensed diesel station unless the Department issues a valid license.~~
- ~~(e) — Licenses obtained by false statements or misrepresentation of identity to the Department shall be cancelled.~~
- ~~(f) — Certifications of Emissions Control, as defined by Regulation and required by section 42-4-406, C.R.S. shall only be issued by persons and businesses holding valid Diesel Program licenses issued by the Department.~~
- ~~(g) — It is the responsibility of the licensee to notify the Department of the termination of the suspension period and apply for reinstatement with the Department. Re-instatement shall be done during normal business hours following the suspension period.~~
- ~~(h) — All Diesel Emissions Inspection Program licensees are required to cooperate with the Department during the course of an audit, investigation and complaint resolution.~~

### ~~(301.0) — STATION LICENSES~~

- ~~(a) — The Department is authorized to issue, deny, suspend or revoke a Diesel Emissions Inspection station license.~~
- ~~(b) — Diesel station licenses shall be issued to qualified applicants in the following categories, as determined by the Department and approved by the Division.
  - ~~(1) — **L License** = Light-Duty Diesel Inspection Stations.~~
  - ~~(2) — **H License** = Heavy-Duty Diesel Inspection Stations and Heavy-Duty on-road.~~
  - ~~(3) — **B License** = Light & Heavy-Duty Diesel Inspection Stations and single axle~~~~
- ~~(c) — Diesel Emissions Inspection Program Station licenses are valid only at the location for which they are issued. Location changes shall require a new application and fee.~~
- ~~(d) — Transfer of/or sale of business, changes in partnership, or the addition or deletion of partners shall require a new application and fee.~~

- ~~(e) Diesel Emissions Inspection Program Station license shall not be transferred loaned or used by any person or business other than the original applicant.~~
- ~~(f) The Department may require proof of business ownership, articles of incorporation, partnership agreements, and lease agreement prior to licensing a facility.~~
- ~~(g) The Department may require proof of conformity with local zoning, use or business licensing laws, ordinances or regulations.~~
- ~~(h) Licenses shall be cancelled if a business no longer conforms to local zoning, use, or business licensing laws, ordinances or regulations.~~
- ~~(i) All Diesel Emissions Inspection Program stations licenses shall be posted in a conspicuous place on the license premises, available to the public and approved by the Department.~~
- ~~(j) Licenses shall not be issued to businesses having owners, partners, or stockholders who have had Diesel Program licenses previously revoked, cancelled or are currently under suspension by the Department.~~
- ~~(k) All Diesel Emissions Inspection Stations shall employ at least one full time licensed inspector available during normal business hours as defined by these regulations.~~
- ~~(l) All Diesel Emissions Inspection Stations shall be responsible for receiving mail.~~
- ~~(m) All Diesel Emissions Inspection Stations shall have a working telephone.~~
- ~~(n) All diesel emissions inspection Stations shall possess all the tools and/or equipment required at the time of licensing, as per Regulation Number 12, Part B.~~

### ~~(302.0) INSPECTORS LICENSES~~

- ~~(a) The Department is authorized to issue or deny licenses to persons to conduct inspections pursuant to section 42-04-401 through 42-04-414, C.R.S., at a licensed Diesel Station.~~
- ~~(b) Candidate diesel inspectors shall demonstrate the ability to properly operate the approved inspection equipment on the licensed premises, and perform a test as required by section 42-04-401 through 42-04-414, C.R.S., Air Quality Control Commission, Regulation Number 12, Part B, and the rules and regulations of the Department.~~
- ~~(c) Diesel Emissions Inspector applicant or Inspector shall possess a current letter of qualification from the Division prior to applying for an inspector's license and/or renewal of a license.~~

- ~~(d) — Inspectors shall keep their current mailing address on file with the Department.~~
- ~~(e) — Inspectors changing employment shall have their license transferred by the Department to the new place of employment prior to performing inspections.~~
- ~~(f) — All Diesel Emissions Inspector licenses shall be posted in a conspicuous place on the licensed premises, available to the public and approved by the Department.~~
- ~~(g) — Inspectors may be licensed to perform inspections at more than one licensed station after filing an application and payment of the appropriate fees.~~
- ~~(h) — Re-qualification of an inspector's license may be required at any time by the Department.~~
- ~~(i) — All applicants shall comply with the Securable and Verifiable Identification Act as indicated in House Bill 06-1023.~~

### ~~**(303.0) — LICENSE FEES AND EXPIRATION TERMS**~~

- ~~(a) — The initial license fee for a new Diesel Emissions Program Station is \$25.00.~~
- ~~(b) — The annual renewal fee for a Diesel Emissions Program station is \$10.00.~~
- ~~(c) — The initial license fee for a new Diesel Emissions Program Inspector is \$ 10.00.~~
- ~~(d) — The annual renewal fee for a Diesel Emissions Inspector is \$5.00.~~
- ~~(e) — All licenses are valid for twelve months from the date of issue.~~
- ~~(f) — All Diesel Program Inspectors employed at more than one station shall be charged \$10.00 for each additional license, providing the station(s) are not owned or operated under one entity.~~
- ~~(g) — A license not renewed on or before the date of expiration shall be considered a new license and the appropriate fees shall be charged.~~
- ~~(h) — Upon expiration of the license, the station and/or inspector shall no longer be authorized to perform diesel inspections and VIN inspections (DR2395).~~
- ~~(i) — Applicants whose Inspector's letter of qualification from the Division is more than six months from the date of issue shall obtain a new letter of qualification before applying for a new license or renewal.~~
- ~~(j) — License fees collected by the Department are not refundable.~~
- ~~(k) — New license applications shall be processed in a timely manner.~~

~~(l) The licensee is responsible for all requirements for renewing his or her license. The Department shall not notify the station or inspector licensee prior to expiration.~~

#### ~~(304.0) USE OF INSPECTORS NUMBER~~

~~(a) Each licensed Diesel Emissions Inspector shall be assigned a unique numerical number issued by the Department.~~

~~(b) Only the licensee to whom it was assigned shall use an Inspectors Number.~~

~~(c) Inspectors shall report any unauthorized use of any DVIR's and CEC's bearing Inspectors numerical number to the Department within 24 hours of discovering the unauthorized use.~~

~~(d) Inspectors shall be responsible for any violation or fraudulent inspection that occurs using his or her inspector's number.~~

~~(e) Inspectors shall be responsible for all DVIR and CEC bearing his/her Inspector number.~~

#### ~~RULE IV~~

#### ~~(400.0) DIESEL PROGRAM STATION OPERATIONS~~

~~(a) All Diesel Emissions Inspection Stations shall be open for business during normal business hours as defined by regulation, except for fleet inspection stations. Fleet inspection stations shall notify the Department of their hours of operation.~~

~~(b) All Diesel Emissions Inspection Stations shall be available for audits and have records available for the Department at any time during normal business hours.~~

~~(c) All Diesel Emissions Inspection Stations shall have a licensed inspector on duty during normal business hours, except for fleet inspection stations, as defined in (400.0)(a).~~

~~(d) All Diesel Emissions Station operations shall be conducted in accordance with applicable state statutes, Regulation Number 12, Part B, of the Air Quality Control Commission, and the rules and regulations of the Department.~~

~~(e) The licensee shall maintain all Diesel Emissions Inspection records until purged by the Department.~~

~~(f) All licensees shall conduct inspections as defined by the type of license issued.~~

#### ~~(401.0) SIGN POSTING~~

- ~~(a) All Diesel Emissions Inspection Stations shall post a Department approved sign designating the location as an Official Diesel Program Inspection Station. DOIP station shall display the Department approved sign in a conspicuous location on the licensed premises, available to the public and approved by the Department.~~
- ~~(b) All Diesel Emissions Inspection Stations shall post a sign stating the fee charged for a Diesel Program Inspection, diesel re-inspection, and VOVIN INSPECTION (DR 2395) in a conspicuous location on the licensed premises, which shall be approved by the Department.~~
- ~~(c) All Diesel Emissions Inspection Stations shall post all signs that are issued by the Department in a location approved by the Department.~~
- ~~(d) Signs shall be posted in a manner that does not violate local sign ordinances or codes.~~

#### ~~(402.0) FACILITY EQUIPMENT REQUIREMENTS AND OPERATION~~

- ~~(a) All Diesel Emissions Inspection Stations shall have adequate facilities, equipment and safety equipment to perform all elements of the Diesel Emissions Inspection at all times.~~
- ~~(b) Licensed Diesel Emissions Inspection Stations shall maintain all inspection equipment in such a manner that will permit the proper operation in accordance with the requirements of the AQCC Regulation Number 12, Part B, applicable statutes, and the rules and regulations of the Department.~~
- ~~(c) Licensed Diesel Emissions Inspection Stations, that no longer meet the requirements of this regulation, may be canceled, or placed on administrative hold, by the Department.~~
- ~~(d) All computer equipment shall meet Department and Division minimum specifications.~~
- ~~(e) All computer equipment shall not be networked, interfaced or connected to any internet or any other communication device or system, and may not be falsified or tampered from original condition.~~
- ~~(f) Computer data be saved/backed up every seven calendar days.~~
- ~~(g) Computer data tamper lockout or any lockout shall be reported to the Department within 24 hours.~~
- ~~(h) Computer lockouts shall be reset by the Department or Division.~~
- ~~(i) The Opacity Meter shall be calibration checked once every seven calendar days and recorded on a calibration form approved by the Department.~~

## ~~(403.0) — DIESEL FORMS & DOCUMENTATION~~

- ~~(a) — All unused CEC's and any other controlled documents shall be kept in a secure location and made available only to licensed inspectors or authorized personnel.~~
- ~~(b) — Missing or stolen CEC's shall be reported to the Department immediately upon the discovery that any are missing. Stolen documents shall be reported to local law enforcement immediately, and a case number obtained.~~
- ~~(c) — Diesel Emissions Inspection Stations are accountable for all documentation issued to the licensee by the Department.~~
- ~~(d) — Upon cancellation, revocation or suspension of licensing privileges, licensees shall surrender to the Department all licenses, forms and documents issued or purchased.~~
- ~~(e) — The licensee is responsible for verifying that all DVIR's and CEC's are legible, and properly printed with all information appearing in the correct location on the forms.~~
- ~~(f) — Voided DVIR's and CEC's shall be retained in a secure manner and be available for inspection by the Department.~~
- ~~(g) — DVIR's and CEC's shall be used only for documentation of official diesel inspection results and the issuance of certificates of emissions control.~~
- ~~(h) — Data media that are used for the data collection of official Diesel Emissions Inspection results are the property of the Department.~~
- ~~(i) — Only data media approved by the Department and the Division shall be used for data collection of official Diesel Emissions Inspection results.~~
- ~~(j) — All fees for forms and documents are non-refundable.~~

## ~~RULE V — VIOLATIONS~~

~~The Department has the authority under section 42-4-405 C.R.S. to deny, suspend or revoke any Diesel Emissions Inspection Station or Diesel Emissions Inspector license, and require the surrender thereof upon a showing that:~~

~~NOTE: The violation level indicates the severity of the violation. Level one being the lowest and level three being the highest.~~

## ~~(500.0) — DIESEL EMISSIONS INSPECTION STATION AND/OR INSPECTOR — LEVEL I VIOLATIONS:~~

- ~~(a) — Station and/or Inspector failed to post program license(s) in a conspicuous location approved by the Department.~~

- ~~(b) — Station and/or Inspector failed to use the DVIR, and/or CEC issued or approved by the Department.~~
- ~~(c) — Station and/or Inspector used the DVIR, and/or CEC for a purpose other than permitted by the Department.~~
- ~~(d) — Station and/or Inspector failed to complete the DVIR, and/or CEC.~~
- ~~(e) — Station and/or Inspector failed to have tools, equipment, supplies, and records available for inspection.~~
- ~~(f) — Station failed to post the cost for the DR2395.~~
- ~~(g) — Station was not open and available to perform inspections during normal business hours.~~
- ~~(h) — Station failed to display all required signs.~~
- ~~(i) — Station failed to maintain temperature of inspection area between 35° F and 110° F (2° C and 43° C) during the inspection.~~
- ~~(j) — Station failed to have a licensed Inspector available to perform inspections during normal business hours.~~
- ~~(k) — Station does not have a licensed Inspector employed at the facility.~~
- ~~(l) — Station does not conform to local safety, occupancy, zoning, use, business or sales tax laws, ordinances or regulations.~~
- ~~(m) — Station is not capable of receiving mail.~~
- ~~(n) — Station and/or Inspector failed to provide a legible DVIR and/or CEC.~~
- ~~(o) — Station and/or Inspector failed to perform the diesel emissions test after agreed upon, except for vehicles that are determined to be unsafe.~~
- ~~(p) — Station and/or Inspector committed test data entry violations.~~
- ~~(q) — Station and/or Inspector charged more than the posted fee for the emissions test or DR 2395.~~
- ~~(r) — Station failed to maintain inspection records as required by the Department, in an electronic or paper format for a two-year period.~~
- ~~(s) — Inspector failed to keep his or her current mailing address on file with the Department.~~
- ~~(t) — Station failed to perform the weekly opacity equipment calibration.~~

~~(u) Station and/or Inspector failed to backup electronic records to the appropriate location as required by the Division.~~

~~(v) Station and/or Inspector failed to install adequate restraints.~~

~~(w) Station and/or Inspector failed to place a functional cooling fan in front of a vehicle.~~

~~**(501.0) DIESEL EMISSIONS INSPECTION STATION AND/OR INSPECTOR -  
LEVEL II VIOLATIONS:**~~

~~(a) Station and/or Inspector has violated any provision of the applicable statutes, laws, rules and regulations.~~

~~(b) Station and/or Inspector exercising any licensing privilege other than those granted by the Department.~~

~~(c) Station and/or Inspector failed to perform inspection(s) in accordance with AQCC Regulation Number 12, Part B, Diesel Emission Program, Title 42 Part 4, and rules and regulations promulgated by the Department.~~

~~(d) Station and/or Inspector loaned, gave, or transferred CEC(s) to another station, a non-licensed person or facility.~~

~~(e) Station and/or Inspector performed diesel emission tests with inspection equipment or computer that was not approved, certified, falsified, or tampered from original condition.~~

~~(f) Station and/or Inspector used a Neutral Density Filter that was not approved by the Division.~~

~~(g) Station and/or Inspector failed to properly identify and record a vehicle that fails the inspection.~~

~~(h) Station and/or Inspector failed to properly identify and record a vehicle that passes the emissions inspection.~~

~~(i) Station and/or Inspector failed to provide a complete or correct CEC, and/or DVIR.~~

~~(j) Station was not operating from the location for which the license was issued.~~

~~(k) Station and/or Inspector used an Opacity Meter that was out of calibration, unable to be calibrated or malfunctioning, or not operating to manufacturer specifications.~~

~~(l) Station and/or Inspector represented that repairs were performed, that were not performed.~~

- ~~(m) — Station and/or Inspector performed adjustments or repairs that were not authorized or required.~~
- ~~(n) — Station and/or Inspector failed to verify the vehicle information from the vehicle being inspected.~~
- ~~(o) — Station and/or Inspector performed an improper visual inspection.~~
- ~~(p) — Station and/or Inspector failed to provide a complete, correct, or legible DR2395.~~
- ~~(q) — Station and/or Inspector entered false information on a CEC, DVIR, or DR2395.~~
- ~~(r) — Station and/or Inspector failed to cooperate with the Department in the course of an investigation or audit.~~
- ~~(s) — Station could not account for all used and unused CEC's.~~
- ~~(t) — Failed to possess all the tools and/or equipment required as a licensed Diesel Emissions Inspection Station.~~
- ~~(u) — Station and/or Inspector used the diesel emissions computer for other purposes than allowed by the Division or Department.~~

~~**(502.0) — DIESEL EMISSIONS INSPECTION STATION AND/OR INSPECTOR — LEVEL III VIOLATIONS:**~~

- ~~(a) — Station and/or Inspector knowingly issued a fraudulent DVIR, and/or CEC.~~
- ~~(b) — Station and/or Inspector made, issued, or used an imitation or deceptively altered, similar or counterfeit DVIR and/or CEC.~~
- ~~(c) — Station and/or Inspector issued a passing DVIR and/or CEC for a vehicle without a diesel inspection having been performed when required.~~
- ~~(d) — Station and/or Inspector performed inspections while under administrative hold or suspension issued by the Division or Department.~~
- ~~(e) — Station and/or Inspector performed inspections with an expired emissions license.~~
- ~~(f) — Station and/or Inspector failed a vehicle that at the time of the emissions test did comply with the laws, rules and regulations.~~
- ~~(g) — Station and/or Inspector passed a vehicle, issuing a DVIR, and/or CEC, when at the time of inspection did not comply with the laws, rules and regulations.~~
- ~~(h) — Station and/or Inspector failed to issue a DVIR, and/or CEC, when at the time of inspection the vehicle did comply with the laws, rules and regulations.~~

- ~~(i) Station and/or Inspector demonstrated a pattern of non-compliance (four or more violations of the same nature) with the statutes, rules and regulations.~~
- ~~(j) Station and/or Inspector misused the CEC and/or DVIR for a purpose other than that permitted by the Department.~~
- ~~(k) Inspector failed to keep his or her access code secure that resulted in a Diesel Emissions test being conducted by an unauthorized and/or unlicensed person.~~
- ~~(l) Station and/or Inspector are involved in any false or unauthorized entry that results in the issuance of a fraudulent compliance document.~~
- ~~(m) Station permitted an un-licensed person to perform any part of the inspection.~~

~~**(503.0) PENALTIES**~~

~~The Executive Director of the Department is authorized by 42-4-405 (1) C.R.S., to issue, deny, cancel, suspend, or revoke any license and require the surrender of any license issued under section 42-4-405 (3) C.R.S., of any licensed Diesel Emissions Inspection Station or licensed Diesel Emissions Inspector.~~

~~(1) The violations listed in Rule V, 500.0 through 502.0 shall be sanctioned according to the following table pursuant to 42-4-405 C.R.S.~~

~~(a) Diesel Emissions Inspection Station and/or Inspector penalties for the first offense:~~

<u>LEVEL OF VIOLATION</u>	<u>SUSPENSION OR PROBATION</u>
LEVEL I	NONE
LEVEL II	1 TO 12 MONTHS PROBATION
LEVEL III	1 TO 3 MONTHS SUSPENSION,
-	PROBATION, OR REVOCATION

~~(b) Diesel Emissions Inspection Station and/or Inspector penalties for the same second and subsequent offense:~~

<u>LEVEL OF VIOLATION</u>	<u>SUSPENSION OR PROBATION</u>
LEVEL I	1 TO 12 MONTHS PROBATION
LEVEL II	1 TO 12 MONTHS PROBATION, SUSPENSION, OR REVOCATION
LEVEL III	1 TO 12 MONTHS SUSPENSION, PROBATION, OR REVOCATION

~~**(504.0) ADMINISTRATIVE HEARINGS**~~

- ~~(a) Upon receipt of a notice and order of cancellation, suspension, denial, or revocation of an emissions diesel license, the licensee may request, in writing, a date to set an administrative hearing or emissions pre-hearing conference.~~
- ~~(b) Hearing requests shall be received at: Department of Revenue, Emissions Program, 1881 Pierce Street, Room 128, Lakewood, CO 80214, within sixty days of the issuance of the notice of order of suspension, denial, or revocation.~~
- ~~(c) The Department shall set a hearing date within a reasonable time of receipt of written administrative hearing or pre-hearing conference request.~~
- ~~(d) The hearing shall be conducted in accordance with 42-4-305 C.R.S., and the "State Administrative Procedures Act", Article 4, of Title 24 C.R.S.~~

## **Basis and Purpose**

This rule is promulgated pursuant to sections 42-4-401 through 42-4-414, 42-9-101 through 42-9-113, and 25-7-122.1, C.R.S.

Purpose: This rule establishes licensing requirements, and operational and enforcement standards for the Diesel Inspection Program, and sets out the process for an administrative hearing.

## **1.0 DEFINITIONS**

- 1.1 Additional definitions and substantive regulations are found in the Air Quality Control Commission's Regulation 12 Part B; 5 CCR 1001-15.
- 1.2 "AQCC" means the Colorado Air Quality Control Commission. The AQCC is the rulemaking body responsible for Regulation 12 Part B; 5 CCR 1001-15.
- 1.3 "Business" means an estate, trust, firm, partnership, limited liability company, association, corporation, or other business entity.
- 1.4 "Cancellation of license" means an action by the Department rendering a license invalid.
- 1.5 "Certification of Emissions Control" (CEC) means either a Certification of Diesel Smoke Opacity Compliance or a Certification of Diesel Smoke Opacity Waiver issued to the owner of a diesel vehicle which is subject to the diesel opacity inspection program in order to indicate the status of inspection requirement compliance of such a vehicle.
- 1.6 "Data Media" means the external electronic storage device used to record the results of the Diesel Opacity Inspection.
- 1.7 "Department" means the Colorado Department of Revenue.

- 1.8 “Diesel Vehicle Inspection Report (DVIR)” means the official document generated by a diesel inspection station to record completion of a diesel opacity inspection.
- 1.9 “Division” means the Air Pollution Control Division of the Colorado Department of Public Health and Environment.
- 1.10 “Full investigation” means a reasonable ascertainment of the underlying facts on which the Department’s action is based.
- 1.11 “Inspector Number” is the license number assigned by the Department to each licensed Diesel Opacity Inspector.
- 1.12 “Regulation 12” means Part B of Regulation 12, Reduction of Diesel Vehicle Emissions adopted by the Air Quality Control Commission, also known as 5 CCR 1001-15.
- 1.13 “Revocation of a license” means that the station or inspector is no longer licensed to provide the services authorized under Part 4 of Article 4 of Title 42 C.R.S.
- 1.14 “Suspension of a license” means that the station or inspector is not authorized for a defined period of time to provide services under Part 4 of Article 4 of Title 42 C.R.S.

## **2.0 GENERAL REQUIREMENTS**

- 2.1 Application for a Diesel Opacity Inspection Station or Diesel Opacity Inspector license(s) shall be made on forms issued by the Department.
- 2.2 No person or business shall represent that they are a licensed Diesel Opacity Inspector or licensed Diesel Opacity Inspection Station unless they have a valid license issued by the Department.
- 2.3 A Diesel Opacity Inspection Station shall not allow any person who does not have a valid Diesel Opacity Inspector licensed to perform any portion of a diesel opacity inspection.
- 2.4 A Certification of Diesel Smoke Opacity Compliance shall only be issued by a licensed Diesel Opacity Inspection Station or authorized Division personnel.
- 2.5 A Certification of Diesel Smoke Opacity Waiver shall only be issued by authorized Department Personnel.
- 2.6 Diesel Opacity Inspection Program licensees shall cooperate with the Department during the course of inspections, audits, and investigations.
- 2.7 The Department may cancel, suspend, or revoke a license for a violation of Part 4 of Article 4 of Title 42, Regulation 12, or this Rule.

### **3.0 STATION LICENSES**

- 3.1 All Diesel Opacity Inspection Station licenses shall be posted in a conspicuous place on the licensed premises, in a location accessible to the public and subject to approval by the Department.
- 3.2 Diesel Opacity Inspection Stations are responsible for the conduct of their licensed inspectors.

### **4.0 INSPECTOR LICENSES**

- 4.1 Inspectors must keep their current mailing address on file with the Department.
- 4.2 All Diesel Opacity Inspector licenses shall be posted in a conspicuous place on the licensed premises, in a location accessible to the public and subject to approval by the Department.
- 4.3 The Department will cancel a Diesel Opacity Inspector's license at the request of the licensee.
- 4.4 Diesel Opacity Inspectors may be simultaneously employed at more than one Diesel Opacity Inspection Station.

### **5.0 LICENSE FEES AND TERMS**

- 5.1 The initial fee for a Diesel Opacity Station license is \$25.00.
- 5.2 The annual renewal fee for a Diesel Opacity Station license is \$10.00.
- 5.3 The initial fee for a Diesel Opacity Inspector license is \$10.00.
- 5.4 The annual renewal fee for a Diesel Opacity Inspector license is \$5.00.
- 5.5 Diesel Opacity Inspectors who are employed at more than one Diesel Opacity Inspection Station must have a separate license for each station and will be charged an initial and renewal license fee for each license.
- 5.6 Licenses are valid for twelve months from the date of issue unless the license is cancelled, suspended, revoked, or the licensee is required to re-qualify.
- 5.7 The fee for a license not renewed on or before the date of expiration is the initial fee.
- 5.8 Upon expiration, suspension, cancellation, or revocation of a Diesel Opacity Inspection Station license, the station and Diesel Opacity Inspectors employed at that station are no longer authorized to perform diesel opacity inspections.  
[ATTENTION: Pursuant to Section 42-3-105(1)(c)(I) and (II), C.R.S., a station and/or inspector may not perform a VIN inspection without a valid license.]

5.9 License fees collected by the Department are not refundable.

## **6.0 USE OF INSPECTOR NUMBER**

6.1 Each licensed Diesel Opacity Inspector shall be assigned a unique inspector license number by the Department.

6.2 A licensee shall use only the license number and access code assigned to him/her.

6.3 An inspector shall keep his or her access code secure and shall not reveal it to another person or allow another person to use it.

6.4 Inspectors shall report any unauthorized issuance or use of any DVIRs and CECs to the Department within 24 hours of discovering the unauthorized issuance or use.

6.5 Inspectors are presumed to have performed the inspections for all DVIRs and CECs bearing their inspector number.

## **7.0 DIESEL PROGRAM STATION OPERATIONS**

7.1 Diesel Opacity Inspection Station agents or employees shall not modify, alter, tamper, or otherwise affect any portion of a vehicle's emissions control systems in any manner that renders the system inoperable or places the vehicle in a non-certified emissions control configuration.

7.2 Diesel Opacity Inspection Stations shall be open for business during posted business hours.

7.3 Licensees shall not charge more than the posted fee for a Diesel Opacity Inspection.

7.4 Diesel Opacity Inspection Station records, including but not limited to the weekly opacity meter calibration records, shall be available on site to the Department during posted business hours.

7.5 Diesel Opacity Inspection Stations shall have at least one licensed Diesel Opacity Inspector on the licensed premises when open for business.

7.6 Licensees shall conduct all Diesel Opacity Inspection Station operations in accordance with applicable Colorado state statutes, Regulation 12, and Department rules.

7.7 Licensees shall not allow, or fail to prevent, performance of any part of a Diesel Opacity Inspection by an unlicensed person.

- 7.8 The licensee shall maintain all Diesel Opacity Inspection records until collected by the Department.
- 7.9 Licensees shall conduct only those inspections authorized by the type of license held.
- 7.10 Licensed Diesel Opacity Inspection Stations shall post, in a conspicuous location, a Department approved sign identifying the facility as a Licensed Diesel Opacity Inspection Station.
- 7.11 All publications and signs issued by the Department shall be posted in a conspicuous location on the licensed premises.
- 7.12 Licensees shall back up electronic records at least once every seven (7) calendar days.
- 7.13 Licensees shall not offer or perform diesel opacity inspections at a location other than the location for which their license was issued.
- 7.14 Inspectors shall not issue a CEC when the inspector knew or should have reasonably known that the vehicle did not satisfy the requirements for issuance of a CEC.

## **8.0 EQUIPMENT REQUIREMENTS AND OPERATION**

- 8.1 All Diesel Opacity Inspection Stations shall have, at all times, adequate facilities, equipment and safety equipment to perform all elements of a Diesel Opacity Inspection, including all tools and equipment required by Regulation 12.
- 8.2 All tools and inspection equipment shall be maintained in a manner that permits proper operation in accordance with the requirements of Regulation 12, applicable statutes, and Department rules.
- 8.3 All computer equipment must meet minimum specifications as defined in Regulation 12.
- 8.4 All computer equipment that is networked, interfaced, or connected to any internet or any other communication device or system must be approved by the Department.
- 8.5 Any computer data tamper lockout or any lockout shall be reported to the Department verbally within 24 hours.
- 8.6 No testing may be conducted without prior written approval from the Department or the Division if the Division-approved DVIR computer is locked out or is non-operational.
- 8.7 Computer lockouts must be reset by the Department or the Division.

8.8 Licensees shall not use the dedicated diesel opacity inspection computer for purposes not authorized by the Department.

## **9.0 DIESEL FORMS & DOCUMENTATION**

9.1 All unused CECs shall be stored in a locked and secure location with limited access.

9.2 Diesel Opacity Inspection Stations shall report in writing any misuse of, or missing or stolen, CECs to the Department immediately upon discovery. Diesel Opacity Inspection Stations shall report theft of CECs to local law enforcement and provide a copy of the police report to the Department.

9.3 Diesel Opacity Stations are accountable for all Department documents issued to both the station and its inspectors.

9.4 Upon cancellation, suspension, or revocation of a license, licensees shall surrender to the Department all licenses, forms, data media, and documents issued by or purchased from the Department.

9.5 Licensees shall verify that all DVIRs and CECs issued are complete, accurate, legible, and are properly printed with all information appearing in the correct location on the forms.

9.6 Voided DVIRs and CECs shall be retained in a secure manner and be available for inspection by the Department.

9.7 Only data media approved by the Department shall be used to record diesel opacity inspection results.

9.8 Fees collected for licensing and compliance documents are non-refundable.

9.9 Licensees shall accurately record vehicle or test data in the computer system.

9.10 Licensees shall not provide unused CEC(s) to another licensee.

## **10.0 SUSPENSION AND REVOCATION OF LICENSES**

10.1 The Department may consider mitigating and aggravating factors when considering the imposition and duration of a sanction. These factors include, but are not limited to:

10.1.1 Actions taken by the licensee to prevent violations.

10.1.2 The licensee's past audit history.

10.1.3 The seriousness and frequency of violations.

- 10.1.4 Corrective action(s) taken by the licensee and the effectiveness of such measures.
- 10.1.5 Willfulness or deliberateness of the violation.
- 10.1.6 Likelihood of recurrence of the violation.
- 10.1.7 A violation of the Colorado Air Pollution Prevention and Control Act, section 25-7-122.1, C.R.S., of section 42-4-313, C.R.S., or a violation of the Motor Vehicle Repair Act, section 42-9-101, et. seq., C.R.S.
- 10.2 Any conduct by a licensee that impedes the Department's ability to oversee, audit, or investigate matters under the Diesel Opacity Inspection Program including behavior that is threatening, disruptive, or abusive may be cause for license revocation.
- 10.3 The Department may summarily suspend a licensee pursuant to section 24-4-104(4)(a), C.R.S.
- 10.4 Any Notice from the Department, required pursuant to these rules, will be provided via first class mail addressed to the last address furnished to the Department in writing by a licensee.
- 10.5 The Department may suspend or revoke the license of a licensee convicted, as defined in section 42-1-102(19), C.R.S., of a misdemeanor under the Colorado Air Pollution Prevention and Control Act, section 25-7-122.1, C.R.S., convicted of a misdemeanor under section 42-4-313, C.R.S., or of a licensee that has violated the Motor Vehicle Repair Act, section 42-9-101, et. seq., C.R.S.

## **11.0 ADMINISTRATIVE HEARINGS**

- 11.1 If upon full investigation objective facts or conduct are established that warrant the suspension or revocation of the license of a Diesel Opacity Inspection Station or a Diesel Opacity Inspector, the Department shall, prior to instituting proceedings, provide the licensee with written notice of such objective facts or conduct established upon a full investigation that may warrant such action, afford the licensee an opportunity to submit written data, views, and arguments with respect to the facts or conduct, and - except in cases of deliberate and willful violation or of substantial danger to public health and safety - give the licensee a reasonable opportunity to comply with all lawful requirements.
- 11.2 A licensee who receives notice pursuant to subsection 11.1 may within 30 days after the date of the notice:
  - 11.2.1 submit a written response setting forth data, views, and arguments with respect to the facts or conduct; or,

- 11.2.2 comply with all lawful requirements or submit a plan acceptable to the Department to bring the licensee into compliance with all lawful requirements.
- 11.3 The Department may institute a proceeding to suspend or revoke a license pursuant to subsection 11.1 if the Department determines that the licensee failed to:
- 11.3.1 submit a written response pursuant to subsection 11.1, or that the response does not rebut the evidence of such facts and conduct; or
- 11.3.2 the licensee failed to comply with all lawful requirements, or the plan submitted by the licensee is not acceptable to the Department.
- 11.4 If the Department has objective and reasonable grounds to believe and finds, upon full investigation, that a licensee has been guilty of deliberate and willful violations, or that the public health, safety, or welfare imperatively requires emergency action, and incorporates these findings in its order, the Department may summarily suspend a licensee's license, pending an adjudicatory hearing on the suspension.
- 11.5 The Department shall provide a licensee with notice in writing of the time, place, and nature of any adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the matters of fact and law asserted at least thirty (30) days prior to the hearing.
- 11.5.1 Any licensee given such notice shall file a written answer within 30 days after the service or mailing of such notice. If the licensee fails to answer, upon motion of the Department, default may be entered.
- 11.6 Any notice provided pursuant to this section shall be served personally or by mailing by first-class mail to the last address furnished to the Department by the licensee.
- 11.7 Any proceeding shall be conducted in accordance with section 24-4-105, C.R.S.

The Department adopts the Air Quality Control Commission's Regulation 12, Part B, found at 5 CCR 1001-15, current as of February 1, 2015, as part of 1 CCR 204-1 of the Department of Revenue, Division of Motor Vehicle's Regulations. The Air Quality Control Commission's Regulation 12, Part B, was adopted on October 20, 2011. The Code of Colorado Regulations is compiled and published by the Colorado Secretary of State's Office, and is published on the Colorado Secretary of State's website for public inspection, pursuant to section 24-4-103(11), C.R.S., at [www.sos.state.co.us](http://www.sos.state.co.us) and an unofficial print version can be purchased from LexisNexis. The Department's Rule does not include any later amendments or editions of the incorporated Air Quality Control Commission's Regulation 12, Part B. Certified copies of the complete text of the

incorporated Air Quality Control Commission Regulation 12, Part B, are maintained at the Colorado Department of Revenue, Division of Motor Vehicles, 1881 Pierce Street, Room 142, Denver, Colorado 80214, and may be inspected by contacting the Records Custodian at that address during normal business hours. The incorporated material may also be examined at any state publications depository library. Certified copies shall be provided at no cost upon request.