



Bureau of Air Quality

QUESTIONS AND ANSWERS

Act 124 of 2008: Diesel-Powered Motor Vehicle Idling Act

GENERAL PROGRAM INFORMATION

Q1. Where on DEP's Web site is information regarding Act 124 posted?

A1. Program information can be found on DEP's Diesel Idling Web site at: <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/cars/idling.htm>, including a DEP Act 124 Fact Sheet. Questions that are not answered in this Question and Answer document may be posted on the Web site in the future.

Q2. Who should be contacted with questions regarding Act 124?

A2. Questions not covered by this document or addressed on the Web site should be directed to DEP's Bureau of Air Quality, Mobile Sources Section. The Bureau of Air Quality can be reached as follows:

By mail:

Motor Vehicle Idling Act
PA Dept. of Environmental Protection
Bureau of Air Quality – Mobile Sources Section
P.O. Box 8648
Harrisburg, PA 17105-8468

By phone: (717) 787-9495

By email: ra-epcleanair@state.pa.us

Those who wish to contact the Department about a potential violation should contact the regional office (see additional information below, on page 4).

Q3. Where can I find a copy of the Diesel-Powered Motor Vehicle Idling Act?

A3. The Diesel-Powered Motor Vehicle Idling Act, Act 124 of 2008, can be found online through the Pennsylvania General Assembly Web site at <http://www.legis.state.pa.us> (click "Unofficial Purdon's Pennsylvania Statutes from West", then click "Title 35 P.S. Health and Safety", then click "Chapter 23B. Diesel-Powered Motor Vehicle Idling Act")

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or on DEP's Diesel Idling Web site at <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/cars/idling.htm> (follow same instructions as above).

Q4. Why are the section numbers in the bill different than in the “Unofficial Purdon’s Pennsylvania Statutes from West”?

A4. The bill numbers begin with “1” and run sequentially, as they do in all bills of the Pennsylvania legislature. Once a bill becomes law and the new law gets codified, the codified version uses section numbers that fit sequentially with existing laws. Hence, Section 1 of the Diesel-Powered Motor Vehicle Idling Act is found in Section 4601 of the 35th volume of the Pennsylvania Statutes, or 35 P.S. § 4601, and so on. The following is a cross-reference table:

Act 124 Section	Unofficial Purdon’s Pennsylvania Statutes from West
1	35 P.S. § 4601
2	35 P.S. § 4602
3	35 P.S. § 4603
4	35 P.S. § 4604
5	35 P.S. § 4605
6	35 P.S. § 4606
7	35 P.S. § 4607
8	35 P.S. § 4608
9	35 P.S. § 4609
10	35 P.S. § 4610

Q5. Where is information available regarding activities or developments related to the implementation of Act 124?

A5. DEP's Diesel Idling Web site has the latest information regarding any changes or developments in the implementation of Act 124. Useful documents will also be available on the Web site. Information can be found at: <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/cars/idling.htm>.

Q6. Who should be contacted with complaints about illegal idling activity?

A6. If a citizen believes that a diesel-powered motor vehicle is idling illegally, they may call their nearest DEP Regional Office or their local law enforcement agency. A local law enforcement officer may be quicker to respond since local officers will have less distance to travel in most cases, and DEP personnel will not be able to respond promptly to complaints that are made outside of regular business hours. DEP Regional Offices can be

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reached by calling the statewide Citizen's Complaint Line toll free at 1-866-255-5158. Local law enforcement non-emergency numbers can be found in the local phonebook.

Q7. What outreach efforts are being conducted to educate the public about the new idling restrictions?

- A7. The Department periodically has sent email about developments to associations and organizations whose members would be affected by Act 124, including statewide truck, bus, school district, transit, and retail organizations. In addition, in 2009-2010, DEP has enlisted three public groups from three different regions of the commonwealth, funded by an U.S. Environmental Protection Agency (EPA) grant, to conduct public outreach efforts to inform truck drivers, location owners and operators, and law enforcement personnel about the requirements of this law.

The three groups are the Clean Air Council (CAC) in southeast Pennsylvania, the Group Against Smog and Pollution (GASP) in southwest Pennsylvania, and the American Lung Association in Pennsylvania (ALAPA) in central Pennsylvania. Some of the diesel related activities they are involved with include the Philadelphia Diesel Difference Working Group, the Allegheny County Partnership to Reduce Diesel Pollution, and supporting the development of the diesel emission reduction regulation with the Department's Air Quality Technical Advisory Committee.

These three groups have worked with the Department to develop consistent messages and graphics that will be distributed state-wide. CAC will work in southeastern Pennsylvania, GASP will work in western Pennsylvania, and ALAPA will work in central Pennsylvania. The groups are using various methods to reach affected parties such as posters, placemats, message boards, public speaking, and brochures.

Q8. Drivers are often not the owners of vehicles subject to Act 124. What responsibility do vehicle owners have?

- A8. Act 124 applies to vehicle owners and operators. Section 3(a) provides that no *driver or owner* of a diesel-powered motor vehicle subject to the act shall cause the engine of the vehicle to idle beyond the time limits authorized in the act (35 P.S. §4603(a)). While drivers unlawfully idling will most commonly be the subject of enforcement actions, vehicle owners can be held responsible if the owner is deemed to have "caused" the unlawful idling. It will be in owners' best interests to equip their drivers with equipment and knowledge in order to avoid their own and their drivers' liability under the act.

Q9. Subject vehicles that are "engaged in commerce" are required to comply with the provisions of this act per Section 3(a) of Act 124. What is meant by this phrase?

- A9. The Department considers vehicles "engaged in commerce" to be vehicles that are regularly used for work purposes or in furtherance of a business. This includes all types of vehicles specifically referenced in the act, such as school buses and emergency vehicles. Generally, the Department considers a vehicle that is carrying a load or a

trailer, or is on its way to pick up a load or trailer, to be engaged in commerce. The Department also generally presumes that a vehicle with a business name or logo on it is a vehicle engaged in commerce. The Department similarly presumes that a vehicle without a business name or logo on it that is a type of vehicle typically used only for work purposes, such as a large delivery truck, is engaged in commerce. The Department likewise presumes that all other vehicles mentioned in Act 124 (other than those expressly excluded under section 3(b)) are engaged in commerce.

Q10. An “attended” diesel-powered vehicle is allowed to idle under Section 3(c)(12) for up to 15 minutes in a 60-minute period while waiting for sampling, weighing, loading, or unloading. What is meant by “attended”?

A10. The Department will consider a vehicle to be “attended” if the driver of the vehicle is in or near the vehicle and the Department’s inspector can readily locate the driver. For example, a driver who is near or inside a weighing station building where the vehicle is being weighed, and who can be readily located by the inspector, would be considered to be attending the vehicle.

ENFORCEMENT AND PENALTIES

Q11. Who can enforce Act 124?

A11. Employees of the Department may enforce Act 124 through civil and criminal proceedings (summary citations), under sections 5 and 7 of Act 124 (35 P.S. §§ 4605 and 4607.) In order for employees of the Department to be able to pursue criminal proceedings, the Secretary of the Department designated employees under Section 7 to enforce provisions of the act through summary citations. The Secretary’s designation includes all employees authorized to conduct inspections or investigations. The Secretary’s designation is available on the Department’s website, at <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/cars/idling.htm>. Also, state and local law enforcement may issue or file a citation for a violation of Act 124.

Q12. How will Act 124 be enforced?

A12. Act 124 will be enforced through summary citations and through civil proceedings.

Criminal proceedings (summary citations). A local or state law enforcement officer or a DEP inspector may issue or file citations for summary violations; anyone found to be in violation of the act commits a summary offense. Upon conviction, the offender may be sentenced to pay a fine of no less than \$150 and no more than \$300, in addition to court costs (35 P.S. §4605(a)). A person who receives a citation will usually have 10 days to respond. (Pennsylvania Rules of Criminal Procedure [Pa.R.Crim.P.], Rule 412.) The person does not need to appear in person before the Magisterial District Justice (MDJ) if he or she chooses to forego appeal and pay the fine and costs. (Pa. R. Crim. P., Rule

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414.) If a driver who is issued a summary citation neither appeals nor pays the fine and costs, a warrant for his or her arrest will be issued under Pa. R. Crim. P., Rule 403(B)(4).

The act requires DEP employees to exhibit proof, and be within the scope, of the Secretary's designation (see preceding response) when instituting summary proceedings (35 P.S. §4607). Department inspectors should, therefore, send their job description, job specification, or other document showing they are authorized to inspect or investigate, as well as the Secretary's Employee Designation memo, with the summary citation and other documents they send to the MDJ for filing. If, however, the inspector hands the summary citation to the defendant instead of sending it to the MDJ, then the inspector must show his or her authorization at the time he or she cites the defendant. (Pa. R. Crim. P., Rule 405(1).)

Civil proceedings (civil penalties, orders, NOVs and warning letters). Section 5 of Act 124 (35 P.S. § 4605) provides that DEP is authorized to assess civil penalties in accordance with the procedures and factors specified in section 9.1 the Air Pollution Control Act (APCA) (35 P.S. § 4009.1). Section 5(b) of Act 124 limits civil penalties to \$1,000 per day for each violation of Act 124. Section 5(b) also authorizes the Department to issue orders, as specified in section 10.1 of the APCA (35 P.S. § 4010.1). This authorization carries with it the implied authority to issue warning letters and notices of violation.

The Department will consider relevant factors in determining the amount of a civil penalty, including environmental impact, degree of cooperation and willfulness. The Department will make every effort to inform the regulated community of what is required for compliance.

Q13. What resources should enforcement personnel refer to when enforcing the act?

A13. The Diesel-Powered Motor Vehicle Idling Act is available through both Lexis and Westlaw research services. Both services require a subscription; however, the Unofficial Purdon's Pennsylvania Statutes by Westlaw can be accessed through the Pennsylvania General Assembly web site at <http://www.legis.state.pa.us/> (click "Unofficial Purdon's Pennsylvania Statutes from West", then click "Title 35 P.S. Health and Safety", then click "Chapter 23B. Diesel-Powered Motor Vehicle Idling Act"). Both resources contain the Diesel-Powered Motor Vehicle Idling Act, but neither source has a single, printable document that displays all sections of the act consecutively. The sections most likely to be cited by enforcement personnel are 35 P.S. §4603 (excessive idling) and 35 P.S. §4608 (signs).

Q14. Is the Department enforcing Section 4, which increases weight limits for vehicles equipped with idle reduction technology?

A14. No. The Pennsylvania State Police and federal agencies enforce vehicle weight limits. Section 4 was added to ensure conformity of Pennsylvania's weight laws with a federal

law that provides incentives to purchase auxiliary power systems (35 P.S. §4604). These smaller diesel or battery-powered engines generally weigh less than 400 pounds.

Q15. How does the law affect any local ordinances regarding idling?

A15. Provisions addressing preemption of local ordinances are found in Section 9 (35 P.S. §4609). The act allows counties of the first and second class that have existing local idling ordinances or rules to keep them in effect to the extent their requirements are more stringent than the requirements of the act. The preemption provision only applies to Allegheny and Philadelphia counties. Allegheny and Philadelphia counties will be determining how their previously adopted rules are affected by Act 124. The law preempts local idling ordinances and rules in other local jurisdictions.

INFORMATION FOR VEHICLE OWNERS AND OPERATORS

• **Trucks**

Q16. Why is there a temperature exemption? Why does it expire May 1, 2010?

A16. Many drivers idle the main engine during mandated rest periods to provide power for cabin climate control and electronic devices. Stationary and mobile idle reduction technology will eliminate the majority of idling for this purpose by providing an alternate power source. Until April 30, 2010, the act allows vehicles equipped with a sleeper-berth compartment to idle during a sleep or rest period if the temperature outside is below 40 degrees or above 75 degrees Fahrenheit at any time during the rest period, in order to maintain climate control or operate electronic devices (35 P.S. §4603(c)(11)). The exemption applies if there is no stationary idle reduction technology available for use at the start of the rest period. The temperature exemption exists to give the regulated community adequate time to plan for, purchase, and install idle reduction technology. After the exemption expires, drivers of vehicles idling beyond the 5-minute limit during a rest period will be considered to be violating the act.

Stationary idle reduction technology may be available at places like travel plazas and rest stops, where heavy-duty diesel vehicles often stop and idle the main engine. Stationary idle reduction technology is typically a kiosk installed at parking spaces used by heavy-duty diesel vehicles. Drivers connect their vehicles to the kiosk in order to provide power for heating, cooling, appliances, or any other electrical need for which a driver would typically idle the main engine to provide electricity.

Mobile idle reduction technology can include auxiliary heaters, about the size of a shoe box, and small auxiliary power systems. This technology provides heat, cooling, electric and engine warming without requiring the main propulsion engine to idle. Operation of these small heaters and engines is NOT considered idling for purposes of Act 124.

Q17. May vehicles idle while using mechanical equipment to load or unload?

A17. Yes, the main engine may idle when it is necessary to power work-related electrical, safety, or mechanical operations other than propulsion (35 P.S. §4603(c)(6)). The main engine may not idle under this exemption to provide cabin comfort or to operate non-essential onboard equipment (35 P.S. §4603(c)(6)).

• **Buses (other than School Buses and School Vehicles)**

Q18. What does the term “bus” include?

A18. The word “bus” is defined in Section 2 of Act 124 (35 P.S. §4602) by referencing the definition found in the Pennsylvania Vehicle Code at 75 Pa.C.S. § 102 (relating to definitions). The definition can be found on DEP’s Diesel Idling Web site. Please note that the definition of “bus” does not include a “school bus” or “school vehicle,” both of which are separately defined.

Q19. How long is a bus allowed to idle to provide heat or air conditioning to passengers?

A19. A bus may idle for a total of 15 minutes in a continuous 60-minute period, if idling is needed to provide heat or air conditioning to non-driver passengers. If idling is not needed for these reasons, idling is restricted to a total of 5 minutes in a continuous 60-minute period (35 P.S. §4603(c)(10)).

Q20. May a bus driver sitting alone without passengers on a bus idle the bus’s engine?

A20. A driver on a bus without passengers aboard is restricted to five minutes of idling in a continuous 60-minute period, unless idling is necessary while the bus is waiting to pick up (load) passengers (35 P.S. §4603(c)(12)). The limit when the bus is waiting to load passengers is 15 minutes in a continuous 60-minute period.

Q21. May the driver of a long distance travel bus idle the bus while some or all of the passengers exit the bus for the purpose of a rest or meal break?

A21. If all passengers exit the bus, idling is limited to five minutes in a continuous 60-minute period. If some passengers remain on the bus, idling is limited to 15 minutes in a continuous 60-minute period, and is only allowed if needed to provide heating or air conditioning to the passengers (35 P.S. §4603(c)(10)).

• **School Buses and School Vehicles**

Q22. What is the difference between a “school bus” and a “school vehicle”?

A22. One difference is the number of passengers the vehicles are designed to carry. A school bus is designed to carry 11 passengers or more, including the driver. A school vehicle is designed to carry no more than ten passengers, including the driver. There are other

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differences. The terms “school bus” and “school vehicle” are defined in Section 2 of Act 124 (35 P.S. §4602) by referencing the definitions found in the Pennsylvania Vehicle Code at 75 Pa.C.S. §102. The definitions can be found on DEP’s Diesel Idling Web site.

Q23. Is there an exemption for school buses and school vehicles carrying students with special needs?

A23. Yes. There is no restriction on idling by a school bus or school vehicle if idling is necessary to maintain a safe temperature for students onboard with special needs. (35 P.S. §4603(c)(10)). No definition of “special needs” exists. A special needs student could be a person who, for instance, has a neuro-developmental or respiratory condition that does not allow the student’s body to account for fluctuations in temperature, infection, chronic dehydration or mentally handicapped student who cannot communicate discomfort or distress.

Q24. Can a school bus or school vehicle idle if there is nowhere at or around the school for it to stop safely?

A24. A school bus is permitted to idle during queuing for the pickup or discharge of students if the school’s configuration or that of the surrounding streets does not allow for stopping (35 P.S. §4603(c)(13)).

Q25. How long can a school bus idle to provide heating or air conditioning?

A25. Unless one of the specific exemptions listed in Act 124 applies, a school bus or school vehicle may idle no more than a total of 15 minutes in a continuous 60-minute period, and only to provide heat or air conditioning for non-driver passengers (35 P.S. §4603(c)(10)).

Q26. What if, during extremely cold days, a school bus or school vehicle needs to idle for more than five minutes in order to prevent the windows from fogging?

A26. The safety exemption in Section 3(c)(2) may apply (35 P.S. §4603(c)(2)). For instance, a school bus or school vehicle that travels a dedicated route on which it picks up students immediately after leaving the garage may need to idle for more than five minutes on particularly cold days when the cabin is too cold to prevent window fogging without the extra idling. If a school district has a written policy that describes the need for idling in cold weather conditions, the Department will take this policy into consideration.

INFORMATION FOR LOCATION OWNERS AND OPERATORS

- **Responsibilities**

Q27. If trucks outside of a location are idling illegally because truck traffic is overflowing from that facility or because a gate is locked, is the location owner or operator responsible for the illegal idling?

A27. It depends on the specific circumstances. If the problem is a repeating problem due to inefficient traffic flow or poor scheduling, the Department might hold the location owner or operator responsible. The Department will be less likely to hold the location owner or operator responsible if the excess idling occurs due to unusual circumstances or is infrequent.

Q28. If a Department inspector sees a vehicle on property of a facility that holds an air permit, and the vehicle is idling beyond the time allowed in the act, will this affect the facility's air permit?

A28. Section 10 of Act 124 (35 P.S. § 4610) specifically states that the diesel idling requirements of the act are not applicable to air quality operating permits required under 25 Pa. Code Chapter 127 (relating to construction, modification, reactivation, and operation of sources). The facility owner or operator could still be subject to an order, a civil penalty or a fine for allowing trucks to exceed the idling restrictions in the act.

Q29. Can the owner of a location be held responsible for the idling of vehicles parked on the property, if the vehicles are parked in parking spaces that are not designed for those vehicles?

A29. Yes. Owners and operators of locations that have parking spaces specifically designed for large vehicles are responsible for idling occurring on their property, regardless of where it occurs. The same is true for owners and operators of any location that allows the vehicles to park at the location. For instance, if a location owner or operator allows truck drivers to park overnight in the passenger car parking lot, the location owner and operator would be responsible (along with the drivers) for any illegal idling, even though the parking lot is typically used by passenger cars. The location owner or operator might not be considered responsible for illegal idling on the property, however, if the location owner or operator has clearly prohibited the vehicles from parking on the property, such as by posting signs prohibiting truck parking.

Q30. What constitutes a location where a vehicle loads and unloads?

A30. An owner or operator of a location where vehicles load or unload is subject to Act 124. A location where a vehicle loads or unloads includes a location designed for loading and unloading, such as a loading dock at a warehouse, and also includes other access points where facilities normally receive shipments of goods. For example, if a business does not have a loading dock but receives shipments through a door at the rear of the store, the

rear of the store is a location where vehicles load or unload. Schools are locations at which vehicles load and unload students.

Q31. Is a location owner or operator responsible for idling by independent drivers even if the location owner or operator has posted “No Idling” signs?

A31. The responsibility under Section 8 of Act 124 to post “No Idling” signs does not relieve a location owner and operator of their other responsibilities under the act (35 P.S. §4608). In particular, Section 3(a) provides that no owner or operator of a location where vehicles load, unload or park shall allow the vehicle engines to idle for more than five minutes in any continuous 60-minute period (35 P.S. §4603(a)).

- **Signs**

Q32. What locations are required under Act 124 to have “No Idling” signs posted?

A32. Owners and operators of locations at which vehicles subject to Act 124 load or unload, or locations that provide 15 or more parking spaces for vehicles subject to Act 124, must erect and maintain a permanent sign to inform drivers that idling is restricted, according to Section 8 of Act 124 (35 P.S. §4608). See Question #30 for an explanation of what constitutes a location where vehicles load and unload.

Q33. What kinds of permanent “No Idling” signs are required to be posted?

A33. Only a sign officially approved by the Pennsylvania Department of Transportation (PennDOT) meets the requirements of Act 124. The approved sign can be found in the *Handbook of Approved Signs*, Publication Number 236 on PennDOT’s Web site at <http://www.dot.state.pa.us/>. Click on the tab titled Forms, Publications, and Maps. Then click on PennDOT Sales Store. The publication number for the *Handbook* is 236M and the “No Idling” sign is nomenclature R7-100.

Q34. Can a permanent sign of a design other than the sign specified in the *Handbook of Approved Signs* meet the Act 124 signage requirement?

A34. No. Section 8 (35 P.S. §4608) of Act 124 requires that signs conform to PennDOT’s regulations pertaining to approved signs and existing nonstandard signs, which are found at 67 Pa. Code §212.101(a) and (b). These PennDOT regulations provide that official traffic signs are those that appear in the *Handbook of Approved Signs*, and that official signs must replace existing signs of nonstandard design or application as rapidly as is economically feasible. However, if an official sign is posted, a business may also post unofficial signs, such as dock rules, that include information on idling restrictions on the property in addition to the official sign. Unofficial signs should be distinct in color and design from the official idling restriction sign.

Q35. How many signs should be displayed?

A35. The act requires the location owner or operator to post, at minimum, one sign to alert drivers of subject vehicles of idling restrictions. Section 8 of Act 124 states that, “An owner or operator of a location...shall erect and maintain a permanent sign . . .” (35 P.S. §4608.) It is part of the property owner and operator’s responsibility to stop idling on their property. Location owners and operators risk fines and other enforcement actions if they allow illegal idling on their property. Therefore, signs should be posted in sufficient quantity and positioned so that drivers are alerted to the idling restrictions.

Q36. How should the sign be displayed?

A36. The description of how the sign must be placed and specifications on how the sign should be displayed are provided in PennDOT’s *Handbook of Approved Signs*. Additional requirements for posting signs can be found in PennDOT’s regulations, at 67 Pa. Code, Chapter 212. PennDOT’s *Handbook of Approved Signs* also gives the specifications on how the sign should look, which includes things like the size of the sign, materials to be used, and types and size of lettering.

Q37. Where are compliant signs available to be purchased?

A37. Location owners and operators should consult the PennDOT list of approved sign manufacturers before purchasing signs. A list of approved sign manufacturers can be found on pages 240 to 246 of PennDOT’s *Publication 35*, at:
ftp://ftp.dot.state.pa.us/public/pdf/BOCM_MTD_LAB/PUBLICATIONS/PUB_35/Bulletin15.pdf.

Q38. Why do the signs say “No Idling” when clearly Act 124 allows subject vehicles to idle in some circumstances?

A38. Signs need to be unambiguous in order to inform the motorist of the expected behavior. The sign wording was chosen to convey a case more stringent than the law so that drivers have the best chance of complying. Drivers can inform themselves, and vehicle owners can inform themselves and their employees, of the exceptions contained in the law that may apply to the specific circumstance or exemptions for certain types of vehicles.

Q39. Is a facility that receives occasional shipments from diesel-powered motor vehicles that weigh over 10,000 pounds required to post a sign?

A39. Yes. If the property receives deliveries from large diesel-powered motor vehicles subject to Act 124, a sign must be posted in order to alert the drivers of idling restrictions.

Q40. Will Philadelphia and Allegheny counties require the sign approved by PennDOT to be posted?

A40. Signs will be required. The “No Idling” signs must be posted in Philadelphia and Allegheny counties, just as they must be posted elsewhere throughout the Commonwealth. The requirement is a commonwealth-wide requirement, not a Philadelphia or Allegheny county requirement.

EXCEPTIONS, EXCLUSIONS, AND EXEMPTIONS

• **Exceptions**

Q41. How can a vehicle that complies with the exception in Section 3(d) for meeting the optional NO_x idling emission standard be identified?

A41. This exception allows a marked vehicle to idle without restriction because its emissions are as clean as, or even cleaner than, the small auxiliary engines used in many vehicles to provide comfort during travel rest. California provides this exception to its idling rule. California is the only state that certifies these so-called “clean idle” engines, and, at present, California does so only for model year 2008 and newer vehicles. The vehicle is identified by a 4-inch by 6-inch sticker with holographic background located on the driver’s side hood approximately one foot above the fender. It may also be located in an alternate location, such as the driver’s side of the sleeper berth, if the location is approved by the California Air Resources Board. The label looks like this:



• **Exclusions**

Q42. What types of agricultural vehicles are excluded from Act 124?

A42. Implements of husbandry, farm equipment, and farm vehicles are specifically excluded (35 P.S. §4603(b)). For full definitions of these terms, see DEP’s Diesel Idling Web site. “Implements of husbandry” are vehicles that operate on a farm or for the benefit of the farmer’s agricultural operation; these vehicles are used directly for harvesting or

transporting agricultural products. “Farm equipment” is equipment used exclusively in agriculture to plant, seed, cultivate, harvest or apply soil nutrients, fertilizers or chemicals. “Farm vehicles” are trucks or tractors used exclusively for agricultural purposes. A vehicle that does not operate on a farm, but is transporting agricultural products, is subject to the act. “Commercial implements of husbandry” are also specifically excluded in section 3(b), but the term is not defined. The Department considers the meaning to be similar to the meaning of “implements of husbandry.”

Q43. Are construction vehicles subject to the idling restrictions of Act 124?

A43. It depends on how the construction vehicle is registered. If a license plate is issued for the vehicle, it is considered to be an on-road vehicle. By way of example, a front-end loader that is used at a construction site would not be subject to the act; however, a dump truck used at a construction site that is registered for highway travel would be restricted from idling more than 5 minutes in a continuous 60-minute period, unless the operation of the vehicle meets one of the other exemptions.

Q44. Are other “off road” vehicles subject to Act 124?

A44. If a vehicle is designed and utilized exclusively for “off-road” use, the Department does not consider the vehicle to be subject to Act 124. If the vehicle is not issued a license plate at the time of registration, it is considered an off-road vehicle. Based on the definitions of the terms “vehicle” and “motor vehicle”, vehicles not registered for highway travel are not subject to Act 124. This is because the term “motor vehicle” is defined by reference to the term “vehicle,” which is limited to devices in, upon or by which persons or property may be transported upon a highway (except devices used exclusively upon rails or tracks).

Q45. Are mining vehicles and equipment subject to Act 124?

A45. It depends on how the mining vehicle or equipment is registered. If the vehicle or equipment is registered for highway use and issued a license plate, then the vehicle is subject to the act. If it is registered exclusively for off road use, then the vehicle or equipment is not subject to the act.

Q46. Are motor homes subject to Act 124?

A46. No. Motor homes are specifically excluded from Act 124 in Section 3(b) (35 P.S. §4603(b)).

- **Exemptions**

Q47. Is idling permitted during vehicle maintenance, repair or inspection?

A47. Idling is permitted when it is necessary for the specific maintenance or repair activity being performed (35 P.S. §4603(c)(4)). Idling is also permitted during a state or federal

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inspection, if idling is necessary for the inspection (35 P.S. §4603(c)(5)). Idling is also permitted for vehicles undergoing a security inspection before entering or leaving a facility, if the idling is required during the inspection (35 P.S. §4603(c)(7)).

Q48. May a driver receive a ticket for violating the act if the excess idling occurs due to circumstances outside of the driver's control?

A48. Act 124 identifies several situations when excess idling would be allowed because the need to idle is beyond the driver's control. For example, a violation will not result from a vehicle being forced to remain stationary due to traffic or a traffic control device (35 P.S. §4603(c)(1)). A violation will not occur if a vehicle must idle due to mechanical difficulties over which the driver has no control, as long as the vehicle owner submits proof by mail to DEP within 30 days that the mechanical problem was repaired (35 P.S. §4603(c)(9)). If excess idling is necessary in order to maintain safe operating conditions while waiting for a police escort in accordance with 75 Pa.C.S. Ch. 49 Subch. D (relating to special permits for excessive size and weight), excess idling is not in violation of the act (35 P.S. §4603(c)(14)). Other situations will be reviewed for compliance with the exemptions in Act 124 as they occur.

Q49. Are drivers of solid waste hauling vehicles exempt from idling restrictions?

A49. Yes, while the truck is actively engaged in the collection of solid waste or source-separated recyclable materials (35 P.S. §4603(c)(15)). If there's a question about whether the vehicle is actively engaged in collection, then the Department might also consider the exemption that allows vehicles to idle for up to 15 minutes in a continuous 60-minute period when idling is necessary for active loading or unloading, and when idling is necessary for an attended vehicle waiting to load or unload (35 P.S. §4603(c)(12)). See Question #10 for information about attended vehicles. Still, it is possible for a driver of a solid waste hauling vehicle to violate the act. For instance, if a truck is emptying a dumpster at a restaurant, the truck may idle while it is engaged in that activity; but, if the driver leaves the vehicle idling and enters the restaurant for a meal, the vehicle would be idling illegally.

Q50. May the vehicle idle to keep the cabin warm in order to keep temperature-sensitive materials warm or cold?

A50. No, there is no exemption in Act 124 for this. Cost-effective equipment can be installed that keeps the cabin warm for many hours, such as equipment that uses the residual heat of the engine.

Q51. May a vehicle idle to protect goods in a refrigerated compartment?

A51. Yes, if the vehicle must idle to operate cargo refrigeration equipment in order to prevent a safety or health emergency (35 P.S. §4603(c)(2)). Most cargo refrigeration units operate independently of the main engine. If a cargo refrigeration unit is equipped with such technology, the Department will consider idling of the main engine to be a violation of

the law. If the cargo refrigeration unit is not equipped with an alternate power source, the main engine may idle to operate the refrigeration equipment.

Q52. May utility service vehicles idle?

A52. Utility service vehicles may idle when they are being used in an emergency, public safety, or training mode, and not for the driver's convenience (35 P.S. §4603(c)(3)). For example, if a utility worker is fixing an electrical line by the side of the road, the main engine may idle. Idling is also permitted to provide safety lighting and hydraulic lift capacity (35 P.S. §4603(c)(6)). Utility service vehicles may not, however, idle longer than five minutes in a continuous 60-minute period for comfort of the occupants; for example, the vehicle may not idle beyond five minutes if the driver or passengers are simply waiting for another utility vehicle to arrive before beginning repair work.

Act 124 uses the term "utility service vehicle." This term is not defined in the act or anywhere else in Pennsylvania law, but based on definitions of similar terms, the Department will generally consider a utility vehicle to be a vehicle used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service.

Q53. May a vehicle idle indefinitely in bad weather to operate defrosters, heaters, or air conditioners?

A53. Not necessarily. An exemption in Section 3(c)(2) allows operation of this equipment when necessary to prevent a safety or health emergency (35 P.S. §4603(c)(2)). For example, if a vehicle is disabled by extreme weather so that it is unable to move, but still has an operable engine, the engine may be used to provide heating or cooling. A vehicle operator cannot idle a vehicle to operate defrosters for convenience, for instance, to remove frost from the windshield prior to traveling instead of using an ice scraper.

Q54. Is a truck driver who uses an electrical medical device that corrects sleep apnea, such as a continuous positive airway pressure machine, allowed to idle the truck in order to power the machine to get his or her federally mandated rest?

A54. No, although if the driver is idling under the exemption for rest periods provided in Section 3(c)(11), he can simultaneously power the medical device if the ambient temperature is outside the given range provided in the section (35 P.S. §4603(c)(11)). When the rest period exemption expires, the driver will need another source of power, such as a 12-volt rechargeable battery pack, an auxiliary power unit or stationary idle reduction technology.

Q55. What vehicles are considered “emergency vehicles” for the purposes of this act?

A55. According to the Vehicle Code definition of “emergency vehicle”, the term includes, but is not limited to, blood delivery vehicles, hazardous material response vehicles, armed forces emergency response vehicles, and other vehicles designated as emergency vehicles by the Pennsylvania State Police. Police, fire, ambulance, public safety, military, and utility service vehicles are specifically mentioned in Act 124 as emergency or law enforcement vehicles. Section 3(c)(3) of Act 124 allows these vehicles to idle longer than five minutes in a continuous 60-minute period only when engaged in an emergency or training mode, and not for the driver’s convenience (35 P.S. §4603(c)(3)).

Q56. What is meant by an “emergency or training mode” in Section 3(c)(3) as it applies to emergency and law enforcement vehicles?

A56. An emergency does not need to be an officially declared emergency or disaster event. In general, the Department will consider events that require police, fire, or medical assistance, or response from similar agencies to be emergency situations. Events that cause loss of essential services may also be considered emergency situations. The Department will consider a vehicle to be operating in an emergency mode if the vehicle is answering an emergency call. The Department will consider a vehicle to be in training mode if the vehicle is engaged in an activity in which vehicle operators are learning how to operate the vehicle in order to respond to an emergency situation. Vehicles listed in Section 3(c)(3) of Act 124 may idle longer than five minutes if they are being used in an emergency or training mode, and not for the driver’s convenience (35 P.S. §4603(c)(3)).

Q57. How long is an ambulance allowed to idle if there are patients onboard?

A57. If a patient is onboard, the ambulance will be considered by the Department to be operating in an emergency mode and is allowed to idle as long as necessary. If a patient is not in the ambulance, idling is restricted to 5 minutes in any continuous 60-minute period.