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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- DIESEL EMISSIONS RESOLUTION

Introduced By: Senators Moura, Jabour, Miller, Maselli, and Sosnowski

Date Introduced: February 15, 2007

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

SECTION 1. **Short title and purpose.** -- This act shall be known as and may be cited as "The Diesel Emissions Reduction Act of 2008." The general purposes of this act are:

(1) minimize human exposure to and health risks from diesel pollution between the calendar years 2008 and 2015;

(2) reduce health costs, missed school days, lost worker productivity and premature mortality linked to exposure to diesel particulate matter (PM), nitrogen oxides (NOx) and other diesel pollutants;

(3) achieve maximum feasible diesel particulate matter emissions reductions and diminished human exposure that is additional to the impact of federal diesel emission rules which focus mostly on new engines; and

(4) advance the state's climate protection goals and climate action plan by reducing the amount of black carbon pollution emitted by diesels.

SECTION 2. Title 31 of the General Laws entitled "MOTOR AND OTHER VEHICLES" is hereby amended by adding thereto the following chapter:

CHAPTER 47.3

THE DIESEL EMISSIONS REDUCTION ACT

31-47.3-1. Legislative findings. -- (a) Diesel emissions, due in large part to their high concentrations of particulate matter are associated with severe and multiple health risks to the citizens of Rhode Island, including increased risk of cancer, decreased lung function, aggravated

asthma, heart attacks and premature death.

(b) Diesel exhaust also contains nitrogen oxides which contribute to the formation of ground-level ozone, or smog. Although less damaging to health that diesel particulate matter, ozone may also cause a variety of respiratory problems, including aggravated asthma, decreases in lung capacity and increased susceptibility to respiratory illnesses. Rhode Island continues to be classified as a "serious-nonattainment area" for ozone.

(c) Diesel pollution has been positively linked to increases in the aggravation of asthma. Reducing diesel pollution may help to stem the tide of the asthma epidemic in Rhode Island. Rhode Island ranks third (3rd) in the U.S. for the worst asthma rates. More than one in ten (10) Rhode Islanders have asthma. Rhode Islanders pay about forty-one million dollars ($41,000,000) per year in asthma-associated health costs. Asthma is the most common chronic disease in children and responsible for the most school absences in Rhode Island.

(d) The EPA, recognizing the harmful effects of diesel emissions, issued new fuel and engine emission standards that will reduce particulate matter emissions from new engines ninety percent (90%) below previous levels. However, these regulations only address new engines, and since diesel engines last for decades, existing engines will survive to pollute at yesterday's emission standards for decades to come.

(e) The same technology that makes ninety percent (90%) reductions in emissions possible for new engines can be retrofitted onto existing engines. Around the country, several thousand school buses, transit buses, waste collection vehicles, and construction engines have been retrofitted with pollution control equipment, dramatically reducing pollution from these fleets.

(f) Several states and municipalities are adopting comprehensive emission control strategies and have dedicated funds to reducing emissions from diesel vehicles and equipment, including California, Texas, New Jersey, New York, Connecticut and Massachusetts.

(g) The 2005 Diesel Emissions Reduction Act (DERA), in the Federal Energy Act authorized two hundred million dollars ($200,000,000) per year for five (5) years to assist states in offsetting costs of diesel emission reduction technology. Rhode Island should act now to position itself to maximize matching dollars available through this program by establishing a Diesel Emission Reduction Program and Diesel Risk Mitigation Fund.

31-47.3-2. Use of ultra low sulfur diesel fuel and best available retrofit technology by the state. -- (a) For the purposes of this section only, the following terms shall have the following meanings:

(1) “Best available retrofit technology” means technology, verified by the United States

Environmental Protection Agency or California air resources board for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies that is applicable to the particular engine and application. Such technology shall in no event result in a net increase in the emission of nitrogen oxides.

(2) "Heavy duty vehicle" or "vehicle" means any on-road or nonroad vehicle powered by diesel fuel and having a gross vehicle weight of greater than fourteen thousand (14,000) pounds.

(3) "Ultra low sulfur diesel fuel" means diesel fuel having sulfur content of fifteen thousandths percent (.0015%) of sulfur or less.

(b) Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by or operating under contract to a state agency and state and regional public authority shall be powered by ultra low sulfur diesel fuel.

(c) Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by or operating under a contract to a state agency or state or regional public authority with more than half of its governing body appointed by the governor shall utilize best available retrofit technology for reducing the emission of pollutants. The director shall promulgate regulations for the implementation of this subdivision specifying procedures for compliance according to the following schedule:

(1) Not less than thirty-three percent (33%) of the vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2008.

(2) Not less than sixty-six percent (66%) of the vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2009.

(3) All vehicles covered by this subdivision shall employ best available retrofit technology on or before December 31, 2010.

(d) This subdivision shall not apply to:

(1) any vehicle subject to a lease or public works contract entered into or renewed prior to the effective date of this section;

(2) vehicles that are specially equipped for emergency response by a state authority, office of emergency management, sheriff’s office, police department or fire department, as well as timber harvesting equipment such as harvesters, wood chippers, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes, and farm equipment;

(3) any on-road vehicle sold as “new” in compliance with the US EPA’s 2007 Heavy-duty Highway Diesel Standards” promulgated by US EPA and published in the Federal Register

at 66 Fed. Reg. 5002 on January 18, 2001, or

(4) any nonroad vehicle sold as “new” in compliance with the US EPA's Tier 4 Nonroad Diesel Standards” promulgated by US EPA and published in the Federal Register at 69 Fed. Reg. 38958 on June 29, 2004.

(e) In addition to other provisions for regulations in this section, the director shall promulgate regulations as necessary and appropriate to carry out the provisions of this act including, but not limited to, provision of waivers upon written finding by the director that best available retrofit technology for reducing the emissions of pollutants as required by subdivision (c) of this section is not available for an individual vehicle or class of vehicles.

(f) This section shall not apply where federal law precludes the state from imposing the requirement of this section.

(g) On or before January 1, 2008 and every year thereafter, the director shall report to the governor and legislature on the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology as required under this section. The information contained in this report shall include, but not be limited to, for each state agency and public authority covered by this section:

(1) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority;

(2) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel;

(3) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority having a gross vehicle weight rating of more the fourteen thousand (14,000) pounds;

(4) the number of such vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle;

(5) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 Unites States Environmental Protection Agency standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent United States Environmental Protection Agency standard for particulate matter that is at least as stringent; and

(6) all waivers, findings, and renewals of such findings, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency and authority; specific information concerning the availability of ultra low sulfur diesel fuel.

(h) The department shall, to the extent practicable, coordinate with regions which have

proposed or adopted heavy duty emission inspection programs to promote regional consistency in such programs.

(i) Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

31-47.3-3. Use of diesel retrofit devices for waste haulers. -- (a) For the purposes of this section only, the following terms shall have the following meanings:

(1) "Level 2 control" means a verified diesel emission control device that achieves a particulate matter (PM) emission reduction of fifty percent (50%) or more compared to uncontrolled engine emission levels.

(2) "Level 3 control" means a verified diesel emission control device that achieves a particulate matter (PM) emission reduction of eighty-five percent (85%) or more compared to uncontrolled engine emission levels, or that reduces emissions to less than or equal to one one-hundredth (0.01) grams of PM per brake horsepower-hour. Level 3 control includes repowering or replacing the existing diesel engine with an engine meeting US EPA's 2007 Heavy-duty Highway Diesel Standards, or in the case of a nonroad engine, an engine meeting the US EPA's Tier 4 Nonroad Diesel Standards.

(b) Any diesel powered waste collection and recycling vehicle in model years between and including 1994 and 2006 that is owned, leased, or contracted to perform the removal or transfer of municipal waste, including residential or commercial waste, or recycling services shall utilize level 3 control retrofit technology for reducing the emission of pollutants. As of January 1, 2012, no waste collection or recycling vehicle in model years between and including 1994 and 2006 may be permitted to register without proper demonstration of the required level 3 control retrofit technology. The director shall promulgate regulations for the implementation of this subdivision specifying procedures for compliance according to the following schedule:

(1) Not less than twenty-five percent (25%) of the vehicles covered by this subdivision shall have level 3 control retrofit technology on or before December 31, 2008.

(2) Not less than fifty percent (50%) of the vehicles covered by this subdivision shall have level 3 control retrofit technology on or before December 31, 2009.

(3) Not less than seventy-five percent (75%) of the vehicles covered by this subdivision shall have level 3 control retrofit technology on or before December 31, 2010.

(4) All vehicles covered by this subdivision shall have level 3 control retrofit technology

on or before December 31, 2011.

(c) Any diesel powered waste collection and recycling vehicle in model years 1993 and earlier that is owned, leased, or contracted to perform the removal or transfer of municipal waste, including residential or commercial waste, or recycling services shall utilize level 2 control retrofit technology for reducing the emission of pollutants. As of January 1, 2012, no waste collection or recycling vehicle in model years 1993 and earlier may be permitted to register without proper demonstration of the required level 2 control retrofit technology. The director shall promulgate regulations for the implementation of this subdivision specifying procedures for compliance according to the following schedule:

(1) Not less than twenty-five percent (25%) of the vehicles covered by this subdivision shall have level 2 control retrofit technology on or before December 31, 2008.

(2) Not less than fifty percent (50%) of the vehicles covered by this subdivision shall have level 2 control retrofit technology on or before December 31, 2009.

(3) Not less than seventy-five (75%) of the vehicles covered by this subdivision shall have level 2 control retrofit technology on or before December 31, 2010.

(4) All vehicles covered by this subdivision shall have level 2 control retrofit technology on or before December 31, 2011.

(d) On or before January 1, 2008 and every year thereafter, the director shall report to the governor and legislature on the use of level 3 and level 2 control retrofit technology on waste collection and recycling vehicles required under this section. The information contained in this report shall include, but not be limited to:

(1) the total number of diesel fuel-powered waste collection and recycling vehicles covered by this section;

(2) the number of such diesel vehicles that were powered by ultra low sulfur diesel fuel;

(3) the total number of diesel fuel-powered waste collection and recycling vehicles having a gross vehicle weight rating of more the fourteen thousand (14,000) pounds;

(4) the number of such vehicles that were between and including model years 1994 and 2006;

(5) the number of such vehicles between and including model years 1994 and 2006 that utilized level 3 control retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle;

(6) the number of such vehicles in model years 1993 and earlier;

(7) the number of such vehicles in model years 1993 and earlier that utilized level 2 control retrofit technology, including a breakdown by motor vehicle model, engine year and the

type of technology used for each vehicle;

(8) the number of diesel waste collection and recycling vehicles that are equipped with an engine certified to the applicable 2007 Unites States Environmental Protection Agency standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent United States Environmental Protection Agency standard for particulate matter that is at least as stringent; and

(9) all waivers, findings, and renewals of such findings, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency and authority; specific information concerning the availability of ultra low sulfur diesel fuel.

(e) Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

31-47.3-4. Reducing emissions from school buses. -- (a) Purpose. To reduce health risks from diesel particulate matter (DPM) to Rhode Island school children by significantly reducing emissions in tailpipe emissions from school buses, and preventing engine emissions from entering the passenger cabin of the buses.

(b) Requirements for Rhode Island school buses:

(i) By September 1, 2008, no school bus with an engine model year 1993 or older may be used to transport school children in Rhode Island;

(ii) By September 1, 2010, all full-sized school buses transporting children in Rhode Island must be retrofitted with a closed crankcase filtration system and either: (A) be equipped with a level 1 (>25% PM reduction), level 2 (>50% PM reduction), or level 3 (>85% PM reduction) device verified by the US Environmental Protection Agency or the California Air Resources Board; or (B) be equipped with an engine of model year 2007 or newer; or (C) Use an alternative fuel verified by CARB/EPA to reduce DPM emissions at a level equivalent to subsection (B) above.

(c) Development of state procurement contracts.

(i) The Rhode Island department of administration (DOA) procurement division shall develop procurement contracts for: (A) the purchase of new buses compliant with MY2007 emission standards; (B) tailpipe emission control retrofits suitable for school buses; and (C) closed crankcase filtration systems;

(ii) All contracts must be made available to municipalities and private school bus operators, provided the contractor can demonstrate that the newly purchased school bus, or the retrofitted school bus affected by this provision will be in service in Rhode Island for at least four (4) years beginning the date of purchase;

(iii) Contracts must be available through Rhode Island's DOA's vendor information program (RIVIP) website, in a category that clearly identifies the product to municipalities and private school bus operators;

(iv) At least one bid must be developed for each CARB emission control device verification level: level 1, level 2, and level 3;

(v) At least one bid must be developed for a closed crankcase filtration system;

(vi) Rhode Island DEM and DOA shall develop an outreach plan and materials for educating school districts and bus companies about the new requirements and paths to compliance.

(d) State financial assistance to defray compliance costs:

(i) Notwithstanding any other provisions of the general laws, purchases of new school buses for use in Rhode Island, natural gas or diesel, of model years 2007-2010 are exempt from sales tax. The tax exemption provided in this subdivision shall expire on September 1, 2010;

(ii) Effective immediately, for school bus model years 1994-2005 only, the state shall provide incentive funding to school bus owners for the purchase and installation of any CARB/EPA-verified emission control retrofit device together with the purchase and installation of closed crankcase filtration system (CCFS) retrofit device. In 2007, the per-unit incentive shall not exceed one thousand and five hundred dollars ($1,500) for a level 1 device plus a CCFS or two thousand five hundred dollars ($2,500) for a level 2 or level 3 device plus a CCFS. Incentive levels may be reevaluated annually, with the goal of maintaining competition in the market for retrofit devices;

(iv) To receive incentive funding from the state, school bus owners must submit a form to the authorized state agency containing the bus model and year, engine model and year, VIN number, receipt for the retrofit device, and date installed for every eligible bus. Bus owners must also certify that newly purchased or retrofitted buses will operate in the state of Rhode Island for a minimum of four (4) years.

(e) Reporting, compliance and enforcement.

(i) Existing annual registration requirements of the Rhode Island division of motor vehicles (DMV) shall be amended to include documentation of compliance with emissions control requirements. Documentation of compliance shall include bus model and year, engine

model, year and VIN number, type of retrofit, date installed, date and amount of state rebate received. For school buses complying with the use of a clean fuel meeting requirements provided for in subdivision 31-47.3-5(b)(ii)(C), documentation must include clean fuel receipts (each delivery);

(ii) Annual mandatory safety inspections shall be supplemented with emission control compliance inspection; and

(iii) Civil penalties for noncompliance and additional penalties for making false claims shall be established. Penalty money should be directed into the Rhode Island diesel risk mitigation fund pursuant to subdivision 31-47.3-5(a)(3).

(f) Priority community provision:

(i) When penalty funds, state SEP funds, federal funds, or funds from other state or non-state sources become available, these should first be allocated toward further offsetting costs of achieving "best available" emissions control in "priority communities";

(ii) The "best available" standard is attained by all new buses (MY2007 and newer) and by diesel buses retrofitted with level 3 verified diesel particulate filters and closed crankcase filtration systems. A clean alternative fuel (such as natural gas) could also achieve an equivalent standard; and

(iii) "Priority communities" (to be identified by the Rhode Island DEM) are Rhode Island communities that have high levels of ambient air pollution and high incidence of childhood respiratory impacts.

31-47.3-5. Diesel emissions reduction funding program. -- (a) Fund. The Diesel Emissions Reduction Fund (the “fund”) is hereby established as an account in the state treasury.

(1) The fund shall be administered by the state treasurer for the benefit of the Diesel Emissions Reduction Funding Program (the "program") established under this section.

(2) Interest earned on the fund shall be credited to the fund.

(3) The fund consists of: (1) the contributions, fees, and surcharges under:(A) subsections 5-7; and (B) penalties and fees deposited in the fund pursuant with this act.

(4) Monies in the fund may be used only to implement the program, provided that a maximum of two percent (2%) of the money in the fund may be used for administrative costs incurred by the DEM and the state treasurer. Monies allocated to an eligible project but not expended in any fiscal year may be carried over to succeeding fiscal years.

(5) A surcharge is hereby imposed on the retail sale, lease, or rental of new nonroad diesel vehicles in an amount equal to one percent (1%) of the sales price or the lease or rental amount.

(6) A surcharge is hereby imposed on every retail sale, lease or rental of every heavy duty diesel vehicle that is of a model year of 1998 or earlier and that is sold or leased in this state. The amount of the surcharge is two and one-half percent (2.5%) of the total consideration.

(7) In addition to the registration fees charged under [applicable section of state law], a surcharge is hereby imposed on the registration of a heavy duty diesel vehicle under that section in an amount equal to ten percent (10%) of the total fees due for registration of such vehicle thereunder. Said surcharges shall be remitted to the state treasurer for deposit in the fund.

(8) The bonding authority is hereby authorized to issue up to ten million dollars ($10,000,000) annually before 2018 in bonds to be used solely to fund revolving loans to eligible diesel emission reduction projects as described in this section

(9) The state treasurer shall adopt any procedures needed for the collection, administration and enforcement of the surcharge authorized by this subsection, and shall deposit all surcharges to the credit of the fund.

(b) Establishment and administration of the program. DEM, in consultation with the state treasurer, shall establish by regulations promulgated pursuant to this act the Rhode Island Diesel Emissions Reduction Funding Program in accordance with this act.

(1) DEM shall administer the program and shall provide grants and low-cost revolving loans from the fund, on a competitive basis, to eligible projects to achieve significant reductions of diesel particulate emissions and/or reduced exposure to diesel particulate matter.

(2) In administering the program and in accordance with the requirements of this act, DEM shall:

(A) manage program funds and oversee the program;

(B) produce guidelines, protocols, and criteria for eligible projects;

(C) develop methodologies for evaluating project benefits and cost-effectiveness;

(D) develop procedures for monitoring whether the emissions reductions projected for projects awarded grants under this chapter are actually achieved;

(E) prepare reports regarding the progress and effectiveness of the program; and

(F) take all appropriate and necessary actions so that emissions reductions achieved through the program may be credited by US EPA to the appropriate emissions reduction objectives in the state implementation plan.

(c) Applications.

(1) To receive a grant or loan under the program, the applicant shall submit to DEM an application at a time, in a manner, and including such information DEM may require.

(2) An application under this subsection shall include:

(A) a description of the air quality of the area in which the project fleets will operate;

(B) a description of the project proposed by the applicant, including:

(i) any certified engine configuration or verified technology proposed to be used or funded in the project; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(C) an evaluation (using methodology approved by DEM) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(D) an estimate of the cost of the proposed project;

(E) a description of the age and expected lifetime control of the equipment to be used or funded in the proposed project;

(F) a description of the diesel fuel available in the areas to be served by the proposed project, including the sulfur content of the fuel;

(G) provisions for the monitoring and verification of the project; and

(H) such other information as may be required by DEM.

(d) Eligibility.

(1) A proposed project must meet the requirements of this section to be eligible for a grant or loan under the program.

(2) Vehicles subject to the provisions of section 39T and section 39U are not eligible for funding from the program.

(3) DEM may consider for funding the following types of projects:

(A) Installation of a retrofit technology, including any incremental costs of a repowered or new diesel engine, that significantly reduces particulate emissions through development and implementation of a certified engine configuration or a verified diesel emission control device for:

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a commercial marine engine;

(iv) a locomotive; or

(v) a nonroad diesel engine or vehicle used in construction, handling of cargo, including at a port or airport, agriculture, mining, or energy production; or

(B) programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described in subsection (A).

(4) In providing a grant or loan under the program, and subject to the provisions of

subsection (c), DEM shall give priority to otherwise eligible projects that, as determined by DEM:

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas:

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by DEM as:

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleet, including truck stops, ports, rail yards, terminals, and distribution centers; or

(iv) that use a community-based multi-stakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration or verified technology that has a long expected useful life;

(E) will maximize the useful life of any certified engine configuration or verified technology used or funded by the project; and,

(F) conserve diesel fuel

(5) For a proposed project to be eligible for program funding, other than a project involving a marine vessel or engine, not less than seventy-five percent (75%) of vehicle miles traveled or hours of operation projected for the five (5) years immediately following the award of a grant must be projected to take place in this state. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to this state for a sufficient amount of time over the lifetime of the project, as determined by DEM, to meet the cost-effectiveness requirements of subsection (e).

(6) Each proposed project must meet the cost-effectiveness requirements of subsection (e).

(7) A proposed project based on the use of a certified engine configuration or verified technology must document, in a manner acceptable to DEM, a reduction in particulate emissions of at least fifty percent (50%) compared with the baseline emissions adopted by DEM for the relevant engine year and application. After study of available emissions reduction technologies, after public notice and comment, DEM may revise the minimum percentage reduction in

particulate emissions required by this subsection to improve the ability of the program to achieve its goals.

(8) If a baseline emissions standard does not exist for on-road or non-road diesels in a particular category DEM, for purposes of this section, shall establish an appropriate baseline emissions level for comparison purposes.

(9) DEM may approve payments to offset the incremental cost, over the expected lifetime of the vehicle, of the use of qualifying fuel in a on-road or non-road diesel vehicle if the proposed project as a whole, including the incremental fuel cost, meets the requirements of this subchapter. DEM shall develop an appropriate method for converting incremental fuel costs over the lifetime of the non-road diesel into an initial cost for purposes of determining cost-effectiveness as required by subsection (e).

(e) Cost-effectiveness.

(1) For purposes of this section, "cost-effectiveness" means the total dollar amount divided by the total number of tons of particulate matter reduction attributable to that expenditure. In calculating cost-effectiveness, one-time grants of money at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by DEM, taking into account the interest rate on bonds, interest earned by state funds, and other factors DEM considers appropriate.

(2) DEM shall establish reasonable methodologies for evaluating project cost-effectiveness consistent with subsection (e)(1) and with accepted methods.

(3) Except as provided by subsection (e)(7), DEM may not award a grant for a proposed project the cost-effectiveness of which, calculated in accordance with subsections (e)(1) and (2) and criteria developed thereunder, exceeds one hundred thirty-five thousand dollars ($135,000) per ton of PM10 emissions. This subsection does not restrict DEM authority under other law to require emissions reductions with a cost-effectiveness that exceeds one hundred thirty-five thousand dollars ($135,000) per ton.

(4) DEM may not award a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project.

(5) DEM shall adopt guidelines for capitalizing incremental lease costs so those costs may be offset by a grant under this section.

(6) In determining the amount of a grant under this section, DEM shall reduce the incremental cost of a proposed new purchase, lease, retrofit, repower, or add-on equipment project by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial

assistance.

(7) Adjustment of cost-effectiveness. Based upon a study of available emissions reduction technologies and costs and after public notice and comment, DEM may change the values of the maximum grant award criteria established in subsection (e)(3) to account for inflation or to improve the ability of the program to achieve its goals.

SECTION 3. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- DIESEL EMISSIONS RESOLUTION

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This act would create the diesel emission reduction act.

This act would take effect upon passage

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