

## REGULATION OF VEHICLES AND TRAFFIC

### ARTICLE 4 REGULATION OF VEHICLES AND TRAFFIC

**Cross references:** For exemption of members of the military forces from traffic regulation, see 28-3-504; for disposition of fines and penalties under this article, see 42-1-217; for crimes that involve the operation of motor vehicles, also see 18-3-106, 18-3-205, 18-4-409, 18-4-512, 18-9-107, and 18-9-114 to 18-9-116.5.

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### **PART 3**

## **EMISSIONS INSPECTION**

#### **42-4-301. Legislative declarations - enactment of enhanced emissions program not waiver of state right to challenge authority to require specific loaded mode transient dynamometer technology in automobile emissions testing.**

(1) The general assembly hereby finds and declares that section 42-4-301 to 42-4-316 are enacted pursuant to, and that the program created by said sections is designed to meet, the requirements of the federal "Clean Air Act", as amended by the federal "Clean Air Act Amendments of 1990", 42 U.S.C. sec. 7401 et seq., as the same is in effect on November 15, 1990.

(2) (a) The general assembly further finds and declares that:

(I) The provisions of section 42-4-301 to 42-4-316 related to the enhanced emissions program are enacted to comply with administrative requirements of rules and regulations of the federal environmental protection agency;

(II) Insofar as such rules and regulations require the use of loaded mode transient dynamometer technology utilizing a system commonly known as the IM 240 in motor vehicle emissions testing, the general assembly finds that reliable scientific data questions the effectiveness of such technology to measure motor vehicle emissions at the high altitude of the Denver metropolitan area;

(III) Less costly automobile emission testing systems may be available which are as effective or more effective at a lower cost to consumers than the loaded mode transient dynamometer test required by the federal environmental protection agency.

(b) (I) The general assembly, therefore, declares that the enactment of section 42-4-301 to 42-4-316 in no way forecloses or limits the rights of the general assembly or any other appropriate entity of the state of Colorado to retain legal counsel as provided by law to request the federal

environmental protection agency to consider alternative automobile emission inspection technology which may relieve Colorado of the requirements of the federal rules and regulations or change such rules and regulations to require a different technology in automobile emissions testing at a substantial savings in cost to consumers and jobs for Coloradans employed in the testing of motor vehicles for emissions compliance.

(II) If the federal agency refuses to alter its policies related to this issue, the general assembly hereby declares that it or any other appropriate entity of the state of Colorado does not waive the right to bring appropriate legal action in a court of competent jurisdiction to determine the validity of the federal environmental protection agency's authority to require the use of the loaded mode transient dynamometer test for automobile emissions inspection commonly known as the IM 240 when such requirement may be in excess of the federal agency's authority under the federal "Clean Air Act Amendments of 1990".

**Source: L. 94:** Entire title amended with relocations, p. 2272, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 42-4-306.5 as it existed prior to 1994.

**Cross references:** For the "Colorado Air Pollution Prevention and Control Act", see article 7 of title 25.

#### **42-4-302. Commencement of basic emissions program - authority of commission.**

Notwithstanding the provisions of section 42-4-301 to 42-4-316, if the commission is unable to implement the basic emissions program by January 1, 1994, the commission by rule and regulation shall establish the date for the commencement of said program as soon as practicable after January 1, 1994, and the provisions of section 42-4-301 to 42-4-316 applicable to the basic emissions program shall be effective on and after the date determined by the commission by rule and regulation. Until such date, emission inspection activity in El Paso, Larimer, and Weld counties shall comply with the requirements applicable to inspection and readjustment stations in section 42-4-301 to 42-4-316, and El Paso, Larimer, and Weld counties shall be deemed to continue to be included in the inspection and readjustment program until implementation of the basic emissions program by the commission pursuant to this section.

**Source: L. 94:** Entire title amended with relocations, p. 2273, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 42-4-306.6 as it existed prior to 1994.

#### **42-4-303. Sunrise review of registration of repair facilities. (Repealed)**

**Source: L. 94:** Entire title amended with relocations, p. 2273, 1, effective January 1, 1995.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective July 1, 1996. (See L. 94, p. 2273.)

#### **42-4-304. Definitions relating to automobile inspection and readjustment program.**

As used in section 42-4-301 to 42-4-316, unless the context otherwise requires:

(1) "AIR program" or "program" means the automobile inspection and readjustment program until replaced as provided in section 42-4-301 to 42-4-316, the basic emissions program, and the enhanced emissions program established pursuant to section 42-4-301 to 42-4-316.

(2) "Basic emissions program" means the inspection and readjustment program, established pursuant to the federal act, in the counties set forth in paragraph (b) of subsection (20) of this section.

(3) (a) "Certification of emissions control" means one of the following certifications, to be issued to the owner of a motor vehicle which is subject to the automobile inspection and readjustment program to indicate the status of inspection requirement compliance of said vehicle:

(I) "Certification of emissions waiver", indicating that the emissions of other than chlorofluorocarbons from the vehicle do not comply with the applicable emissions standards and criteria after inspection, adjustment, and emissions-related repairs in accordance with section [42-4-310](#).

(II) "Certification of emissions compliance", indicating that the emissions from said vehicle comply with applicable emissions and opacity standards and criteria at the time of inspection or after required adjustments or repairs.

(b) (I) The certification of emissions control will be issued to the vehicle owner at the time of sale or transfer except as provided in section [42-4-310](#) (1) (a) (I). The certification of emissions control will be in effect for twenty-four months for 1982 and newer model vehicles. 1981 and older model vehicles and all vehicles inspected by the fleet-only air inspection stations shall be issued certifications of emissions control valid for twelve months.

(II) Except as provided in section [42-4-309](#), the executive director shall establish a biennial inspection schedule for 1982 and newer model vehicles, an annual inspection schedule for 1981 and older model vehicles, and a five-year inspection schedule for a 1976 or newer motor vehicle registered as a collector's item.

(c) Repealed.

(d) Subject to section [42-4-310](#) (4), the certification of emissions control shall be obtained by the seller and transferred to the new owner at the time of vehicle sale or transfer.

(e) For purposes of this subsection (3), "sale or transfer" shall not include a change only in the legal ownership as shown on the vehicle's documents of title, whether for purposes of refinancing or otherwise, that does not entail a change in the physical possession or use of the vehicle.

(3.5) "Clean screen program" means the remote sensing system or other emission profiling system established and operated pursuant to section [42-4-305](#) (12), [42-4-306](#) (23), [42-4-307](#) (10.5), and [42-4-310](#) (5).

(4) "Commission" means the air quality control commission, created in section [25-7-104](#), C.R.S.

(5) "Contractor" means any person, partnership, entity, or corporation that is awarded a contract by the state of Colorado through a competitive bid process conducted by the division in consultation with the executive director and in accordance with the "Procurement Code", articles 101 to 112 of title [24](#), C.R.S., and section [42-4-306](#), to provide inspection services for vehicles required to be inspected pursuant to section [42-4-310](#) within the enhanced program area, as set forth in subsection (9) of this section, to operate enhanced inspection centers necessary to perform inspections, and to operate the clean screen program within the program area.

(6) "Division" means the division of administration in the department of public health and environment.

(7) "Emissions inspector" means:

(a) An individual trained and licensed in accordance with section [42-4-308](#) to inspect motor vehicles at an inspection-only facility, fleet inspection station, or motor vehicle dealer test facility subject to the enhanced emissions program set forth in this part 3; or

(b) An individual employed by an enhanced inspection center who is authorized by the contractor to inspect motor vehicles subject to the enhanced emissions program set forth in this part 3 and subject to the direction of said contractor.

(8) "Emissions mechanic" means an individual licensed in accordance with section [42-4-308](#) to inspect and adjust motor vehicles subject to the automobile inspection and readjustment program until such program is replaced as provided in section [42-4-301](#) to [42-4-316](#) and to the basic emissions program after such replacement.

(8.5) "Enhanced emissions inspection" means a motor vehicle emissions inspection conducted pursuant to the enhanced emissions program, including a detection of high emissions by remote sensing, an identification of high emitters, a clean screen inspection, or an inspection conducted at an enhanced inspection center.

(9) (a) "Enhanced emissions program" means the emissions inspection program established pursuant to the federal requirements set forth in the federal performance standards, 40 CFR, part 51, subpart S, in the locations set forth in paragraph (c) of subsection (20) of this section.

(b) (Deleted by amendment, L. 2009, (SB 09-003), ch. 322, p. 1714, 1, effective June 1, 2009.)

(10) "Enhanced inspection center" means a strategically located, single- or multi-lane, high-volume, inspection-only facility operated in the enhanced emissions program area by a contractor not affiliated with any other automotive-related service, which meets the requirements of section [42-4-305](#) and [42-4-306](#), which is equipped to enable vehicle exhaust gas and evaporative and chlorofluorocarbon emissions inspections, and which the owner or operator is authorized to operate by the executive director as an inspection-only facility.

(11) "Environmental protection agency" means the federal environmental protection agency.

(12) "Executive director" means the executive director of the department of revenue or the designee of such executive director.

(13) "Federal act" means the federal "Clean Air Act", 42 U.S.C. sec. 7401 et seq., as in effect on November 15, 1990, and any federal regulation promulgated pursuant to said act.

(14) "Federal requirements" means regulations of the environmental protection agency pursuant to the federal act.

(15) "Fleet inspection station" means a facility which meets the requirements of section [42-4-308](#), which is equipped to enable appropriate emissions inspections as prescribed by the commission and which the owner or operator is licensed to operate by the executive director as an inspection station for purposes of emissions testing on vehicles pursuant to section [42-4-309](#).

(15.5) Repealed.

(16) "Inspection and readjustment station" means:

(a) Repealed.

(b) (I) A facility within the basic emissions program area as defined in subsection (20) of this section which meets the requirements of section [42-4-308](#), which is equipped to enable vehicle exhaust, evaporative, and chlorofluorocarbon emissions inspections and any necessary adjustments and repairs to be performed, and which facility the owner or operator is licensed by the executive director to operate as an inspection and readjustment station.

(II) This paragraph (b) is effective January 1, 1994.

(17) (a) "Inspection-only facility" means a facility operated by an independent owner-operator within the enhanced program area as defined in subsection (20) of this section which meets the requirements of section [42-4-308](#) and which is equipped to enable vehicle exhaust, evaporative, and chlorofluorocarbon emissions inspections and which facility the operator is licensed to operate by the executive director as an inspection-only facility. Such inspection-only facility shall be authorized to conduct inspections on model year 1981 and older vehicles.

(b) This subsection (17) is effective January 1, 1995.

(18) "Motor vehicle", as applicable to the AIR program, includes only a motor vehicle that is operated with four wheels or more on the ground, self-propelled by a spark-ignited engine burning gasoline, gasoline blends, gaseous fuel, blends of liquid gasoline and gaseous fuels, alcohol, alcohol blends, or other similar fuels, having a personal property classification of A, B, or C pursuant to section [42-3-106](#), and for which registration in this state is required for operation on the public roads and highways or which motor vehicle is owned or operated or both by a nonresident who meets the requirements set forth in section [42-4-310](#) (1) (c). "Motor vehicle" does not include kit vehicles; vehicles registered pursuant to section [42-12-301](#) or [42-3-306](#) (4); vehicles registered pursuant to section [42-12-401](#) that are of model year 1975 or earlier or that have two-stroke cycle engines manufactured prior to 1980; or vehicles registered as street-rods pursuant to section [42-3-201](#).

(19) (a) "Motor vehicle dealer test facility" means a stationary or mobile facility which is operated by a state trade association for motor vehicle dealers which is licensed to operate by the executive director as a motor vehicle dealer test facility to conduct emissions inspections.

(b) (I) Inspections conducted pursuant to section [42-4-309](#) (3) by a motor vehicle dealer test facility shall only be conducted on used motor vehicles inventoried or consigned in this state for retail sale by a motor vehicle dealer licensed pursuant to article 6 of title 12, C.R.S., and which is a member of the state trade association operating the motor vehicle dealer test facility.

(II) Inspection procedures used by a motor vehicle dealer test facility pursuant to this paragraph (b) shall include a loaded mode transient dynamometer test cycle in combination with appropriate idle short tests pursuant to rules and regulations of the commission.

(20) (a) "Program area" means the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld, and the cities and counties of Broomfield and Denver, excluding the following areas and subject to paragraph (d) of this subsection (20):

(I) That portion of Adams county that is east of Kiowa creek (Range sixty-two west, townships one, two, and three south) between the Adams-Arapahoe county line and the Adams-Weld county line;

(II) That portion of Arapahoe county that is east of Kiowa creek (Range sixty-two west, townships four and five south) between the Arapahoe-Elbert county line and the Arapahoe-Adams county line;

(III) That portion of El Paso county that is east of the following boundary, defined on a south-to-north axis: From the El Paso-Pueblo county line north (upstream) along Chico creek (Ranges 63 and 64 West, Township 17 South) to Hanover road, then east along Hanover road (El Paso county route 422) to Peyton highway, then north along Peyton highway (El Paso county route 463) to Falcon highway, then west on Falcon highway (El Paso county route 405) to Peyton highway, then north on Peyton highway (El Paso county route 405) to Judge Orr road, then west on Judge Orr road (El Paso county route 108) to Elbert road, then north on Elbert road (El Paso county route 91) to the El Paso-Elbert county line;

(IV) That portion of Larimer county that is west of the boundary defined on a north-to-south axis by Range seventy-one west and north of the boundary defined on an east-to-west axis by township five north, that portion that is west of the boundary defined on a north-to-south axis by range seventy-three west, and that portion that is north of the boundary latitudinal line 40 degrees, 42 minutes, 47.1 seconds north;

(V) That portion of Weld county that is north of the boundary defined on an east-to-west axis by Weld county road 78; that portion that is east of the boundary defined on a north-to-south axis by Weld county road 43 and north of the boundary defined on an east-to-west axis by Weld county road 62; that portion that is east of the boundary defined on a north-to-south axis by Weld county road 49, south of the boundary defined on an east-to-west axis by Weld county road 62 and north of the boundary defined on an east-to-west axis by Weld county road 46; that portion that is east of the boundary defined on a north-to-south axis by Weld county road 27, south of the boundary defined on an east-to-west axis by Weld county road 46 and north of the boundary defined on an east-to-west axis by Weld county road 36; that portion that is east of the boundary defined on a north-to-south axis by Weld county road 19, south of the boundary defined on an east-to-west axis by Weld county road 36 and north of the boundary defined on an east-to-west axis by Weld county road 20; and that portion that is east of the boundary defined on a north-to-south axis by Weld county road 39 and south of the boundary defined on an east-to-west axis by Weld county road 20.

(b) Effective January 1, 2010, the basic emissions program area shall consist of the county of El Paso, as described in paragraph (a) of this subsection (20).

(c) (I) Effective January 1, 2010, the enhanced emissions program area shall consist of the counties of Adams, Arapahoe, Boulder, Douglas, Jefferson, Larimer, and Weld, and the cities and counties of Broomfield and Denver as described in paragraph (a) of this subsection (20) and subject to paragraph (d) of this subsection (20). Notwithstanding any other provision of this section, vehicles registered in the counties of Larimer and Weld shall not be required to obtain a certificate of emissions control prior to July 1, 2010, in order to be registered or reregistered.

(II) (Deleted by amendment, L. 2003, p. 1357, 1, effective August 6, 2003.)

(III) Only those counties included in the basic emissions program area pursuant to paragraph (b) of this subsection (20) that violate national ambient air quality standards for carbon monoxide or ozone as established by the environmental protection agency may, on a case-by-case basis, be incorporated into the enhanced emissions program by final order of the commission.

(d) The commission shall review the boundaries of the program area and may, by rule promulgated on or before December 31, 2011, adjust such boundaries to exclude particularly identified regions from either the basic program area, the enhanced area, or both, based on an analysis of the applicable air quality science and the effects of the program on the population living in such regions.

(21) "Registered repair facility or technician" means an automotive repair business which has registered with the division, agrees to have its emissions-related cost effectiveness monitored based on inspection data, and is periodically provided performance statistics for the purpose of improving emissions-related repairs. Specific repair effectiveness information shall subsequently be provided to motorists at the time of inspection failure.

(22) "State implementation plan" or "SIP" means the plan required by and described in section 110 (a) of the federal act.

(23) "Technical center" means any facility operated by the division or its designee to support AIR program activities including but not limited to licensed emissions inspectors or emissions mechanics, motorists, repair technicians, or small business technical assistance.

(23.5) "Vehicle" means a motor vehicle as defined in subsection (18) of this section.

(24) "Verification of emissions test" means a certificate to be attached to a motor vehicle's windshield verifying that the vehicle has been issued a valid certification of emissions control.

**Source:** **L. 94:** (17) amended, p. 1647, 84, effective May 31; (6) amended, p. 2809, 582, effective July 1; entire title amended with relocations, p. 2274, 1, effective January 1, 1995. **L. 95:** (5) and (9) amended, p. 953, 8, effective May 25. **L. 96:** (18) amended, p. 441, 6, effective July 1. **L. 98:** (3)(d) amended, p. 230, 1, effective April 10; (3.5) added, p. 891, 1, effective May 26. **L. 2001:** (5) amended and (8.5) added, p. 1013, 2, effective June 5. **L. 2003:** (3)(e) added, p. 1589, 6, effective May 2; (3)(b)(I) amended, p. 1602, 1, effective August 6; (3)(d) amended, p. 2186, 1, effective August 6; IP(20)(a), (20)(c)(I), and (20)(c)(II) amended and (20)(d) added, p. 1357, 1, effective August 6. **L. 2005:** (3)(b)(I) and (18) amended, p. 1173, 11, effective August 8. **L. 2006:** (15.5) and (23.5) added, p. 1025, 2, effective July 1; (18) amended, p. 1411, 2, effective July 1, 2007. **L. 2009:** (2), (3)(c), (9), (18), and (20) amended, (SB 09-003), ch. 322, p. 1714, 1, effective June 1. **L. 2010:** (18) amended, (SB 10-212), ch. 412, p. 2038, 17, effective July 1. **L. 2011:** (3)(c) repealed and (18) amended, (SB 11-031), ch. 86, p. 245, 8, 9, effective August 10. **L. 2012:** (15.5) repealed, (SB 12-034), ch. 107, p. 363, 2, effective August 8. **L. 2013:** (3)(b) amended, (HB 13-1300), ch. 316, p. 1709, 138, effective August 7; (3)(b)(II) amended, (HB 13-1071), ch. 370, p. 2161, 3, effective August 7.

**Editor's note:** (1) This section is similar to former [42-4-307](#) as it existed prior to 1994.

(2) Subsection (17) was originally numbered as [42-4-307](#) (16.5), and the amendments to it in Senate Bill 94-206 were harmonized with Senate Bill 94-001; amendments to subsection (6) in House Bill 94-1029 were harmonized with Senate Bill 94-001.

(3) Subsection (16)(a)(II)(C) provided for the repeal of subsection (16)(a), effective July 1, 1995. (See L. 94, p. 2274.)

(4) Amendments to subsection (3)(b)(II) by House Bill 13-1071 and House Bill 13-1300 were harmonized.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsection (5) and enacting subsection (8.5), see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsections (15.5) and (23.5), see section 1 of chapter 225, Session Laws of Colorado 2006.

**42-4-305. Powers and duties of executive director - automobile inspection and readjustment program - basic emissions program - enhanced emissions program - clean screen program - rules.**

(1) (a) The executive director is authorized to issue, deny, cancel, suspend, or revoke licenses for, and shall furnish instructions to, inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers. The executive director shall provide all necessary forms for inspection and readjustment stations, inspection-only facilities, and fleet inspection stations. Motor vehicle dealer test facilities and enhanced inspection centers shall purchase necessary inspection forms from the vendor or vendors identified by the executive director. Said inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers shall be responsible for the issuance of certifications of emissions control. The executive director is authorized to furnish forms and instructions and issue or deny licenses to, or cancel, suspend, or revoke licenses of, emissions inspectors and emissions mechanics. The initial biennial fee for an inspection and readjustment station license, an inspection-only facility license, a fleet inspection station license, a motor vehicle dealer test facility license, and an enhanced inspection center authorization shall be thirty-five dollars, and the biennial renewal fee shall be twenty dollars. The initial biennial fee for issuance of an emissions inspector license or an emissions mechanic license shall be fifteen dollars, and the biennial renewal fee shall be ten dollars. The fee for each transfer of an emissions inspector license or an emissions mechanic license shall be ten dollars. The moneys received from such fees shall be deposited to the credit of the AIR account in the highway users tax fund, and such moneys shall be expended by the department of revenue only for the administration of the inspection and readjustment program upon appropriation by the general assembly.

(b) Notwithstanding the amount specified for any fee in paragraph (a) of this subsection (1), the executive director of the department by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section [24-75-402](#) (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director of the department by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section [24-75-402](#) (4), C.R.S.

(2) The executive director shall supervise the activities of licensed inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, authorized enhanced inspection centers, licensed emissions inspectors, and licensed emissions mechanics and shall cause inspections to be made of such stations, facilities, centers, inspectors, and mechanics and appropriate records for compliance with licensing requirements.

(3) The executive director shall require the surrender of any license issued under section 42-4-308 upon cancellation, suspension, or revocation action taken for a violation of any of the provisions of section 42-4-301 to 42-4-316 or of any of the regulations promulgated pursuant thereto. In any such actions affecting licenses, the executive director may conduct hearings as a result of which such action is to be taken. Any such hearing may be conducted by a hearing officer appointed at the request of the executive director in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., which shall govern the conduct of such hearings and action on said licenses, except as provided in section 42-4-312 (4).

(4) The executive director shall promulgate rules and regulations consistent with those of the commission for the administration and operation of inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers and for the issuance, identification, and use of certifications of emissions control and shall promulgate such rules and regulations as may be necessary to the effectiveness of the automobile inspection and readjustment program.

(5) The executive director shall promulgate rules and regulations which require that each licensed inspection and readjustment station, inspection-only facility, or enhanced inspection center post in a clearly legible fashion in a conspicuous place in such station, facility, or center the fee charged by such station, facility, or center for performing an emissions inspection and, within the basic program area, the fee charged by any such inspection and readjustment station for performing the adjustments and any repairs required for the issuance of a certification of emissions waiver.

(6) (a) The executive director shall promulgate such rules and regulations as may be necessary to implement an ongoing quality assurance program to discover, correct, and prevent fraud, waste, and abuse and to determine whether proper procedures are being followed, whether the emissions test equipment is calibrated as specified, and whether other problems exist which would impede the success of the program.

(b) (I) The department shall conduct overt performance audits as follows:

(A) At least twice per year at each inspection and readjustment station, inspection-only facility, and motor vehicle dealer test facility;

(B) At least twice per year at each fleet inspection station;

(C) At least twice per year for each test lane at each enhanced inspection center.

(II) In addition to regularly scheduled overt performance audits, the department may perform additional risk-based overt performance audits for stations and facilities employing inspectors or mechanics suspected of violating rules as a result of an audit, data analysis, or consumer complaint.

(c) (I) The department shall conduct covert audits using unmarked motor vehicles at least once per year per number of inspectors at each inspection-only facility and enhanced inspection center;

(II) In addition to regularly scheduled covert audits, the department may perform additional risk-based covert audits for stations and facilities employing inspectors or mechanics suspected of violating rules as a result of an audit, data analysis, or consumer complaint.

(d) Record audits to review the performance of inspection-only facilities, motor vehicle dealer test facilities, and enhanced inspection centers, including compliance with record-keeping and reporting requirements, shall be performed on a monthly basis.

(e) (I) The department shall perform equipment audits to verify quality control and calibration of the required test equipment as follows:

(A) At least twice per year at each inspection and readjustment station;

(B) At least twice per year on each test lane at each inspection-only facility, motor vehicle dealer test facility, and enhanced inspection center, to be performed contemporaneously with the overt performance audit;

(C) At least twice per year at each fleet inspection station.

(II) In addition to regularly scheduled equipment audits, the department may perform additional risk-based equipment audits for stations and facilities employing inspectors or mechanics suspected of violating rules as a result of an audit, data analysis, or consumer complaint.

(f) The executive director shall transfer quality assurance activity results to the department of public health and environment at least quarterly.

(7) The executive director shall implement and enforce the emissions test requirements as prescribed in section [42-4-310](#) by utilizing a registration denial-based enforcement program as required in the federal act including an electronic data transfer of inspection data through the use of a computer modem or similar technology for vehicle registration and program enforcement purposes. All inspection data generated at licensed inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers shall be provided to the department of public health and environment on a timely basis.

(8) The executive director shall, by regulation, establish a method for the owners of motor vehicles which are exempt pursuant to section [42-4-304](#) (20) from the AIR program to establish their entitlement to such exemption. No additional fee or charge for establishing entitlement to such exemption shall be collected by the department.

(9) The executive director shall be responsible for the issuance of certifications of emissions waiver as prescribed by section [42-4-310](#) and shall be responsible for the resolution of all formal public complaints concerning test results or test requirements in the most convenient and cost-effective manner possible.

(10) (a) The executive director and the department of public health and environment are authorized to enter into a contract or service agreement with a contractor to provide inspection services at enhanced inspection centers for vehicles within the enhanced program area required to be inspected pursuant to section [42-4-310](#). Any such contract or service agreement shall include such terms and conditions as are necessary to ensure that the contractor shall operate enhanced inspection centers in accordance with the requirements of this article and the federal act, shall include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract, and shall be in accordance with regulations adopted by the commission and the department of revenue. Any such contract or

service agreement shall include provisions specifying that inspection and readjustment stations, inspection-only facilities, fleet inspection stations, and motor vehicle dealer test facilities shall have complete access to electronic data transfer of inspection data through computer services of the contractor at a cost equal to that of enhanced inspection centers.

(b) Upon the approval of the executive director and the department of public health and environment, the contractor shall provide inspection services for vehicles within the enhanced program area required to be inspected pursuant to section [42-4-310](#).

(11) The executive director shall report to the transportation legislation review committee annually on the effectiveness of the quality assurance and enforcement measures contained in this section, the overall motorist compliance rates with inspections for registration denial, and the status of state implementation plan compliance pertaining to quality assurance. This annual report shall be submitted to the commission in May of each year for incorporation into appropriate annual and biennial reporting requirements. Reports shall cover the previous calendar year.

(12) The executive director shall promulgate such rules consistent with those of the commission as may be necessary for implementation, enforcement, and quality assurance and for procedures and policies that allow data collected from the clean screen program to be matched with vehicle ownership information and for such information to be transferred to county clerks and recorders. Such rules shall set forth the procedures for the executive director to inform county clerks and recorders of the emission inspection status of vehicles up for registration renewal.

**Source:** **L. 94:** (6)(f), (7), and (10) amended, p. 2809, 583, effective July 1, 1994; entire title amended with relocations, p. 2280, 1, effective January 1, 1995. **L. 98:** (12) added, p. 891, 2, effective May 26; (1) amended, p. 1358, 112, effective June 1. **L. 2002:** (11) amended, p. 870, 4, effective August 7. **L. 2012:** (6)(b), (6)(c), and (6)(e) amended, (SB 12-012), ch. 164, p. 574, 1, effective July 1.

**Editor's note:** (1) This section is similar to former [42-4-308](#) as it existed prior to 1994.

(2) Amendments to subsections (6)(f), (7), and (10) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

**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 section 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 amendment, L. 2002, p. 870, 5, effective August 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.

**Source:** L. 94: (17)(f) amended, p. 1647, 85, effective May 31; (6), (9)(a)(I), (11)(a), (11)(b)(I), and (12) amended, p. 2810, 584, effective July 1; entire title amended with relocations, p. 2283, 1, effective January 1, 1995. L. 95: (11)(b)(II) amended, p. 954, 9, effective May 25; (3)(a)(II) amended, p. 667, 108, effective July 1. L. 98: (3)(a)(I)(C), (3)(b)(IV), and (6)(b)(II) amended and (23) added, p. 892, 3, effective May 26. L. 2001: (3)(a)(I)(C), (3)(b)(I), (17)(e), and (23) amended and (3)(b)(V) added, p. 1013, 3, effective June 5. L. 2002: (9)(a)(I), (9)(b), (9)(c), and

(21)(b) amended, p. 870, 5, effective August 7. **L. 2003:** (8) amended, p. 1602, 2, effective August 6.

**Editor's note:** (1) This section is similar to former [42-4-309](#) as it existed prior to 1994.

(2) Amendments to subsections (6), (9)(a)(I), (11)(a), (11)(b)(I), and (12) by House Bill 94-1029 and amendments to subsection (17)(f) by Senate Bill 94-206 were harmonized with Senate Bill 94-001.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (3)(a)(I)(C), (3)(b)(I), (17)(e), and (23) and enacting subsection (3)(b)(V), see section 1 of chapter 278, Session Laws of Colorado 2001.

**42-4-307. Powers and duties of the department of public health and environment - division of administration - automobile inspection and readjustment program - basic emissions program - enhanced emissions program - clean screen program.**

(1) The division shall establish and provide for the operation of a system, which may include a telephone answering service, to answer questions concerning the automobile inspection and readjustment programs from emissions inspectors, emissions mechanics, repair technicians, and the public.

(2) The division shall administer the licensing test for emissions inspectors, except for such inspectors at enhanced inspection centers, and emissions mechanics and shall oversee training.

(3) The division shall establish and operate such technical or administrative centers as may be necessary for the proper administration and ongoing support of the automobile inspection and readjustment program, for enhanced inspection centers, for the small business technical assistance program, and for the state smoking vehicle programs provided for in section [42-4-412](#) to [42-4-414](#), and for affected motorists. The division is authorized to enter into a contract or service agreement in accordance with paragraph (a) of subsection (10) of this section for this purpose.

(4) The division shall develop and recommend to the commission, as necessary, vehicle emissions inspection procedure requirements to ensure compliance with the state implementation plan and the federal act.

(5) The division shall identify and recommend to the commission, as necessary, revisions to vehicle eligibility and the schedule of inspection frequency.

(6) (a) (I) The division shall administer, in accordance with federal requirements, the on-road remote sensing program.

(II) Pursuant to commission rule and based on confirmatory tests at an emissions technical center or emissions inspection facility that identify such vehicles as exceeding applicable emissions standards, off-cycle repairs may be required for noncomplying vehicles.

(b) Additional studies of the feasibility and appropriateness of on-road remote sensing technology as a potential emissions control strategy shall be pursued as available funding permits.

(c) The division is authorized to enter into a contract or service agreement in accordance with paragraph (a) of subsection (10) of this section for the purpose of this subsection (6).

(7) The division shall monitor and periodically report to the commission on the performance of the mobile sources state implementation plan provisions as they pertain to the basic emissions program area and the enhanced emissions program area.

(8) (a) The division shall administer the emissions inspector, emissions mechanic, and repair technician qualification and periodic requalification procedures, if applicable, and remedial training provisions in a manner consistent with department of revenue enforcement activities.

(b) The division, in consultation with the executive director, is authorized to bring enforcement actions in accordance with article 7 of title 25, C.R.S., for violations of regulations promulgated pursuant to section 42-4-306 which would cause violations of the state implementation plan.

(9) The division shall maintain inspection data from the AIR program pursuant to the federal act. Data analysis and reporting shall be submitted to the commission by the departments of public health and environment and revenue by July 1 of each year for the period of January through December of the previous year. Data analysis, state implementation plan compliance, and program performance reporting shall be submitted to the environmental protection agency by the department of public health and environment by July 1 of each year for the period of January through December of the previous year. The division shall develop and maintain the data processing system necessary for the AIR program in compliance with federal reporting requirements.

(10) (a) For the enhanced emissions program, the department of public health and environment and the executive director are authorized to enter into a contract or service agreement with a contractor to provide inspection services at enhanced inspection centers for vehicles required to be inspected pursuant to section 42-4-310 within the enhanced program area. Any such contract or service agreement shall include such terms and conditions as are necessary to ensure that such contractor will operate any such enhanced inspection center in compliance with this article and the federal act. Any such contract or service agreement shall also include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract and shall be in accordance with regulations adopted by the commission.

(b) Upon approval by the department of public health and environment and the executive director, the contractor shall provide inspection services for vehicles within the enhanced program area required to be inspected pursuant to section 42-4-310. 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 to ensure that, on or after December 31, 2001, inspection services in the enhanced program area will not be interrupted by the expiration of the previous contract, after which the contract may be renewed for a single term of up to four years as provided in section 42-4-306 (3) (b) (V) (A). Any new contract entered into or renewed after the two-year renewal shall require the contractor to provide any necessary alternative inspection services or technologies so approved.

(10.5) (a) For the clean screen program and the Denver clean screening pilot study, the department of public health and environment and the department of revenue may, pursuant to the "Procurement Code", articles 101 to 112 of title 24, C.R.S., enter into a contract with a contractor for the purchase of equipment, the collection of remote sensing and other data and operation of remote sensing and support equipment, data processing and vehicle ownership matching in

cooperation with the executive director, and collection of remote sensing and other data for the Denver clean screening pilot study, including analysis of the results of such study and report preparation. Under any such contract the department of public health and environment and the department of revenue may purchase approved remote sensing and support equipment or authorize the use of a qualified contractor or contractors to purchase approved remote sensing and support equipment for use in the clean screen program. Notwithstanding any contrary provision in the "Procurement Code", articles 101 to 112 of title 24, C.R.S., the clean screen contract may be incorporated into any contract or renewed contract pursuant to subsection (10) of this section. The contractor retained pursuant to this subsection (10.5) shall be the same as the contractor retained pursuant to subsection (10) of this section. The contractor shall make one-time transfers into the clean screen fund created in section 42-3-304 (19) in a total amount necessary to cover computer programming costs associated with implementation of House Bill 01-1402, enacted at the first regular session of the sixty-third general assembly, in the following order:

(I) Up to thirty thousand dollars from the contractor's revenues;

(II) Up to thirty thousand dollars from the public relations account provided for in the contract; and

(III) Up to forty thousand dollars from the technical center account provided for in the contract.

(b) Repealed.

(11) The department of public health and environment shall conduct studies on the development, effectiveness, and cost of evolving technologies in mobile source emission inspection for consideration by March of each even-numbered year. In the event that alternative technologies become available, cost and air quality effectiveness shall be considered prior to adoption by the commission as inspection technology.

(12) to (15) Repealed.

**Source:** **L. 94:** (10), (11), and (12) amended, p. 2811, 585, effective July 1; entire title amended with relocations, p. 2292, 1, effective January 1, 1995. **L. 98:** (10.5) added, p. 893, 4, effective May 26. **L. 2001:** (6)(a), (10)(b), and (10.5)(a) amended, p. 1015, 4, effective June 5. **L. 2002:** (11) amended, p. 871, 6, effective August 7. **L. 2005:** IP(10.5)(a) amended, p. 1174, 12, effective August 8. **L. 2006:** (12), (13), (14), and (15) added, p. 1025, 3, effective July 1. **L. 2010:** (13) amended, (SB 10-213), ch. 375, p. 1764, 13, effective June 7. **L. 2012:** (12) to (15) repealed, (SB 12-034), ch. 107, p. 363, 3, effective August 8.

**Editor's note:** (1) This section is similar to former 42-4-309.5 as it existed prior to 1994, and the former 42-4-307 was relocated to 42-4-304.

(2) Amendments to subsections (10), (11), and (12) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

(3) Subsection (10.5)(b)(II) provided for the repeal of subsection (10.5)(b), effective July 1, 2001. (See L. 98, p. 893.)

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (6)(a), (10)(b), and (10.5)(a), see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsections (12), (13), (14), and (15), see section 1 of chapter 225, Session Laws of Colorado 2006.

#### **42-4-307.5. Clean screen authority - enterprise - revenue bonds.**

(1) If the commission determines pursuant to section 42-4-306 (23) (b) to implement an expanded clean screen program in the enhanced emissions program area, there shall be created a clean screen authority consisting of the executive director of the department of public health and environment and executive director of the department of revenue or their designees and any necessary support staff. The authority shall constitute an enterprise for the purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to the provisions of this section, the authority shall not be a district for purposes of section 20 of article X of the state constitution.

(2) (a) The authority may, by resolution that meets the requirements of subsection (3) of this section, authorize and issue revenue bonds in an amount not to exceed five million dollars in the aggregate for expenses of the authority. Such bonds may be issued only after approval by both houses of the general assembly acting either by bill or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. Such bonds shall be payable only from moneys allocated to the authority for expenses of the division and the commission pursuant to section 42-4-306 and 42-4-307.

(b) All bonds issued by the authority shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the authority for expenses as designated in such bond.

(3) (a) Any resolution authorizing the issuance of bonds under the terms of this section shall state:

(I) The date of issuance of the bonds;

(II) A maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) The interest rate or rates on, and the denomination or denominations of, the bonds; and

(IV) The medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds; and

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(4) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the authority shall advertise the sale in such manner as the authority deems appropriate. All bonds issued pursuant to the terms of this section shall be

sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(5) Notwithstanding any provisions of law to the contrary, all bonds issued pursuant to this section are negotiable.

(6) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Such matters as are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the authority under such resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(7) Bonds issued under this section and bearing the signatures of the authority in office on the date of the signing shall be deemed valid and binding obligations regardless of whether, prior to delivery and payment, any or all of the persons whose signatures appear thereon have ceased to be members of the authority.

(8) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The authority may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by such authority over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

(9) The clean screen authority shall be a government-owned business that provides financial services to all entities providing inspection services, the department, and the department of public health and environment with regard to the revenues subject to section [42-3-304](#) (19).

(10) The clean screen authority may accept grants from any source and shall deposit such moneys in the clean screen fund created in section [42-3-304](#) (19).

(11) The clean screen authority may contract with the department and expend moneys from the clean screen fund for computer programming costs associated with implementation of House Bill 01-1402, enacted at the first regular session of the sixty-third general assembly. The department is authorized to expend moneys pursuant to such contract, subject to annual appropriation by the general assembly, effective the fiscal year commencing July 1, 2000.

(12) Repealed.

**Source: L. 2001:** Entire section added, p. 1016, 5, effective June 5. **L. 2005:** (9) and (10) amended, p. 1174, 13, effective August 8. **L. 2006:** (12) added, p. 1026, 4, effective July 1.

**Editor's note:** Subsection (12)(b) provided for the repeal of subsection (12), effective July 1, 2008. (See L. 2006, p. 1026.)

**Cross references:** For the legislative declaration contained in the 2001 act enacting this section, see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsection (12), see section 1 of chapter 225, Session Laws of Colorado 2006.

#### **42-4-307.7. Vehicle emissions testing - remote sensing.**

(1) and (2) Repealed.

(3) The Colorado department of transportation shall work with the department of public health and environment to identify locations that may accommodate unmanned remote sensing devices without causing a safety hazard.

(4) The commission shall evaluate options for increasing the number of vehicles passing a test under the clean screen program, including, but not limited to:

- (a) The reduction of the number of remote sensing measurements per vehicle;
- (b) Additional remote sensing devices and sites;
- (c) Expanded hours of operation; and
- (d) Additional staffing.

(5) The department of public health and environment shall work with the contractor to minimize false test results and shall track and report to the commission its progress in minimizing false test results on or before March 31 of each year.

(6) The commission shall determine the criteria used for the measurement of vehicle emissions needed to comply with the clean screen program, which criteria shall include, but are not limited to, the pollutants measured, acceptable levels of the measured pollutants, and failure rates. Criteria adopted by the commission for the clean screen program shall meet environmental protection agency requirements.

(7) to (11) Repealed.

(12) Photographs of a vehicle taken by a remote sensing device in order to capture an image of a vehicle's license plate shall be limited to the rear of the vehicle. No attempts shall be made by a remote sensing device to photograph a vehicle's driver.

(13) Repealed.

**Source: L. 2006:** Entire section added, p. 1026, 5, effective July 1. **L. 2009:** (13) added, (SB 09-003), ch. 322, p. 1717, 2, effective June 1. **L. 2012:** (1), (2), and (7) to (11) repealed and (6) amended, (SB 12-034), ch. 107, p. 364, 4, effective August 8.

**Editor's note:** Subsection (13)(b) provided for the repeal of subsection (13), effective December 31, 2009. (See L. 2009, p. 1717.)

**Cross references:** For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 225, Session Laws of Colorado 2006.

**42-4-308. Inspection and readjustment stations - inspection-only facilities - fleet inspection stations - motor vehicle dealer test facilities - contractor - emissions inspectors - emissions mechanics - requirements.**

(1) (a) Applications for an inspection and readjustment station license, an inspection-only facility license, a fleet inspection station license, a motor vehicle dealer test facility license, an emissions inspector license, an enhanced inspection center license, or an emissions mechanic's license shall be made on forms prescribed by the executive director.

(b) No inspection and readjustment station license, inspection-only facility license, fleet inspection station license, motor vehicle dealer test facility license, or enhanced inspection center license shall be issued unless the executive director finds that the facilities of the applicant are of adequate size and properly equipped as provided in subsection (3) of this section, that a licensed inspector or emissions mechanic, whichever is applicable, is or will be available to make such inspection, and that the inspection and readjustment procedures will be properly followed based upon established performance criteria pursuant to section [42-4-306](#) (4) (c).

(2) No inspection or adjustments shall be made pursuant to the automobile inspection and readjustment program nor certification of emissions control issued unless the owner or operator of the inspection and readjustment station, inspection-only facility, fleet inspection station, motor vehicle dealer test facility, or enhanced inspection center at which such inspection is made or such adjustments or repairs are performed as required has been issued, and is then operating under, a valid inspection and readjustment station license, inspection-only facility license, fleet inspection station license, motor vehicle dealer test facility license, or a contract for an authorized enhanced inspection center and has one or more licensed emissions inspectors or emissions mechanics employed as required, one of whom shall have made the inspection for which said certification has been issued.

(3) No inspection and readjustment station license, inspection-only facility license, fleet inspection station license, motor vehicle dealer test facility license, or contractor's contract shall be issued or executed unless the station or contractor has proper equipment to meet licensing, facility, or contractor approval requirements. Such equipment shall include all test equipment approved by the commission to perform emissions inspections corresponding to the type of licensed or approved facility together with such auxiliary tools, equipment, and testing devices as are required by the commission by rule.

(4) (a) No emissions inspector license or emissions mechanic license shall be issued to any applicant unless said applicant has completed the required training, has demonstrated necessary skills and competence in the inspection of motor vehicles by passing the written certification test developed by the commission and administered by the department of public health and environment, and has demonstrated such skill and competence as a prerequisite to initial licensing by the department of revenue.

(b) The department of revenue shall monitor emissions inspector and emissions mechanic activities at inspection and readjustment stations, inspection-only facilities, fleet inspection stations, motor vehicle dealer test facilities, and enhanced inspection centers during periodic performance audits conducted as prescribed by section [42-4-305](#).

(c) An emissions inspector or emissions mechanic license may be revoked in accordance with section [42-4-305](#) if the licensee is not in compliance with the minimum performance criteria set forth by the commission or the department of revenue.

(d) Licenses shall be valid for two years.

(e) Emissions inspector and emissions mechanic license renewal shall be subject to the requirements set forth by the commission through rule and regulation.

**Source: L. 94:** (4)(a) amended, p. 2812, 586, effective July 1; entire title amended with relocations, p. 2294, 1, effective January 1, 1995.

**Editor's note:** (1) This section is similar to former [42-4-310](#) as it existed prior to 1994, and the former [42-4-308](#) was relocated to [42-4-305](#).

(2) Amendments to subsection (4)(a) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

**42-4-309. Vehicle fleet owners - motor vehicle dealers - authority to conduct inspections - fleet inspection stations - motor vehicle dealer test facilities - contracts with licensed inspection-only entities.**

(1) (a) Any person in whose name twenty or more motor vehicles, required to be inspected, are registered in this state or to whom said number of vehicles are leased for a period of not less than six continuous months and who operates a motor vehicle repair garage or shop adequately equipped and manned, as required by section [42-4-308](#) and the rules and regulations issued pursuant thereto, may be licensed to perform said inspections as a fleet inspection station. Said inspections shall be made by licensed emissions inspectors or emissions mechanics. Such stations shall be subject to all licensing regulations and supervision applicable to inspection and readjustment stations. Fleet inspection stations shall inspect fleet vehicles in accordance with applicable requirements pursuant to rules and regulations promulgated by the commission. No person licensed pursuant to this section may conduct emissions inspections on motor vehicles owned by employees of such person or the general public, but only on those vehicles owned or operated by the person subject to the fleet inspection requirements. Any such motor vehicles are not eligible for a certificate of emissions waiver and shall be inspected annually. The commission shall promulgate such rules as may be necessary to establish non-loaded mode static idle inspection procedures, standards, and criteria under this section.

(b) Each fleet operator licensed or operating within the enhanced program area who is also licensed to operate a fleet inspection station shall assure that a representative sample of one-half of one percent or one vehicle, whichever is greater, of such operator's vehicle fleet is inspected annually at an inspection-only facility or enhanced inspection center. An analysis of the data gathered from any such inspection shall be performed by the department of public health and environment and provided to the department of revenue to determine compliance by such fleet with the self-inspection requirements of this section. An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new.

(2) (a) As an alternative to subsection (1) of this section, any person having twenty or more vehicles registered in this state that are required to be inspected pursuant to section [42-4-310](#) may contract for periodic inspection services with a contractor or an inspection-only facility. Such inspections shall be in compliance with non-fleet vehicle requirements as specified in this

part 3 and shall be performed by an authorized or licensed emissions inspector who shall be subject to all requirements and oversight as applicable.

(b) Upon retail sale of any vehicle subject to fleet inspection to a party other than a fleet operator, such vehicle shall be inspected at an authorized enhanced inspection center, licensed inspection-only facility, or licensed inspection and readjustment station, as applicable. A certificate of emissions compliance shall be required as a condition of the retail sale of any such vehicle.

(3) (a) Any person licensed as a motor vehicle dealer pursuant to article 6 of title 12, C.R.S., in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state which are required to be inspected shall comply with the requirements of section 42-4-310 for the issuance of a certificate of emissions compliance at the time of the retail sale of any such vehicle.

(b) Within the enhanced emissions program, motor vehicle dealers licensed pursuant to article 6 of title 12, C.R.S., may contract for used motor vehicle inspection services by a licensed motor vehicle dealer test facility. Pursuant to regulations of the commission, inspection procedures shall include a loaded mode transient dynamometer test cycle in combination with appropriate idle short tests pursuant to rules and regulations of the commission.

(c) 1981 and older model vehicles held in inventory and offered for retail sale by a used vehicle dealer may be inspected by a licensed inspection-only facility.

(d) Within the basic emissions program, any person licensed as a motor vehicle dealer pursuant to article 6 of title 12, C.R.S., may be licensed to conduct inspections pursuant to subsections (1) and (2) of this section.

(4) Nothing in this section shall preclude a fleet or motor vehicle dealer test facility from participating in the basic or enhanced emissions program pursuant to this part 3 with the requirements of such program being determined by the county of residence or operation.

(5) (a) Motor vehicle dealers selling any vehicle to be registered in the enhanced program area shall comply with the enhanced program requirements.

(b) Motor vehicle dealers selling any vehicle to be registered in the basic program area shall comply with the basic program requirements.

(c) If used motor vehicles for sale have been inspected by a motor vehicle dealer test facility, the motor vehicle dealer shall comply with the standards and requirements established for motor vehicle dealer test facilities.

(6) (a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to article 6 of title 12, C.R.S., that sells any vehicle subject to the provisions of the enhanced emissions program may comply with the provisions of section 42-4-304 (3) (d) and 42-4-310 by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. Such voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection.

(b) If a vehicle inspected with a voucher as authorized in this paragraph (b) fails a test at an enhanced inspection center and is returned within three business days after its purchase, the dealer, at its option, shall repair the motor vehicle to pass the emissions test, pay the consumer to obtain such repairs to pass the emissions test from a third party, or repurchase the vehicle at the vehicle's purchase price. After such payment, repair, or repurchase, a dealer shall have no further liability to the consumer for compliance with the requirements of the enhanced emissions program.

(c) The voucher to be delivered at time of sale shall set forth the conditions described in paragraph (b) of this subsection (6) on a form prescribed by the department of revenue.

(7) A motor vehicle dealer shall have a motor vehicle inspected annually pursuant to section [42-4-310](#), but shall not be required to have such vehicle inspected more than once a year.

**Source:** **L. 94:** (1)(b) amended, p. 2812, 587, effective July 1; entire title amended with relocations, p. 2296, 1, effective January 1, 1995. **L. 96:** (6) added, p. 1352, 1, effective June 1. **L. 2003:** (1)(b) amended and (7) added, p. 1603, 3, effective August 6.

**Editor's note:** (1) This section is similar to former [42-4-311](#) as it existed prior to 1994, and the former [42-4-309](#) was relocated to [42-4-306](#).

(2) Amendments to subsection (1)(b) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

#### **42-4-310. Periodic emissions control inspection required.**

(1) (a) (I) Subject to subsection (4) of this section, a motor vehicle that is required to be registered in the program area shall not be sold, registered for the first time without a certification of emissions compliance, or reregistered unless such vehicle has passed a clean screen test or has a valid certification of emissions control as required by the appropriate county. The provisions of this paragraph (a) shall not apply to motor vehicle transactions at wholesale between motor vehicle dealers licensed pursuant to article 6 of title 12, C.R.S. An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new.

(II) (A) If title to a roadworthy motor vehicle, as defined in section [42-6-102](#) (15), for which a certification of emissions compliance or emissions waiver must be obtained pursuant to this paragraph (a) is being transferred to a new owner, the new owner may require at the time of sale that the prior owner provide said certification as required for the county of residence of the new owner.

(B) The new owner shall submit such certification to the department of revenue or an authorized agent thereof with application for registration of the motor vehicle.

(C) If such vehicle is being registered in the program area for the first time, the owner shall obtain any certification required for the county where registration is sought and shall submit such certification to the department of revenue or an authorized agent thereof with such owner's application for the registration of the motor vehicle. A motor vehicle being registered in the program area for the first time may be registered without an inspection or certification if the vehicle has not yet reached its fourth model year or a later model year established by the commission pursuant to section [42-4-306](#) (8) (b).

(D) Except for a motor vehicle that was registered as a collector's item before September 1, 2009, and meets the requirements of section [42-12-101](#) (2) (b) and [42-12-404](#) (2), to be sold or transferred or to renew the registration, a 1976 or newer model motor vehicle registered as a collector's item under article 12 of this title must be inspected and have a certification of emissions control. The certification of emissions control is valid for sixty months.

(b) (I) (A) Effective July 1, 1987, and until May 28, 1999, those motor vehicles that are owned by the United States government or an agency thereof or by the state of Colorado or any agency or political subdivision thereof that would be registered in the program area shall be inspected once each year, and a valid certification of emissions compliance shall be obtained.

(B) New motor vehicles owned by the United States government or an agency thereof or by the state of Colorado or any agency or political subdivision thereof that would be registered in the program area shall be issued a certification of emissions compliance without inspection that shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year or a later model year established by the commission pursuant to section [42-4-306](#) (8) (b). Prior to the expiration of such certification such vehicle shall be inspected and a certification of emissions control shall be obtained therefor.

(C) Effective May 28, 1999, 1982 and newer model motor vehicles that are owned by the United States government or an agency thereof or by the state of Colorado or any agency or political subdivision thereof that would be registered in the program area shall be inspected every two years, and shall be issued a certification of emissions compliance that shall be valid for twenty-four months; except that vehicles owned or operated by any agency or political subdivision that is authorized and licensed pursuant to section [42-4-309](#) to inspect fleet vehicles shall be inspected annually.

(D) Effective May 28, 1999, 1981 and older model motor vehicles that are owned by the United States government or an agency thereof or by the state of Colorado or any agency or political subdivision thereof that would be registered in the program area shall be inspected once each year, and shall be issued a certification of emissions compliance that shall be valid for twelve months.

(E) Any vehicle subject to this subparagraph (I) that is suspected of having an emissions problem may undergo a voluntary inspection as provided in subparagraph (IV) of paragraph (c) of this subsection (1).

(II) (A) Motor vehicle dealers shall purchase verification of emissions test forms for the sum of twenty-five cents per form from the department or persons authorized by the department to make such sales to be used only on new motor vehicles. No refund or credit shall be allowed for any unused verification of emissions test forms. New motor vehicles required under this section to have a verification of emissions test form shall be issued a certification of emissions compliance without inspection, which shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year or a later model year established by the commission pursuant to section [42-4-306](#) (8) (b). Prior to the expiration of such certification such vehicle shall pass a clean screen test or be inspected and a certification of emissions control shall be obtained therefor.

(B) 1982 and newer model motor vehicles required pursuant to this section to have a certification of emissions control shall be inspected at the time of the sale or transfer of any such

vehicle and, prior to registration renewal, shall be issued a certification of emissions control that shall be valid for twenty-four months except as provided under section [42-4-309](#). An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new. This sub-subparagraph (B) does not apply to the sale of a motor vehicle that is inoperable or otherwise cannot be tested in accordance with regulations promulgated by the department of revenue if the seller of the motor vehicle provides a written notice to the purchaser pursuant to the requirements of subsection (4) of this section.

(C) 1981 and older model motor vehicles required pursuant to this section to have a certification of emissions control shall be inspected at the time of the sale or transfer of any such vehicle and, prior to registration renewal, shall be issued a certification of emissions control that shall be valid for twelve months. This sub-subparagraph (C) does not apply to the sale of a motor vehicle which is inoperable or otherwise cannot be tested in accordance with regulations promulgated by the department of revenue if the seller of the motor vehicle provides a written notice to the purchaser pursuant to the requirements of subsection (4) of this section.

(III) Upon registration or renewal of registration of a motor vehicle required to have a certification of emissions control, the department shall issue a tab identifying the vehicle as requiring certification of emissions control. The tab shall be displayed from the time of registration. The verification of emissions test shall also be displayed on the motor vehicle in a location prescribed by the department of revenue consistent with federal regulations.

(c) (I) Effective October 1, 1989, those motor vehicles owned by nonresidents who reside in either the basic or enhanced emissions program areas or by residents who reside outside the program area who are employed for at least ninety days in any twelve-month period in a program area or who are attending school in a program area, and are operated in either the basic or enhanced emissions program areas for at least ninety days, shall be inspected as required by this section and a valid certification of emissions compliance or emissions waiver shall be obtained as required for the county where said person is employed or attends school. Such nonresidents include, but are not limited to, all military personnel, temporarily assigned employees of business enterprises, and persons engaged in activities at the olympic training center.

(II) Any person owning or operating a business and any postsecondary educational institution located in a program area shall inform all persons employed by such business or attending classes at such institution that they are employed or attending classes in a program area and are required to comply with the provisions of subparagraph (I) of this paragraph (c).

(III) Vehicles that are registered in a program area and are being operated outside such area but within another program area shall comply with all program requirements of the area where such vehicles are being operated. Vehicles registered in a program area that are being temporarily operated outside the state at the time of registration or registration renewal may apply to the department of revenue for a temporary exemption from program requirements. Upon return to the program area, such vehicles must be in compliance with all requirements within fifteen days. A temporary exemption shall not be granted if the vehicle will be operated in an emissions testing area in another state unless proof of emissions from that area is submitted.

(IV) Nothing in this section shall be deemed to prevent or shall be interpreted so as to hinder the voluntary inspection of any motor vehicle in the enhanced emissions program. A certificate

of emissions control issued under the provisions of the enhanced emissions program shall be acceptable as a demonstration of compliance within the basic program for vehicle registration purposes. In order to provide motorist protection, those vehicles voluntarily inspected and that fail said inspection but that are warrantable under manufacturers' emissions control warranties pursuant to section 207 (A) and (B) of the federal act shall comply with the emissions-related repair requirements of this part 3.

(V) Motor vehicles operated in the enhanced emissions program area, and required to be inspected pursuant to subparagraph (I) of this paragraph (c), shall comply with the inspection requirements of the enhanced emissions program area and are not required to comply with the inspection requirements of the basic emissions program area.

(d) (I) Repealed.

(II) (A) For the basic emissions program, effective January 1, 1994, for businesses which operate nineteen or fewer motor vehicles and for 1981 or older private motor vehicles required to be registered in the basic emissions program area, after any adjustments or repairs required pursuant to section [42-4-306](#), if total expenditures of at least seventy-five dollars have been made to bring the vehicle into compliance with applicable emissions standards and the vehicle still does not meet such standards, a certification of emissions waiver shall be issued for such vehicle.

(B) (Deleted by amendment, L. 2011, (SB 11-031), ch. 86, p. 246, 11, effective August 10, 2011.)

(III) Repealed.

(IV) For the basic emissions program, effective January 1, 1994, for businesses that operate nineteen or fewer vehicles and for private motor vehicles only of a model year 1982 or later required to be registered in the basic emissions program area, after any adjustments or repairs required pursuant to section [42-4-306](#), if total expenditures of at least two hundred dollars have been made to bring the vehicle into compliance with the applicable emissions standards and the vehicle still does not meet such standards, a certification of emissions waiver shall be issued for such vehicle. For vehicles not older than two years or that have not more than twenty-four thousand miles, or such period of time and mileage as established for warranty protection by amendments to federal regulations, no emissions-related repair waivers shall be issued due to the provisions and enforcement of section 207 (A) and (B) of the federal act relating to emissions control systems components and performance warranties. Vehicles that are owned by the state of Colorado or any agency or political subdivision thereof are not eligible for emissions-related repair waivers under this subparagraph (IV).

(V) Repealed.

(VI) For the enhanced emissions program, effective January 1, 1995, for businesses that operate nineteen or fewer vehicles and for private motor vehicles only of a model year 1968 and later required to be registered in the enhanced emissions program area, after any adjustments or repairs required pursuant to section [42-4-306](#), if total expenditures of at least four hundred fifty dollars have been made to bring the vehicle into compliance with applicable emissions standards and the vehicle does not meet such standards, a certification of emissions waiver shall be issued for such vehicle except as prescribed in subparagraph (XII) of this paragraph (d) pertaining to vehicle warranty. The four-hundred-fifty-dollar minimum expenditure may be adjusted annually

by an amount not to exceed the percentage, if any, by which the consumer price index for all urban consumers (CPIU) for the Denver-Boulder metropolitan statistical area for the preceding year differs from such index for 1989. Vehicles that are owned by the state of Colorado or any agency or political subdivision thereof are not eligible for emissions-related repair waivers under this subparagraph (VI).

(VII) Repealed.

(VIII) (A) For the enhanced emissions program except as provided in sub-subparagraph (B) of this subparagraph (VIII), for businesses that operate nineteen or fewer vehicles and for private motor vehicles only of a model year 1967 or earlier required to be registered in the enhanced emissions program area, after any adjustments or repairs required under section [42-4-306](#), if total expenditures of at least seventy-five dollars have been made to bring the vehicle into compliance with applicable emissions standards and the vehicle still does not meet the standards, a certification of emissions waiver shall be issued for the vehicle.

(B) This subparagraph (VIII) shall apply in Boulder county, effective July 1, 1995.

(IX) (A) For the enhanced emissions program except as provided in sub-subparagraph (B) of this subparagraph (IX) effective January 1, 1995, for vehicles subject to a transient, loaded mode dynamometer inspection procedure under the enhanced program as determined by the commission, a certificate of waiver may be issued by an authorized state representative, if after failing a retest, at which point the minimum repair cost limit of four hundred fifty dollars has not been met, a complete and documented physical and functional diagnosis of the vehicle performed at an emissions technical center indicates that no additional emissions-related repairs would be effective or needed.

(B) This subparagraph (IX) shall apply in Boulder county, effective July 1, 1995.

(X) Subject to the provisions of subparagraph (V) of this paragraph (d), a certificate of emissions control shall not be issued for vehicles in the program area exhibiting smoke or indications of tampering with or poor maintenance of emissions control systems including on-board diagnostic systems.

(XI) As used in this paragraph (d), "total expenditures" means those expenditures directly related to adjustment or repair of a motor vehicle to reduce exhaust or evaporative emissions to a level which complies with applicable emissions standards. The term does not include an inspection fee, or any costs of adjustment, repair, or replacement necessitated by the disconnection of, tampering with, or abuse of air pollution control equipment, improper fuel use, or visible smoke.

(XII) No certification of emissions waiver shall be issued for vehicles not older than two years or which have not more than twenty-four thousand miles, or are of such other age and mileage as established for warranty protection under the federal act in accordance with the provisions and enforcement of section 207 (A) and (B) of the federal act relating to emissions control component and systems performance warranties.

(2) (a) The emissions inspection required under this section shall include an analysis of tail pipe and evaporative emissions. After January 1, 1994, such inspection shall include an analysis of emissions control equipment including on-board diagnostic systems, chlorofluorocarbons, and visible smoke emissions for the basic emissions program area and the enhanced emissions

program area and emissions testing that meets the performance standards set by federal requirements for the enhanced emissions program area by means of procedures specified by regulation of the commission to determine whether the motor vehicle qualifies for issuance of a certification of emissions compliance. For motor vehicles of the model year 1975 or later, not tested under a transient load on a dynamometer, said inspection shall also include a visual inspection of emissions control equipment pursuant to rules of the commission.

(b) and (c) Repealed.

(d) (I) In the basic emissions program area, effective January 1, 1994, in order to be issued a certificate of emissions waiver, appropriate adjustments and repairs must have been performed at a licensed inspection and readjustment station by a licensed emissions mechanic.

(II) In the enhanced emissions program area, effective January 1, 1995, in order to be issued a certificate of emissions waiver, appropriate adjustments and repairs must have been performed by a technician at a registered repair facility within the enhanced emissions program area.

(III) Adjustments and repairs performed by a registered repair facility and technician within the enhanced emissions program area shall be sufficient for compliance with the provisions of this paragraph (d) in the basic program area.

(3) (a) Effective July 1, 1993, any home rule city, city, town, or county shall, after holding a public hearing and receiving public comment and upon request by the governing body of such local government to the department of public health and environment and the department of revenue and after approval by the general assembly acting by bill pursuant to paragraph (e) of this subsection (3), be included in the program area established pursuant to section 42-4-301 to 42-4-316. When such a request is made, said departments and governing body shall agree to a start-up date for the program in such area, and, on or after such date, all motor vehicles, as defined in section 42-4-304 (18), which are registered in the area shall be inspected and required to comply with the provisions of section 42-4-301 to 42-4-316 and rules and regulations adopted pursuant thereto as if such area was included in the program area. Except as provided in paragraph (c) of this subsection (3), the department of public health and environment and the department of revenue, the executive director, and the commission shall perform all functions and exercise all powers related to the program in areas included in the program pursuant to this subsection (3) that they are otherwise required to perform under section 42-4-301 to 42-4-316.

(b) Effective July 1, 1993, notwithstanding the provisions of section 42-4-304 (20), a local government with jurisdiction over an area excluded from the program area pursuant to section 42-4-304 (20) may request inclusion in the program area, and the exclusion under section 42-4-304 (20) shall not apply to vehicles registered within such area.

(c) Effective July 1, 1993, the inclusion pursuant to paragraph (a) or (b) of this subsection (3) of any home rule city, city, town, or county in the program area shall not be submitted to the United States environmental protection agency as a revision to the state implementation plan or otherwise included in such plan. Any governing body which requests inclusion of an area pursuant to paragraph (a) or (b) of this subsection (3) in the program area may, after a minimum period of five years, request termination of the program in such area, and the program in such area shall be terminated thirty days after the receipt by the department of revenue of such a request.

(d) Effective January 1, 1994, except for those entities included within the program area pursuant to section [42-4-304](#) (20), for inclusion in the program area, any home rule city, city, town, or county shall have the basic emissions program test requirements and standards implemented as its emissions inspection program.

(e) Unless a home rule city, city, town, or county violates national ambient air quality standards as established by the environmental protection agency, the inclusion pursuant to paragraph (a) or (b) of this subsection (3) of any home rule city, city, town, or county in the program area shall be contingent upon approval by the general assembly acting by bill to include any such home rule city, city, town, or county in the program area.

(4) (a) The seller of a motor vehicle that is inoperable or otherwise cannot be tested in accordance with rules promulgated by the department of revenue or that is being sold pursuant to part 18 or part 21 of this article is not required to obtain a certification of emissions control prior to the sale of the vehicle if the seller provides a written notice to the purchaser prior to completion of the sale that clearly indicates the following:

(I) The vehicle does not currently comply with the emissions requirements for the program area;

(II) The seller does not warrant that the vehicle will comply with emissions requirements; and

(III) The purchaser is responsible for complying with emissions requirements prior to registering the vehicle in the emissions program area.

(b) The department shall prepare a form to comply with the provisions of paragraph (a) of this subsection (4) and shall make such form available to dealers and other persons who are selling motor vehicles which are inoperable or otherwise cannot be tested in accordance with regulations promulgated by the department of revenue.

(c) If a motor vehicle is exempted from the requirement for obtaining a certification of emissions control prior to sale pursuant to this subsection (4), the new owner of the motor vehicle is required to obtain a certification of emissions control for such motor vehicle before registering it in the program area.

(5) (a) Notwithstanding any other provision of this section, any eligible motor vehicle registered in a clean screen program county that complies with the requirements of the clean screen program under the provisions of section [42-4-305](#) (12), [42-4-306](#) (23), and [42-4-307](#) (10.5) (a), by passing the requirements of such program and applicable rules shall be deemed to have complied with the inspection requirements of this section for the applicable emissions inspection cycle. For purposes of this subsection (5), "eligible motor vehicle" means a motor vehicle, including trucks, for model years 1978 and earlier having a gross vehicle weight rating of six thousand pounds or less and for model years 1979 and newer having a gross vehicle weight rating of eight thousand five hundred pounds or less.

(b) (I) If the commission does not specify a date for the county clerks and recorders in the basic emissions program area to begin collecting emissions inspection fees at the time of registration pursuant to section [42-3-304](#) (19) (a), or if the contractor determines that the motor vehicle required to be registered in the basic program area has complied with the inspection requirements pursuant to this subsection (5), a notice shall be sent to the owner of the vehicle identifying the owner of the vehicle, the license plate number, and other pertinent registration

information, and stating that the vehicle has successfully complied with the applicable emission requirements. Such notice shall also include a notification that the registered owner of the vehicle may return the notice to the contractor with the payment as set forth on the notice to pay for the clean screen program. Upon receipt of the payment from the motor vehicle owner, the county clerk shall be notified that the motor vehicle has complied with the inspection requirements pursuant to this subsection (5).

(II) For vehicles with registration renewals coming due on or after the dates specified by the commission for county clerks and recorders to collect emissions inspection fees at the time of registration, if the contractor determines that a motor vehicle required to be registered in the program area has complied with the inspection requirements pursuant to this subsection (5), the contractor shall send a notice to the department of revenue identifying the owner of the vehicle, the license plate number, and any other pertinent registration information, stating that the vehicle has successfully complied with the applicable emission requirements.

(c) The department shall, by contract with a private vendor or by rule, establish a procedure for a vehicle owner to obtain the necessary emissions-related documents for the registration and operation of a vehicle that has complied with the inspection requirements pursuant to this subsection (5).

**Source:** **L. 94:** (3)(a) amended, p. 2812, 588, effective July 1; entire title amended with relocations, p. 2297, 1, effective January 1, 1995. **L. 95:** (1)(d)(VI), (1)(d)(X), and (3)(b) amended, p. 954, 10, effective May 25. **L. 96:** (1)(c) amended, p. 1010, 1, effective May 23. **L. 98:** (1)(a)(I), (1)(b)(II)(B), and (1)(b)(II)(C) amended and (4) added, p. 230, 2, effective April 10; (5) added, p. 893, 5, effective May 26. **L. 99:** (1)(b)(I), (1)(d)(IV), and (1)(d)(VI) amended, p. 951, 1, effective May 28. **L. 2001:** (1)(a)(I), (1)(b)(II)(A), (1)(d)(VI), (5)(b), and (5)(c) amended, p. 1019, 6, effective June 5. **L. 2002:** (5)(a) and (5)(b) amended, pp. 969, 966, 6, 2, effective June 1. **L. 2003:** (1)(a)(I), (1)(b)(I)(B), (1)(b)(II)(A), and (1)(b)(II)(B) amended, p. 1603, 4, effective August 6; (1)(a)(I), IP(4)(a), and (4)(c) amended, p. 2186, 2, effective August 6. **L. 2005:** (5)(b)(I) amended, p. 1175, 14, effective August 8; (1)(a)(II)(C) and (1)(c)(III) amended, p. 715, 1, effective September 1. **L. 2006:** (1)(b)(II)(A) amended, p. 1028, 6, effective July 1. **L. 2009:** (1)(d)(II)(B) and (1)(d)(VIII)(A) amended, (SB 09-003), ch. 322, p. 1718, 3, effective June 1. **L. 2011:** (1)(d)(II)(B) and (1)(d)(VIII)(A) amended, (SB 11-031), ch. 86, p. 246, 11, effective August 10. **L. 2013:** (1)(a)(II)(D) added, (HB 13-1071), ch. 370, p. 2161, 4, effective August 7. **L. 2014:** (1)(a)(II)(D) amended, (HB 14-1056), ch. 23, p. 154, 1, effective March 7.

**Editor's note:** (1) This section is similar to former [42-4-312](#) as it existed prior to 1994, and the former [42-4-310](#) was relocated to [42-4-308](#).

(2) Amendments to subsection (3)(a) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

(3) Subsections (1)(d)(I)(D), (1)(d)(III)(D), (1)(d)(V)(D), (1)(d)(VII)(B), (2)(b)(IV), and (2)(c)(IV) provided for the repeal of subsections (1)(d)(I), (1)(d)(III), (1)(d)(V), (1)(d)(VII), (2)(b), and (2)(c), respectively, effective July 1, 1995. (See L. 94, p. 2297.)

(4) Amendments to subsection (1)(a)(I) by House Bill 03-1016 and House Bill 03-1357 were harmonized.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (1)(a)(I), (1)(b)(II)(A), (1)(d)(VI), (5)(b), and (5)(c), see section 1 of chapter 278, Session Laws of Colorado

2001. For the legislative declaration contained in the 2006 act amending subsection (1)(b)(II)(A), see section 1 of chapter 225, Session Laws of Colorado 2006.

**42-4-311. Operation of inspection and readjustment stations - inspection-only facilities - fleet inspection stations - motor vehicle dealer test facilities - enhanced inspection centers.**

(1) (a) No inspection and readjustment station license, inspection-only facility license, fleet inspection station license, motor vehicle dealer test facility license, or enhanced inspection center contract may be assigned or transferred or used at any other than the station, facility, or center therein designated, and every such license or authorization for an enhanced inspection center shall be posted in a conspicuous place at the facility designated.

(b) Beginning January 1, 1995, no emissions inspector license or authorization shall be assigned or transferred except to a licensed inspection-only facility, fleet inspection station, or enhanced inspection center.

(c) No emissions inspector or emissions mechanic license or authorization may be assigned or transferred, nor shall the inspection and adjustment be made by such emissions inspector or emissions mechanic except at a licensed inspection and readjustment station, inspection-only facility, fleet inspection station, or motor vehicle dealer test facility or authorized enhanced inspection center.

(2) A licensed inspection and readjustment station, inspection-only facility, fleet inspection station, motor vehicle dealer test facility, or authorized enhanced inspection center shall not issue a certification of emissions control to a motor vehicle except upon forms prescribed by the executive director. Such station, facility, or center shall not issue a certification of emissions compliance or emission waiver unless the licensed or authorized emissions inspector or emissions mechanic performing the inspection determines that:

(a) The exhaust gas and, if applicable, evaporative emissions from the motor vehicle comply with the applicable emissions standards and there is no evidence of emissions system tampering nor visible smoke, in which case a certification of emissions compliance shall be issued;

(b) The exhaust gas and, if applicable, evaporative emissions from the motor vehicle do not comply with the applicable emissions standards after the adjustments and repairs required by section [42-4-306](#) have been performed and there is no evidence of emissions system tampering or visible smoke, in which case a certification of emissions waiver shall be issued. A fleet emission inspector shall not issue a certification of emissions waiver within the enhanced program area.

(3) (a) (I) A verification of emissions test shall be issued to a motor vehicle by a licensed inspection and readjustment station, inspection-only facility, fleet inspection station, or motor vehicle dealer test facility or authorized enhanced inspection center at the time such vehicle is issued a certification of emissions control.

(II) Except as required by section [42-12-404](#), no verification of emissions test is required to be issued to or required for any motor vehicle that is registered as a collector's item under section [42-12-401](#).

(III) (A) Repealed.

(B) Commencing July 1, 2001, every inspection and readjustment station, fleet inspection station, and inspection-only facility shall monthly transmit to the department the sum of twenty-five cents per motor vehicle inspection performed by such entity pursuant to this part 3 if the motor vehicle passes such inspection or is granted a waiver. No refund or credit shall be allowed for any unused verification of emissions test forms.

(C) The contractor shall monthly transmit to the department the sum of twenty-five cents per motor vehicle inspection performed by the contractor pursuant to this part 3 if the motor vehicle passes such inspection or is granted a waiver. No refund or credit shall be allowed for any unused verification of emissions test forms.

(b) The moneys collected by the department from the sale of verification forms shall be transmitted to the state treasurer, who shall credit such moneys to the AIR account, which account is created within the highway users tax fund. Moneys from the AIR account, upon appropriation by the general assembly, shall be expended only to pay the costs of administration and enforcement of the automobile inspection and readjustment program by the department and the department of public health and environment.

(4) (a) (I) A licensed inspection and readjustment station, inspection-only facility, or motor vehicle dealer test facility shall charge a fee not to exceed fifteen dollars for the inspection of vehicles, model year 1981 and older, at facilities licensed or authorized within either the basic or enhanced emissions program; except that for 1982 model and newer vehicles a test facility may charge a fee not to exceed twenty-five dollars.

(II) In no case shall any such fee exceed the maximum fee established by and posted by the station or facility pursuant to section [42-4-305](#) (5) for the inspection of any motor vehicle required to be inspected under section [42-4-310](#).

(b) A licensed emissions inspection and readjustment station shall charge a fee for performing the adjustments or repairs required for issuance of a certification of emissions waiver not to exceed the maximum charge established in section [42-4-310](#) and posted by the station pursuant to section [42-4-305](#).

(5) The fee charged in paragraph (a) of subsection (4) or subsection (6) of this section will be charged to all nonresident vehicle owners subject to the inspection requirement of section [42-4-310](#) and depending on the county of operation.

(6) (a) The fee charged for enhanced emissions inspections performed within the enhanced emissions program area on 1982 and later motor vehicles shall not be any greater than that determined by the contract and in no case greater than twenty-five dollars. The fee charged for clean screen inspections performed on vehicles registered in the basic area shall not be any greater than that determined by the contract and in no case greater than fifteen dollars. Such fee shall not exceed the maximum fee required to be posted by the enhanced inspection center pursuant to section [42-4-305](#) for the inspection of any motor vehicle required to be inspected under section [42-4-310](#).

(b) During the two-year renewal of the contract entered into pursuant to section [42-4-307](#) (10), the commission shall hold a hearing to determine the maximum fee that may be charged pursuant to the contract for inspections during any subsequent renewal term. Such maximum fee shall be based on estimated actual operating costs during the life of the contract, determined pursuant to

the proceeding and an audit conducted by the office of the state auditor on the contractor, plus a percentage to be determined by the commission, not to exceed ten percent and not to exceed twenty-five dollars.

(c) Repealed.

(7) At least one free reinspection shall be provided for those vehicles initially failed at the inspection and readjustment station, inspection-only facility, or enhanced inspection center which conducted the initial inspection, within ten calendar days of such initial inspection.

**Source:** **L. 94:** (3)(b) amended, p. 2813, 589, effective July 1; entire title amended with relocations, p. 2304, 1, effective January 1, 1995. **L. 2001:** (3)(a)(III), (4)(a), and (6) amended, p. 1020, 7, effective June 5. **L. 2002:** (4)(a) and (6)(a) amended, p. 967, 3, effective June 1; (4)(a) amended, p. 1285, 1, effective September 1; (4)(a) amended, p. 968, 4, effective September 1. **L. 2006:** (6)(c) added, p. 1029, 7, effective July 1. **L. 2011:** IP(2), (2)(b), and (3)(a)(II) amended, (SB 11-031), ch. 86, p. 246, 12, effective August 10. **L. 2012:** (6)(c) repealed, (SB 12-034), ch. 107, p. 365, 5, effective August 8. **L. 2013:** (3)(a)(II) amended, (HB 13-1071), ch. 370, p. 2161, 5, effective August 7.

**Editor's note:** (1) This section is similar to former [42-4-313](#) as it existed prior to 1994, and the former [42-4-311](#) was relocated to [42-4-309](#).

(2) Amendments to subsection (3)(b) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

(3) Subsection (3)(a)(III)(A) provided for the repeal of subsection (3)(a)(III)(A) effective July 1, 2001. (See L. 2001, p. 1020.)

(4) Amendments to subsection (4)(a) by section 3 and 4 of House Bill 02-1455 were harmonized.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (3)(a)(III), (4)(a), and (6), see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsection (6)(c), see section 1 of chapter 225, Session Laws of Colorado 2006.

**42-4-312. Improper representation as emissions inspection and readjustment station - inspection-only facility - fleet inspection station - motor vehicle dealer test facility - enhanced inspection center.**

(1) No person shall in any manner represent any place as an inspection and readjustment station, inspection-only facility, fleet inspection station, motor vehicle dealer test facility, or enhanced inspection center or shall claim to be a licensed emissions inspector or licensed emissions mechanic unless such station, facility, center, or person has been issued and operates under a valid license issued by the department or contract with the state. If the license or contract is cancelled, suspended, or revoked, all evidence designating the station, facility, or center as a licensed inspection and readjustment station, inspection-only facility, fleet inspection station, or motor vehicle dealer test facility or authorized enhanced inspection center and indicative of licensed status of the station, facility, or center or emissions inspector or emissions mechanic shall be removed within five days after receipt of notice of such action.

(2) (a) The department shall have authority to suspend or revoke the inspection and readjustment station license, inspection-only facility license, fleet inspection license, or motor vehicle dealer test facility license or to seek termination of the contractor's contract and require surrender of said license and unused certification of emissions control forms and verification of

emissions test forms held by such licensee or contractor when such station, facility, or center is not equipped as required, when such station, facility, or center is not operating from a location for which the license or contract was issued, when the approved location has been altered so that it will no longer qualify as a licensed station or facility or authorized center, or when inspections, repairs, or adjustments are not being made in accordance with applicable laws and the rules and regulations of the department or commission.

(b) The department shall also have authority to suspend or revoke the license of an emissions inspector or emissions mechanic and require surrender of said license when it determines that said inspector or mechanic is not qualified to perform the inspections, repairs, or adjustments or when inspections, repairs, or adjustments are not being made in accordance with applicable laws and the rules and regulations of the department or the commission.

(3) In addition to any other grounds for revocation or suspension, authority to suspend and revoke inspection and readjustment station licenses, inspection-only facility licenses, fleet inspection station licenses, motor vehicle dealer test facility licenses, or enhanced inspection center contracts, or to seek termination of a contractor's contract or an emissions inspector's or emissions mechanic's license and to require surrender of said licenses and unused certification of inspection forms and records of said station shall also exist upon a showing that:

(a) A vehicle which had been inspected and issued a certification of emissions compliance by said station, facility, or center or by said inspector or mechanic was in such condition that it did not, at the time of such inspection, comply with the law or the rules and regulations for issuance of such a certification; or

(b) An inspection and readjustment station, or emissions mechanic has demonstrated a pattern of issuing certifications of emissions waivers to vehicles which, at the time of issuance of such certifications, did not comply with the law or the rules and regulations for issuance of such certifications.

(4) Upon suspending the license of an inspection and readjustment station, inspection-only facility, fleet inspection station, or motor vehicle dealer test facility or an enhanced inspection center contract or of an emissions inspector or emissions mechanic as authorized in this section, the executive director shall immediately notify the licensee or contractor in writing and, upon request therefor, shall grant the licensee or contractor a hearing within thirty days after receipt of such request, such hearing to be held in the county wherein the licensee or contractor resides, unless the executive director and the licensee or contractor agree that such hearing may be held in some other county. The executive director may request a hearing officer to act in the executive director's behalf. Upon such hearing, the executive director or the hearing officer may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books, records, and papers. Upon such hearing, the order of suspension or revocation may be rescinded, or, for good cause shown, the suspension may be extended for such period of time as the hearing person or body may determine, not exceeding one year, or the revocation order may be affirmed or reversed. The licensee shall not perform under the license pending the hearing and decision.

(5) Upon the final cancellation or termination of a contractor's contract, the executive director shall invoke the provisions of such contract to continue service until a new contract can be secured with qualified persons as supervised by the department of revenue.

**Source: L. 94:** Entire title amended with relocations, p. 2307, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 42-4-314 as it existed prior to 1994, and the former 42-4-312 was relocated to 42-4-310.

### **42-4-313. Penalties.**

(1) (a) No person shall make, issue, or knowingly use any imitation or deceptively similar or counterfeit certification of emissions control form.

(b) No person shall possess a certification of emissions control if such person knows the same is fictitious, or was issued for another motor vehicle, or was issued without an emissions inspection having been made when required.

(c) Any person who violates any provision of this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(2) (a) No emissions inspector or emissions mechanic shall issue a certification of emissions control for a motor vehicle which does not qualify for the certification or verification issued.

(b) Any emissions inspector or emissions mechanic who issues a certification of emissions control in violation of paragraph (a) of this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(3) (a) No person shall operate a motor vehicle registered or required to be registered in this state, nor shall any person allow such a motor vehicle to be parked on public property or on private property available for public use, without such vehicle having passed any necessary emissions test. The owner of any motor vehicle that is in violation of this paragraph (a) shall be responsible for payment of any penalty imposed under this section unless such owner proves that the motor vehicle was in the possession of another person without the owner's permission at the time of the violation.

(b) (Deleted by amendment, L. 2001, p. 1025, 11, effective June 5, 2001.)

(c) Any vehicle owner who violates any provision of this section is guilty of a misdemeanor traffic offense and, upon conviction thereof, shall be punished by a fine of fifty dollars payable within thirty days after conviction.

(d) Any nonowner driver who violates any provision of this section is guilty of a misdemeanor traffic offense and, upon conviction thereof, shall be punished by a fine of fifteen dollars, payable within thirty days after conviction.

(e) The owner or driver may, in lieu of appearance, submit to the court of competent jurisdiction, within thirty days after the issuance of the notice and summons, the certification or proof of mailing specified in this subsection (3).

(f) Any fine collected pursuant to the provisions of this subsection (3) shall be retained by the jurisdiction in whose name such penalty was assessed.

(g) Nothing in this section shall be construed to limit the authority of any municipality, city, county, or city and county to adopt and enforce an ordinance or resolution pertaining to the enforcement of emissions control inspection requirements.

(h) to (j) Repealed.

(4) (a) For the emissions program, a contractor who is awarded a contract to perform emissions inspections within the emissions program area shall be held accountable to the department of public health and environment and the department of revenue. Any such contractor shall be subject to civil penalties in accordance with this section or article 7 of title 25, C.R.S., as appropriate, for any violation of applicable laws or rules and regulations of the department of revenue or the commission.

(b) (I) Pursuant to the provisions of article 4 of title 24, C.R.S., the executive director may suspend for a period not less than six months the license of any operator or employee operating an inspection-only facility, fleet inspection station, or motor vehicle dealer test facility or may impose an administrative fine pursuant to subparagraph (II) of this paragraph (b), or may both suspend a license and impose a fine, if any such operator or employee, inspection-only facility, fleet inspection station, or motor vehicle dealer test facility engages in any of the following:

(A) Intentionally passing a failing vehicle;

(B) Performing any test by an unlicensed inspector;

(C) Performing a test on falsified test equipment;

(D) Failing a passing vehicle;

(E) Flagrantly misusing control documents; or

(F) Engaging in a pattern of noncompliance with any regulations of the department of revenue or the commission.

(II) The contract for operation of enhanced inspection centers shall specify administrative fines to be imposed for the violations enumerated in subparagraph (I) of this paragraph (b).

(c) Pursuant to the provisions of article 4 of title 24, C.R.S., the executive director shall impose administrative fines in amounts set by the executive director of not less than twenty-five dollars and not more than one thousand dollars against any operator or employee operating an inspection and readjustment station, an inspection-only facility, or a motor vehicle dealer test facility, or any contractor operating an enhanced inspection center or clean screen contractor that engages in two or more incidents per person, station, facility, or center, of any of the following:

(I) Test data entry violations;

(II) Test sequence violations;

(III) Emission retest procedural violations;

(IV) Vehicle emissions tag replacement test procedural violations;

(V) Performing any emissions test on noncertified equipment;

(VI) Wait-time and lane availability violations;

(VII) Physical emissions test examination violations;

(VIII) Knowingly passing failing vehicles; or

(IX) Knowingly failing passing vehicles.

**Source:** **L. 94:** (4)(a) amended, p. 2813, 590, effective July 1; entire title amended with relocations, p. 2308, 1, effective January 1, 1995. **L. 2001:** (1)(a), (1)(b), (2), (3)(a), (3)(b), (4)(a), and (4)(c) amended, p. 1025, 11, effective June 5. **L. 2006:** (3)(h), (3)(i), and (3)(j) added, p. 1029, 8, effective July 1. **L. 2012:** (3)(h), (3)(i), and (3)(j) repealed, (SB 12-034), ch. 107, p. 365, 6, effective August 8.

**Editor's note:** (1) This section is similar to former [42-4-315](#) as it existed prior to 1994, and the former [42-4-313](#) was relocated to [42-4-311](#).

(2) Amendments to subsection (4)(a) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (1)(a), (1)(b), (2), (3)(a), (3)(b), (4)(a), and (4)(c), see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsections (3)(h), (3)(i), (3)(j), see section 1 of chapter 225, Session Laws of Colorado 2006.

#### **42-4-314. Automobile air pollution control systems - tampering - operation of vehicle - penalty.**

(1) No person shall knowingly disconnect, deactivate, or otherwise render inoperable any air pollution control system which has been installed by the manufacturer of any automobile of a model year of 1968 or later, except to repair or replace a part or all of the system.

(2) No person shall operate on any highway in this state any automobile described in subsection (1) of this section knowing that any air pollution control system installed on such automobile has been disconnected, deactivated, or otherwise rendered inoperable.

(3) Any person who violates any provision of this section commits a class A traffic infraction. The department shall not assess any points under section [42-2-127](#) for a conviction pursuant to this section.

(4) The air quality control commission may adopt rules and regulations pursuant to section [25-7-109](#) and [25-7-110](#), C.R.S., which permit or allow for the alteration, modification, or disconnection of manufacturer-installed air pollution control systems or manufacturer tuning specifications on motor vehicles for the purpose of controlling vehicle emissions. Nothing in this section shall prohibit the alteration or the conversion of a motor vehicle to operate on a gaseous fuel, if the resultant emissions are at levels complying with state and federal standards for that model year of motor vehicle.

(5) Nothing in this section shall be construed to prevent the adjustment or modification of motor vehicles to reduce vehicle emissions pursuant to section 215 of the federal "Clean Air Act", as amended, 42 U.S.C. sec. 7549.

**Source:** **L. 94:** Entire title amended with relocations, p. 2311, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former [42-4-1210](#) as it existed prior to 1994, and the former [42-4-314](#) was relocated to [42-4-312](#).

#### **42-4-315. Warranties.**

No provision of section 42-4-301 to 42-4-316 shall be deemed to prevent, or interpreted so as to hinder, the enforcement of any applicable motor vehicle part or emissions control systems performance warranty.

**Source: L. 94:** Entire title amended with relocations, p. 2311, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 42-4-315.5 as it existed prior to 1994, and the former 42-4-315 was relocated to 42-4-313.

**42-4-316. AIR program - demonstration of compliance with ambient air quality standards and transportation conformity.**

(1) If the commission and the lead air quality planning agency of any portion of the program area agree that it has been demonstrated that any portion of the program meets ambient air quality standards and transportation conformity requirements, in compliance with federal acts, the commission may specify that the AIR program will no longer apply in that portion of the program area.

(2) The legislative audit committee shall cause to be conducted performance audits of the program, including the clean screen program. The audits must be completed not later than January 1, 2018, and January 1 of each fifth year thereafter. Upon completion of the audit report, the legislative audit committee shall hold a public hearing to review the report.

(3) (a) (Deleted by amendment, L. 2001, p. 1022, 9, effective June 5, 2001.)

(b) In such audits, the determination as to whether an ongoing public need for the program has been demonstrated shall take into consideration the following factors, among others:

(I) The demonstrable effect on ambient air quality of the program;

(II) The cost to the public of the program;

(III) The cost-effectiveness of the program relative to other air pollution control programs;

(IV) The need, if any, for further reduction of air pollution caused by mobile sources to attain or maintain compliance with national ambient air quality standards;

(V) The application of the program to assure compliance with legally required warranties covering air pollution control equipment.

**Source: L. 94:** (3)(a) amended, p. 2813, 591, effective July 1; entire title amended with relocations, p. 2311, 1, effective January 1, 1995. **L. 98:** (1), (2), and (3)(a) amended, p. 894, 6, effective May 26. **L. 2001:** (2), (3)(a), and IP(3)(b) amended, p. 1022, 9, effective June 5. **L. 2002:** (2) amended, p. 871, 7, effective August 7. **L. 2006:** (1) amended, p. 1029, 9, effective July 1. **L. 2014:** (2) amended, (HB 14-1176), ch. 135, p. 466, 1, effective August 6.

**Editor's note:** Amendments to subsection (3)(a) by House Bill 94-1029 were harmonized with Senate Bill 94-001.

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (2) and (3)(a) and the introductory portion to subsection (3)(b), see section 1 of chapter 278, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act amending subsection (1), see section 1 of chapter 225, Session Laws of Colorado 2006.

#### **42-4-316.5. Termination of vehicle emissions testing program.**

The commission shall have the authority to eliminate all requirements for regularly scheduled basic or enhanced emissions inspections of motor vehicles if the commission finds that this action does not violate federal air quality standards.

**Source:** **L. 2006:** Entire section added, p. 1029, 10, effective July 1. **L. 2012:** Entire section amended, (SB 12-034), ch. 107, p. 365, 7, effective August 8.

**Editor's note:** As of publication date, the air quality control commission has made no determination as to whether the elimination of all requirements for regularly scheduled basic or enhanced emissions inspections of motor vehicles violates federal air quality standards.

**Cross references:** For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 225, Session Laws of Colorado 2006.

#### **42-4-317. Purchase or lease of new motor vehicles by state agencies - clean-burning alternative fuels - definitions. (Repealed)**

**Source:** **L. 94:** Entire title amended with relocations, p. 2312, 1, effective January 1, 1995.

**Editor's note:** Subsection (9) provided for the repeal of this section, effective July 1, 1995. (See L. 94, p. 2312.)

### **PART 4 DIESEL INSPECTION PROGRAM**

#### **42-4-401. Definitions.**

As used in this part 4, unless the context otherwise requires:

(1) "Certification of emissions control" means one of the following certifications, issued to the owner of a diesel vehicle which is subject to the diesel inspection program in order to indicate the status of inspection requirement compliance of such vehicle:

(a) "Certification of diesel smoke opacity compliance" is a document which indicates that the smoke emissions from the vehicle comply with applicable smoke opacity limits at the time of inspection or after required adjustments or repairs;

(b) "Certification of diesel smoke opacity waiver" is a document which indicates that the smoke emissions from the vehicle does not comply with the applicable smoke opacity limits after inspection, adjustment, and emissions related repairs.

(2) "Commission" means the air quality control commission.

(3) "Diesel emissions inspection station" means a facility which meets the requirements established by the commission, is licensed by the executive director, and is so equipped as to enable a diesel vehicle emissions-opacity inspection to be performed.

(4) "Diesel emissions inspector" means a person possessing a valid license to perform diesel emissions-opacity inspections in compliance with the requirements of the commission.

(5) "Diesel powered motor vehicle" or "diesel vehicle" as applicable to opacity inspections, includes only a motor vehicle with four wheels or more on the ground, powered by an internal

combustion, compression ignition, diesel fueled engine, and also includes any motor vehicle having a personal property classification of A, B, or C, pursuant to section [42-3-106](#), as specified on its vehicle registration, and for which registration in this state is required for operation on the public roads and highways. "Diesel vehicle" does not include: Vehicles registered under section [42-12-301](#); vehicles taxed under section [42-3-306](#) (4); or off-the-road diesel powered vehicles or heavy construction equipment.

(6) "Executive director" means the executive director of the department of revenue or the executive director's designee.

(6.3) "Heavy-duty diesel vehicle" means a vehicle that is greater than fourteen thousand pounds gross vehicle weight rating.

(6.7) "Light-duty diesel vehicle" means a vehicle that is less than or equal to fourteen thousand pounds gross vehicle weight rating.

(7) "Opacity meter" means an optical instrument that is designed to measure the opacity of diesel exhaust gases.

(8) "Program area" means the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld, and the cities and counties of Broomfield and Denver, excluding the following areas:

(a) That portion of Adams county which is east of Kiowa creek (Range 62 West, Townships 1, 2, and 3 South) between the Adams-Arapahoe county line and the Adams-Weld county line;

(b) That portion of Arapahoe county which is east of Kiowa creek (Range 62 West, Townships 4 and 5 South) between the Arapahoe-Elbert county line and the Arapahoe-Adams county line;

(c) That portion of El Paso county which is east of the following boundary, defined on a south-to-north axis: From the El Paso-Pueblo county line north (upstream) along Chico creek (Ranges 63 and 64 West, Township 17 South) to Hanover road, then east along Hanover road (El Paso county route 422) to Peyton highway, then north along Peyton highway (El Paso county route 463) to Falcon highway, then west on Falcon highway (El Paso county route 405) to Peyton highway, then north on Peyton highway (El Paso county route 405) to Judge Orr road, then west on Judge Orr road (El Paso county route 108) to Elbert road, then north on Elbert road (El Paso county route 91) to the El Paso-Elbert county line;

(d) That portion of Larimer county which is west of the boundary defined on a north-to-south axis by Range 71 West and that portion which is north of the boundary defined on an east-to-west axis by Township 10 North;

(e) That portion of Weld county which is outside the corporate boundaries of Greeley, Evans, La Salle, and Garden City and, in addition, is outside the following boundary: Beginning at the point of intersection of the west boundary line of section 21, township six north, range sixty-six west and state highway 392, east along state highway 392 to the point of intersection with Weld county road 37; then south along Weld county road 37 to the point of intersection with Weld county road 64; then east along Weld county road 64 to the point of intersection with Weld county road 43; then south along Weld county road 43 to the point of intersection with Weld county road 62; then east along Weld county road 62 to the point of intersection with Weld county road 49; then south along Weld county road 49 to the point of intersection with the south

boundary line of section 13, township five north, range sixty-five west; then west along the south boundary line of section 13, township five north, range sixty-five west, section 14, township five north, range sixty-five west, and section 15, township five north, range sixty-five west; then, from the southwest corner of section 15, township five west, range sixty-five west, south along the east boundary line of section 21, township five north, range sixty-five west, and section 28, township five north, range sixty-five west; then west along the south boundary line of section 28, township five north, range sixty-five west; then south along the east boundary line of section 32, township five north, range sixty-five west, and section 5, township four north, range sixty-five west; then west along the south boundary line of section 5, township four north, range sixty-five west, section 6, township four north, range sixty-five west, and section 1, township four north, range sixty-six west; then north along the west boundary line of section 1, township four north, range sixty-six west, and section 36, township five north, range sixty-six west; then, from the point of intersection of the west boundary line of section 36, township five north, range sixty-six west and Weld county road 52, west along Weld county road 52 to the point of intersection with Weld county road 27; then north along Weld county road 27 to the point of intersection with the south boundary line of section 18, township five north, range sixty-six west; then west along the south boundary line of section 18, township five north, range sixty-six west, section 13, township five north, range sixty-seven west, and section 14, township five north, range sixty-seven west; then north along the west boundary line of section 14, township five north, range sixty-seven west, section 11, township five north, range sixty-seven west, and section 2, township five north, range sixty-seven west; then east along the north boundary line of section 2, township five north, range sixty-seven west, section 1, township five north, range sixty-seven west, section 6, township five north, range sixty-six west, and section 5, township five north, range sixty-six west; then, from the northeast corner of section 5, township five north, range sixty-six west, north along the west boundary line of section 33, township six north, range sixty-six west, section 28, township six north, range sixty-six west, and section 21, township six north, range sixty-six west, to the point of beginning.

(9) "Smoke limit" means the maximum amount of allowable smoke opacity level as established by the commission.

**Source:** **L. 94:** Entire title amended with relocations, p. 2315, 1, effective January 1, 1995. **L. 2003:** (6.3) and (6.7) added and (7) amended, p. 1024, 2, effective August 6. **L. 2005:** (5) amended, p. 1175, 15, effective August 8. **L. 2009:** (8) amended, (SB 09-003), ch. 322, p. 1718, 4, effective June 1. **L. 2010:** (5) amended, (SB 10-212), ch. 412, p. 2038, 18, effective July 1. **L. 2011:** (5) amended, (SB 11-031), ch. 86, p. 247, 13, effective August 10.

**Editor's note:** This section is similar to former [25-7-601](#) as it existed prior to 1994, and the former [42-4-401](#) was relocated to [42-4-501](#).

#### **42-4-402. Administration of inspection program.**

The department shall have responsibility for administering the diesel inspection program in accordance with the authority exercised by the executive director under the provisions of this part 4.

**Source:** **L. 94:** Entire title amended with relocations, p. 2316, 1, effective January 1, 1995. **L. 2000:** Entire section amended, p. 1643, 28, effective June 1.

**Editor's note:** This section is similar to former 25-7-601.5 as it existed prior to 1994, and the former 42-4-402 was relocated to 42-4-502.

#### **42-4-403. Powers and duties of the commission.**

(1) The commission shall be responsible for the adoption of rules and regulations which are necessary to implement the diesel inspection program including:

(a) Regulations governing procedures for:

(I) Testing and licensing of diesel emissions inspectors;

(II) Licensure of diesel emission inspection stations;

(III) Standards and specifications for the approval, operation, calibration, and certification of exhaust smoke opacity meters;

(IV) Proper performance of diesel opacity inspections and emissions system control inspections;

(b) Issuance of the following types of certifications of emissions control by licensed diesel emission inspectors:

(I) A certification of diesel smoke opacity compliance if, at the time of inspection, the smoke opacity from a diesel vehicle is in compliance with the applicable smoke opacity limits;

(II) A certification of diesel smoke opacity waiver if, at the time of inspection, the smoke opacity from a diesel vehicle does not comply with the applicable smoke opacity limits but such vehicle is adjusted or repaired to specifications as provided by regulation of the commission;

(III) A temporary certification of diesel smoke opacity compliance for diesel vehicles required to be repaired, if such repairs are delayed due to the unavailability of needed parts. The results of the initial smoke opacity test and final test shall be given to the owner of the diesel vehicle and reported to the department of public health and environment.

(2) (a) The commission shall promulgate and from time to time revise regulations on inspection procedures and smoke opacity limits when such procedures and limits have been proven cost-effective and air pollution control-effective on the basis of best available scientific research.

(b) Smoke limits shall not require unreasonable levels of emissions performance for a properly operated and maintained diesel vehicle of a given model year and technology, and such smoke limits shall be no less than twenty percent for five seconds minimum.

(c) The commission may also develop peak smoke opacity limits, but such limits shall not be less than forty percent for less than one second.

(d) Notwithstanding any other provisions of this subsection (2), for inspections conducted between January 1, 1990, and December 31, 1990, the smoke opacity limits shall be forty percent for five seconds minimum, and no diesel vehicle shall fail the smoke opacity inspection for peak limits.

(3) (a) The commission shall annually evaluate the diesel inspection program to determine but not limit the number of diesel vehicles which fail to meet the applicable smoke opacity limits after adjustments and repairs.

(b) If the commission finds that a significant number of diesel vehicles do not meet the applicable smoke opacity limits after adjustments or repairs are made, the commission shall develop recommendations designed to improve the air pollution control-effectiveness of the diesel inspection program in a cost-effective manner and shall submit such recommendations to the general assembly.

(4) In addition to any other authority granted under this section, the commission shall adopt regulations requiring each licensed diesel emissions inspection station to post, at the station, in a clearly legible manner and in a conspicuous place, the fee which shall be charged for performing a diesel emission-opacity inspection.

(5) The commission may exempt diesel vehicles of any make, model, or model year from the provisions of the diesel inspection program when inspection would be inappropriate for such vehicles. The exemption may include diesel vehicles which are required to be registered and inspected January, 1990.

(6) (a) Notwithstanding any other provisions to the contrary, the commission shall not have authority to adopt emission standards or implement an inspection and maintenance program that would result in emission requirements or an in-use testing or compliance demonstration that would be more stringent than the emission standards and test procedures adopted by the United States environmental protection agency for the corresponding model year and class of vehicle or engine.

(b) The commission shall determine by accepted scientific analysis that any emission standards and in-use test procedures it may adopt shall be designed so that any engine or vehicle which would pass the appropriate federal certification test shall also pass the inspection and maintenance test adopted by the commission for that engine or vehicle.

**Source: L. 94:** Entire title amended with relocations, p. 2316, 1, effective January 1, 1995. **L. 2003:** (2)(c) amended, p. 1025, 4, effective August 6.

**Editor's note:** This section is similar to former 25-7-602 as it existed prior to 1994, and the former [42-4-403](#) was relocated to [42-4-503](#).

#### **42-4-404. Powers and duties of the executive director of the department of public health and environment.**

(1) (a) The executive director of the department of public health and environment, referred to in this section as the "executive director", shall develop a program for the training, testing, and retesting of diesel emissions inspectors, which program may be funded by tuition charged to the participants.

(b) Those persons who successfully complete the testing set forth in paragraph (a) of this subsection (1) shall be recommended to the department of revenue for licensure.

(2) The executive director shall instruct the department of revenue to issue a license as a diesel inspection station to one or more parties with either new or existing diesel emissions inspection facilities. Such instruction shall be based on, among other factors:

(a) Any requirements for licensure set by the commission by rule and regulation pursuant to section [42-4-403](#);

(b) The requirements set forth in section [42-4-407](#);

(c) The geographical coverage which would result for licensing the station.

(d) Repealed.

(3) (a) The executive director shall continuously evaluate the diesel emissions inspection program. Such evaluation shall be based on continuing research conducted by the department of public health and environment and other engineering data and shall include assessments of the cost-effectiveness and air pollution control effectiveness of the program.

(b) The executive director shall submit such evaluation and any recommendations for program changes to the general assembly by December 1 of each year, in order that the general assembly may annually review the diesel emissions inspection program.

(4) The executive director shall implement an ongoing project designed to inform the public concerning the operation of the diesel emissions inspection program and the benefits to be derived from such program. The executive director shall also prepare a handbook which shall explain the diesel emissions inspection program, the owner's or operator's responsibilities under the program, the licensure of stations and inspectors, and any other aspects of the program which the executive director determines would be beneficial to the public. In addition to the distribution of such handbook, the executive director shall actively seek the assistance of the electronic and print media in communicating information to the public on the operation of the inspection program and shall utilize any other means of disseminating such information which may be likely to effectuate the purpose of such program.

(5) The executive director may establish and operate technical or administrative centers, if necessary, for the proper administration of the diesel inspection program or may utilize existing centers established for the AIR program pursuant to section [42-4-307](#).

(6) Repealed.

**Source:** **L. 94:** Entire title amended with relocations, p. 2317, 1, effective January 1, 1995. **L. 98:** (6) added, p. 1015, 2, effective August 5. **L. 2000:** (2)(d)(II) added by revision, pp. 1764, 1765, 2, 3. **L. 2003:** (6) repealed, p. 1026, 6, effective August 6.

**Editor's note:** (1) This section is similar to former 25-7-602.5 as it existed prior to 1994, and the former [42-4-404](#) was relocated to [42-4-504](#).

(2) Subsection (2)(d)(II) provided for the repeal of subsection (2)(d), effective July 1, 2001. (See L. 2000, pp. 1764, 1765.)

#### **42-4-405. Powers and duties of executive director.**

(1) The executive director is authorized to issue, deny, cancel, suspend, or revoke licensure for, and shall furnish instructions and all necessary forms to, diesel emissions inspection stations and inspectors. Fees for such licenses shall be established by regulations promulgated by the executive director.

(2) The executive director shall supervise the activities of licensed diesel emissions inspection stations and inspectors and shall cause inspections to be made of such stations and records and such inspectors for compliance with licensure requirements. The accuracy of a licensed station's smoke opacity meters shall be inspected not less than once every sixty days.

(3) The executive director shall require the surrender of any license which has been issued upon the cancellation, suspension, or revocation of the license for a violation of any of the provisions or of any of the regulations of the diesel emissions inspection program established pursuant to this part 4.

(4) The executive director shall adopt regulations for the administration and operation of diesel emissions inspection stations and for the issuance, identification, and use of certifications of emissions control and shall adopt such rules and regulations as may be necessary to improve the effectiveness of the diesel emissions inspection program.

(5) (a) On and after January 1, 1991, the executive director shall hold hearings annually concerning the maximum inspection fee in order to ascertain whether such fee provides fair compensation for performing diesel emission-opacity inspections and represents an equitable charge to the consumer for such inspection.

(b) Repealed.

**Source: L. 94:** Entire title amended with relocations, p. 2319, 1, effective January 1, 1995. **L. 2002:** (5)(b) repealed, p. 871, 8, effective August 7.

**Editor's note:** This section is similar to former 25-7-603 as it existed prior to 1994, and the former 42-4-405 was relocated to 42-4-506.

**42-4-406. Requirement of certification of emissions control for registration - testing for diesel smoke opacity compliance.**

(1) (a) A diesel vehicle in the program area that is registered or required to be registered pursuant to article 3 of this title, 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, or reregistered unless such vehicle has been issued a certification of emissions control within:

(I) The past twelve months if the motor vehicle is a heavy-duty diesel vehicle that is over ten model years old;

(II) The last twenty-four months if the motor vehicle is a heavy-duty diesel vehicle that is ten model years old or newer;

(III) The last twelve months if the motor vehicle is a light-duty diesel vehicle that is at least ten model years old or that is model year 2003 or older; or

(IV) The last twenty-four months if the motor vehicle is a light-duty diesel vehicle that is ten model years old or newer and that is model year 2004 or newer.

(b) (I) A certification of emissions control shall be issued to any diesel vehicle that has been inspected and tested pursuant to subsection (2) of this section for diesel smoke opacity compliance and was found at such time to be within the smoke opacity limits established by the commission.

(II) Notwithstanding subparagraph (I) of this paragraph (b), new diesel vehicles, required under this section to have a certification of emissions control, shall be issued a certification of emissions compliance without inspection or testing. Prior to the expiration of the certification, the owner shall have the vehicle inspected and shall obtain a certification of emissions control for diesel smoke opacity compliance. The certificate shall expire on the earliest to occur of the following:

(A) The anniversary of the day of the issuance of the certification when the vehicle has reached its fourth model year if it is a light-duty diesel vehicle;

(B) The anniversary of the day of the issuance of the certification when the vehicle has reached its fourth model year if it is a heavy-duty diesel vehicle;

(C) The anniversary of the day of the issuance of the certification when the vehicle has reached its sixth model year if the vehicle has a gross vehicle weight rating of twenty-six thousand pounds or more and it is of a model year of 2014 or newer; or

(D) On the date of the transfer of ownership if the date is within twelve months before the certification would expire under sub-subparagraph (A), (B), or (C) of this subparagraph (II), unless the transfer of ownership is a transfer from the lessor to the lessee.

(2) (a) On or after January 1, 1990, all heavy duty diesel vehicles in the program area not subject to the provisions of section [42-4-414](#), with fleets of nine or more, shall be required to be tested for diesel smoke opacity compliance at a licensed diesel inspection station by submitting to loaded mode opacity testing utilizing dynamometers or on-road tests as prescribed by the commission.

(b) Light-duty diesel vehicles in the program area shall be required to be tested for diesel smoke opacity compliance at a licensed diesel inspection station by submitting to loaded mode opacity testing utilizing dynamometers.

**Source:** **L. 94:** Entire title amended with relocations, p. 2319, 1, effective January 1, 1995. **L. 95:** (1)(a) amended, p. 954, 11, effective May 25. **L. 97:** (1)(b)(II) amended, p. 120, 1, effective August 6. **L. 2003:** (1)(a), (1)(b)(II), and (2)(b) amended, p. 1024, 3, effective August 6. **L. 2004:** (1)(b) amended, p. 252, 1, effective July 1. **L. 2006:** (1)(a) and (1)(b)(II)(A) amended, p. 915, 1, effective July 1, 2007. **L. 2015:** (1)(b)(II) amended, (HB 15-1134), ch. 172, p. 541, 1, effective August 5.

**Editor's note:** This section is similar to former 25-7-604 as it existed prior to 1994, and the former [42-4-406](#) was relocated to [42-4-507](#).

**42-4-407. Requirements for a diesel emission-opacity inspection - licensure as diesel emissions inspection station - licensure as emissions inspector.**

(1) Unless a diesel emissions inspector performs an inspection at a licensed diesel inspection station or self-certification fleet station, as described in section [42-4-414](#), a diesel emission-opacity inspection shall not be performed and a certification of diesel emissions control shall not be issued; except that a certification of diesel emissions control may be issued for a heavy-duty fleet vehicle maintained in compliance with any rules the commission promulgates under section [42-4-414](#) (2) (b.5).

(2) No station shall be licensed as a diesel emissions inspection station unless the executive director finds that:

(a) The facilities of the station are of adequate size and the station is properly equipped. Such equipment shall include:

(I) A smoke opacity meter which may be owned or leased and which has been approved as being in good working order by the executive director and has been registered with the department of public health and environment;

(II) Any other equipment or testing devices which are required by rule or regulation of the commission;

(b) The owner or operator of the station has one or more licensed diesel emission inspectors employed or under contract and such inspectors are responsible for all diesel emission-opacity inspections and the issuance of all certifications of emissions control;

(c) Inspection procedures shall be properly conducted and shall include a smoke opacity inspection. For model years 1991 and newer, inspection procedures shall include evaluation of applicable emissions control systems.

(3) Applications for licensure as a diesel inspection station shall be made on forms prescribed by the executive director.

(4) No person shall be licensed as a diesel emissions inspector unless the person has demonstrated necessary skills and competence in the performance of diesel inspection by passing a qualification test developed and administered by the executive director of the department of public health and environment.

**Source: L. 94:** Entire title amended with relocations, p. 2320, 1, effective January 1, 1995. **L. 2013:** (1) amended, (HB 13-1300), ch. 316, p. 1709, 139, effective August 7; (1) amended, (HB 13-1091), ch. 94, p. 301, 2, effective January 1, 2014.

**Editor's note:** This section is similar to former 25-7-605 as it existed prior to 1994, and the former 42-4-407 was relocated to 42-4-508.

#### **42-4-408. Operation of diesel inspection station.**

(1) (a) A licensed diesel inspection station shall issue a certification of diesel emissions control to a diesel vehicle only upon forms issued by the executive director.

(b) A certification of diesel emissions control shall be issued by a licensed diesel inspection station to a diesel vehicle only after the licensed diesel emission inspector performing the inspection determines that:

(I) The smoke opacity levels from the diesel vehicle comply with the applicable smoke opacity limits, in which case a certification of diesel emission compliance shall be issued;

(II) The smoke opacity levels from the diesel vehicle do not comply with the applicable smoke opacity limits after adjustment or repair required in accordance to commission rules have been performed, in which case a certification of diesel smoke opacity waiver shall be issued.

(2) Notwithstanding the provisions of subsection (1) of this section, no certification of diesel emissions control may be issued to a diesel vehicle of model year 1991 and newer if there is evidence of diesel emissions control system tampering.

(3) A licensed diesel emissions inspection station shall charge a fee as set by the commission for the inspection of any diesel vehicle pursuant to this section. Such fee shall be intended to encompass all costs related to the inspection, including those costs incurred by the inspection station, the department of revenue, and the department of public health and environment. No fee that is charged pursuant to this section shall exceed the posted hourly shop rate for one hour. Such fee shall be posted by the inspection station pursuant to regulations set by the commission. Personnel within the testing inspection station shall notify the owner of the diesel vehicle to be tested of the fee before commencing any testing activities.

**Source: L. 94:** Entire title amended with relocations, p. 2321, 1, effective January 1, 1995. **L. 2000:** (3) amended, p. 1764, 1, effective February 1, 2001.

**Editor's note:** This section is similar to former 25-7-606 as it existed prior to 1994, and the former 42-4-408 was relocated to 42-4-509.

#### **42-4-409. Improper representation of a diesel inspection station.**

(1) The executive director shall have the authority to suspend or revoke the diesel inspection license and unused certification of diesel emissions control forms held by a licensed inspection station for the following reasons:

- (a) The station is not equipped as required;
- (b) The station is not operating from a location for which licensure was granted;
- (c) The licensed location has been altered so that it no longer qualifies as a diesel inspection station;
- (d) Diesel inspections are not being performed with applicable laws, rules, or regulations of the commission or the executive director.

(2) The executive director shall also have authority to suspend or revoke the license of a diesel emissions inspector and require surrender of such license when the executive director determines that the inspector is not qualified to perform the diesel inspection or when inspections do not comply with applicable laws and the rules and regulations of the executive director or commission.

**Source: L. 94:** Entire title amended with relocations, p. 2321, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 25-7-607 as it existed prior to 1994, and the former 42-4-409 was relocated to 42-4-510.

#### **42-4-410. Inclusion in the diesel inspection program.**

(1) (a) Any home rule city, town, or county shall be included in the diesel inspection program set forth in this part 4 upon request by the governing body of such local government to the department of revenue and the department of public health and environment.

(b) When such a request is made, the departments and governing body shall agree to a start-up date for the diesel inspection program in such areas. Such a date shall be administratively practical and agreed to by the departments.

(c) On or after the dates agreed to pursuant to paragraph (b) of this subsection (1), diesel vehicles which are registered in the area shall be inspected and shall be required to comply with the provisions of this part 4 and rules and regulations adopted pursuant thereto as if such area was included in the program area.

(2) The executive directors of the departments of revenue and health and the commission shall perform all functions and exercise all phases related to the diesel emissions inspection program that they are otherwise required to perform under this part 4 in areas included in the program pursuant to this section.

**Source: L. 94:** Entire title amended with relocations, p. 2322, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 25-7-608 as it existed prior to 1994, and the former 42-4-410 was relocated to 42-4-106.

#### **42-4-411. Applicability of this part to heavy-duty diesel fleets of nine or more.**

Diesel-powered motor vehicles subject to the provisions of section 42-4-414 shall not be subject to the diesel emissions inspection program set forth in this part 4 unless the conditions set forth in section 42-4-414 (3) (c) have been met.

**Source: L. 94:** Entire title amended with relocations, p. 2322, 1, effective January 1, 1995.

**Editor's note:** This section is similar to former 25-7-609 as it existed prior to 1994, and the former 42-4-411 was relocated to 42-4-512.

#### **42-4-412. Air pollution violations.**

(1) (a) A person commits a class 2 petty offense, as specified in section 18-1.3-503, C.R.S., if the person causes or permits the emission into the atmosphere from:

(I) Any motor vehicle, including a motorcycle, powered by gasoline or any fuel except diesel of any visible air pollutant as defined in section 25-7-103 (1.5), C.R.S.;

(II) Any diesel-powered motor vehicle, of any visible air pollutant, as defined in section 25-7-103 (1.5), C.R.S., which creates an unreasonable nuisance or danger to the public health, safety, or welfare.

(b) Violations of this section may be determined by visual observations, including the snap acceleration opacity test, or by test procedures using opacity measurements.

(c) The provisions of paragraph (a) of this subsection (1) shall not apply to emissions caused by cold engine start-up.

(2) (a) The air quality control commission shall determine the minimum emission level of visible air pollutants from diesels which shall be considered to create an unreasonable nuisance or danger to the public health, safety, and welfare. Such minimum emission level shall be based on smoke levels attainable by correctly operated and maintained in-use diesel vehicles, considering altitude and other reasonable factors affecting visible smoke levels. In no case shall such level be less than twenty percent opacity when observed for five seconds or more. On

interstate highways, opacity may be observed for ten seconds. Standards for transient conditions with no time limit shall also be established. Not later than December 1, 1979, the division shall develop a training course and qualification test designed to enable peace officers and environmental officers to ascertain violations of such standards without reference to opacity levels and to distinguish between air pollutants as defined in section [25-7-103](#) (1.5), C.R.S., and steam or water vapor.

(b) (I) The Colorado state patrol of the department of public safety shall offer the training course and qualification test.

(II) (Deleted by amendment, L. 96, p. 1263, 171, effective August 7, 1996.)

(3) (a) This section shall apply only to motor vehicles intended, designed, and manufactured primarily for use in carrying passengers or cargo on roads, streets, and highways.

(b) Subparagraph (II) of paragraph (a) of subsection (1) of this section shall apply to all areas of the state except the program area, which program area shall be subject to section [42-4-413](#).

(4) (a) Effective January 1, 1980, the offense of causing air pollution pursuant to this section, upon conviction, is punishable by a fine of twenty-five dollars.

(b) Subsequent offenses involving the same motor vehicle within one year of a conviction under the provisions of paragraph (a) of this subsection (4), upon conviction, shall be punishable by a fine of one hundred dollars.

(c) Any owner who receives a citation under the provisions of this section may continue to use the vehicle for which the offense is alleged, without restriction, until such owner's conviction.

(d) Any fines collected pursuant to the provisions of this subsection (4) shall be divided in equal amounts and transmitted to the treasurer of the local jurisdiction in whose name the penalty was assessed and to the state treasurer for credit to the general fund.

**Source:** L. 94: Entire title amended with relocations, p. 2322, 1, effective January 1, 1995. L. 95: (1)(a) amended, p. 955, 12, effective May 25. L. 96: (2) amended, p. 1263, 171, effective August 7. L. 2002: IP(1)(a) amended, p. 1561, 366, effective October 1. L. 2003: (1)(b) and (4)(c) amended, p. 1025, 5, effective August 6. L. 2009: (3)(b) amended, (SB 09-003), ch. 322, p. 1720, 5, effective June 1.

**Editor's note:** This section is similar to former [18-13-110](#) as it existed prior to 1994.

**Cross references:** For the legislative declaration contained in the 1996 act amending subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending the introductory portion to subsection (1)(a), see section 1 of chapter 318, Session Laws of Colorado 2002.

#### **42-4-413. Visible emissions from diesel-powered motor vehicles unlawful - penalty.**

(1) (a) Effective January 1, 1987, no owner or operator of a diesel-powered vehicle shall cause or knowingly permit the emission from the vehicle of any visible air contaminants that exceed the emission level as described in section [42-4-412](#) (2) (a) within the program area.

(b) As used in this section:

(I) "Air contaminant" means any fume, odor, smoke, particulate matter, vapor, gas, or combination thereof, except water vapor or steam condensate.

(II) "Emission" means a discharge or release of one or more air contaminants into the atmosphere.

(III) "Opacity" means the degree to which an air contaminant emission obscures the view of a trained observer, expressed in percentage of the obscuration or the percentage to which transmittance of light is reduced by an air contaminant emission.

(IV) "Trained observer" means a person who is certified by the department of public health and environment as trained in the determination of opacity.

(2) (a) A police officer or other peace officer who is a trained observer, or an environmental officer employed by a local government and certified by the department of public health and environment to determine opacity, at any time upon reasonable cause, may issue a summons personally to the operator of a motor vehicle emitting visible air contaminants in violation of paragraph (a) of subsection (1) of this section.

(b) (I) Any owner or operator of a diesel-powered motor vehicle receiving the summons issued pursuant to paragraph (a) of this subsection (2) or mailed pursuant to subparagraph (II) of paragraph (d) of this subsection (2) shall comply therewith and shall secure a certification of opacity compliance from a state emissions technical center that such vehicle conforms to the requirements of this section. Said certification shall be returned to the owner or operator for presentation in court as provided in paragraph (c) of this subsection (2).

(II) A fee of not more than six dollars and fifty cents shall be charged by emission technical centers for a certification of opacity compliance inspection and the certificate of no-smoke. Such fee shall be transmitted to the state treasurer, who shall credit the same to the AIR account established in section [42-4-311](#) (3) (b).

(c) (I) Any owner who violates any provision of this section is guilty of a misdemeanor traffic offense and, upon conviction thereof, except as provided in subparagraph (II) of this paragraph (c), shall be punished by a fine of one hundred dollars, payable within thirty days after conviction.

(II) If the owner submits to the court of competent jurisdiction within thirty days after the issuance of the summons proof that the owner has disposed of the vehicle for junk parts or immobilized the vehicle and if the owner also submits to the court within such time the registration and license plates for the vehicle, the owner shall be punished by a fine of twenty-five dollars. If the owner wishes to relicense the vehicle in the future, the owner shall obtain the certification required in paragraph (b) of this subsection (2).

(d) (I) Any nonowner operator who violates any provision of this section is guilty of a misdemeanor traffic offense and, upon conviction thereof, except as provided in subparagraph (II) of this paragraph (d), shall be punished by a fine of one hundred dollars, payable within thirty days after conviction.

(II) If the operator submits to the court of competent jurisdiction within thirty days after the issuance of the summons proof that the operator was not the owner of the vehicle at the time the summons was issued and that the operator mailed, within five days after issuance thereof, a copy

of the notice and summons by certified mail to the owner of the vehicle at the address on the registration, the operator shall be punished by a fine of twenty-five dollars.

(e) Upon a showing of good cause that compliance with this section cannot be made within thirty days after issuance of the notice and summons, the court of competent jurisdiction may extend the period of time for compliance as may appear justified.

(f) The owner or operator, in lieu of appearance, may submit to the court of competent jurisdiction, within thirty days after the issuance of the notice and summons, the certification or proof of mailing specified in this subsection (2) together with the fine of twenty-five dollars.

(3) Any fine collected pursuant to the provisions of this section shall be transmitted to the treasurer of the local jurisdiction in which the violation occurred.

**Source: L. 94:** (1)(b)(IV) and (2)(a) amended, p. 2814, 592, effective July 1; entire title amended with relocations, p. 2324, 1, effective January 1, 1995. **L. 2009:** (1)(a) amended, (SB 09-003), ch. 322, p. 1720, 6, effective June 1.

**Editor's note:** (1) This section is similar to former 42-4-319 as it existed prior to 1994.

(2) Amendments to subsections (1)(b)(IV) and (2)(a) by House Bill 94-1029 were harmonized with Senate Bill 94-001, effective January 1, 1995.

#### **42-4-414. Heavy-duty diesel fleet inspection and maintenance program - penalty - rules.**

(1) The commission shall develop and implement, effective January 1, 1987, a fleet inspection and maintenance program for diesel-powered motor vehicles of more than fourteen thousand pounds gross vehicle weight rating. Regional transportation district buses, state, county, and municipal vehicles, and private diesel fleets shall participate in the program through self-certification inspection procedures as developed by the commission.

(2) (a) The commission shall promulgate rules that:

(I) Require owners of diesel-powered motor vehicles, registered in the program area, routinely operated in the program area, or principally operated from a terminal, maintenance facility, branch, or division located within the program area, and subject to the provisions of this section, to bring the vehicles into compliance with existing opacity standards set forth in section [42-4-412](#);

(II) Are strictly construed;

(III) Except as provided in paragraph (b.5) of this subsection (2), do not require more than normal and reasonable maintenance practices; and

(IV) Do not require additional fees or loaded mode testing equipment.

(b) Fleet owners shall test opacity standards on a periodic basis. Fleet owners shall use an opacity meter to test vehicles that are greater than ten model years old, but may use an automated opacity metering protocol to test vehicles that are less than or equal to ten model years old.

(b.5) As an alternative to automated or visual opacity testing, the commission may promulgate rules that establish an alternative method for operators of heavy-duty diesel vehicles to demonstrate compliance with opacity standards by following and submitting proof of exemplary maintenance practices. Any commission rules promulgated under this paragraph (b.5) must

contain eligibility requirements for enrollment of heavy-duty diesel vehicles in the alternative method, including when vehicles or fleets should be discontinued from enrollment.

(c) (I) Except as provided in subparagraph (II) of this paragraph (c), the commission shall exempt a new diesel vehicle enrolled in the fleet inspection and maintenance program from testing until the vehicle has reached its fourth model year or, if ownership of the vehicle is transferred after the vehicle has reached its third model year, until the date of the transfer of ownership.

(II) If a new diesel vehicle has a gross vehicle weight rating of at least twenty-six thousand pounds and is of a model year of 2014 or newer, the commission shall exempt the vehicle from testing until the vehicle has reached its sixth model year or, if ownership of the vehicle is transferred after the vehicle has reached its fifth model year, until the date of the transfer of ownership.

(d) The commission shall promulgate rules providing for the testing of diesel vehicles every:

(I) Twelve months unless subparagraph (II) of this paragraph (d) applies; or

(II) Twenty-four months if the vehicle is equal to or less than ten model years old.

(2.5) An owner of a fleet registered in the program area may certify to the executive director or the executive director's designee, in a form and manner required by the executive director, that a diesel vehicle registered in the program area is physically based and principally operated from a terminal, division, or maintenance facility outside the program area. Any diesel vehicle registered in the program area, but certified to be physically based and principally operated from a terminal, division, or maintenance facility outside the program area, is exempt from this section. The commission shall promulgate rules to administer this subsection (2.5).

(3) (a) and (b) (Deleted by amendment, L. 2003, p. 1023, 1, effective August 6, 2003.)

(c) On or after January 1, 1990, in addition to any other penalty set forth in this subsection (3), any owner who is subject to the provisions of this section and who commits an excessive violation of this section twice in a twelve-month period shall be subject to the provisions of this part 4. For purposes of this paragraph (c), "excessive violation" shall be that definition recommended by the governor's blue ribbon diesel task force in 1988 and thereafter adopted by the air quality control commission, or, if such task force does not make a recommendation, "excessive violation" shall be that definition adopted by the air quality control commission.

(4) As used in this section, "fleet" means nine or more diesel-powered motor vehicles.

**Source:** L. 94: (2) and (3)(b) amended, p. 2814, 593, effective July 1; entire title amended with relocations, p. 2325, 1, effective January 1, 1995. L. 2003: (1), (2), (3)(a), and (3)(b) amended, p. 1023, 1, effective August 6. L. 2004: (2)(c) amended, p. 253, 2, effective July 1. L. 2011: (2.5) added, (HB 11-1157), ch. 259, p. 1134, 1, effective August 10. L. 2013: (2) amended, (HB 13-1091), ch. 94, p. 300, 1, effective January 1, 2014. L. 2015: (2)(c) amended, (HB 15-1134), ch. 172, p. 542, 2, effective August 5.

**Editor's note:** (1) This section is similar to former 42-4-320 as it existed prior to 1994.

(2) Amendments to subsections (2) and (3)(b) by House Bill 94-1029 were harmonized with Senate Bill 94-001.