

Non-Conformance Penalties Proposed for 2004 Highway HDEs – On January 16, 2002 (67 FR 2159), the U.S. Environmental Protection Agency (EPA) proposed non-conformance penalties (NCPs) that would be available to manufacturers with heavy-duty diesel engines unable to meet the 2004 model year hydrocarbon plus nitrogen oxides emission standard (2.5 g/bhp-hr of NMHC+NOx). These penalties allow a manufacturer to produce and sell non-conforming engines upon payment of a penalty. The penalty, which is assessed on a per-engine basis, varies with the certified emission level for the engine family involved.

The actual penalties that a manufacturer could pay for each non-complying engine are determined by formulas that already exist in the federal regulations. The proposal specifies certain parameters that, when plugged into the formulas along with the emissions of the engine and the incorporation of other factors, will determine the amount a manufacturer must pay. Engine emissions may not exceed an upper limit designated in the proposed regulations. The table below provides some examples of the proposed calculated penalties at several emission rates.

Proposed Penalty Rates at Several Example Emission Levels¹

| NMHC+NOx Compliance Level (g/bhp-hr) | Heavy-Duty Service Class | | | |
|--------------------------------------|--------------------------|---------|----------|-----------|
| | Light | Medium | Heavy | Urban Bus |
| 2.5 | \$0 | \$0 | \$0 | \$0 |
| 3.0 | \$1,162 | \$1,170 | \$4,680 | \$3,185 |
| 3.5 | \$1,644 | \$2,340 | \$9,043 | \$5,042 |
| 4.0 | \$2,127 | \$3,759 | \$10,193 | \$6,081 |
| 4.5 | \$2,610 | \$6,870 | \$11,342 | \$7,120 |
| 6.0 | N/A | N/A | \$14,790 | N/A |

¹The proposed penalties are for exceedance of the 2.5 g/bhp-hr NMHC+NOx standard. They are expressed in 2001 dollars and are for the first year of non-compliance (the penalties increase with subsequent years).

In 1998, the Department of Justice and EPA announced settlements with some manufacturers of heavy-duty diesel engines that resolved claims that these manufacturers installed illegal emissions control defeat devices. These consent decrees specify penalties, based on non-compliance with the terms of the decrees, that are to be based on 2004 model year NCPs.

EPA will accept comments on the proposal until March 18th. A public hearing will be held February 15th at the Dulles Marriott Hotel near Washington, DC. For more information on the proposed rulemaking, go to <http://www.epa.gov/otaq/hd-hwy.htm>.