HOUSE DOCKET, NO. 3065 FILED ON: 1/21/2011

HOUSE . . . . . No. 2749

The Commonwealth of Massachusetts

PRESENTED BY:

Cheryl A. Coakley-Rivera

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the reduction of particulate emissions from diesel engines.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cheryl A. Coakley-Rivera	*10th Hampden*
Gale D. Candaras	
	☐ *[District]*
	☐

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By Ms. Coakley-Rivera of Springfield, a petition (accompanied by bill, House, No. 2749) of Cheryl A. Coakley-Rivera and Gale D. Candaras relative to the reduction of particulate emissions from Diesel engines. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *3440* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to the reduction of particulate emissions from diesel engines.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

30 of General Laws is hereby amended by adding, after Section 39S, the following new sections:—

Section 39T. Short title. This act shall be known as the "Diesel Emissions Reduction Act of 2009."

Section 39U. Legislative findings and purpose. The Legislature hereby finds and declares that:

The purpose of this act is to minimize the public health risks from exposure to diesel particulate emissions as expeditiously as practicable

Diesel exhaust particle pollution poses a clear and present health risk to the people of the Commonwealth. Diesel exhaust is a likely human carcinogen, and a prime contributor to airborne fine particle pollution that is linked to premature death and other serious cardiovascular and pulmonary problems such as heart attacks, abnormal heart rhythms, atherosclerosis, stroke, asthma attacks, permanent respiratory damage and retardation of lung growth in children.

The health impacts from diesel emissions especially affect children, the elderly and people with weakened immune systems.

16 Particularly high concentrations of diesel emissions often are found in densely populated,
17 urban areas, disproportionately impacting ethnic minorities and people of lower economic status.

18 Diesel exhaust also contains black carbon emissions, which contribute to global climate
19 change.

20 Practical, cost-effective measures to substantially reduce diesel particulate emissions are
21 available today, and can be applied to many existing diesel engines. The same technology that
22 limits diesel pollution from new diesel engines can be retrofitted onto existing engines or applied
23 in new replacement engines to reduce diesel emissions by 85% or better.

24 Section 39V. Definitions.

25 "Best available retrofit technology" means technology, verified by the United States

26 Environmental Protection Agency or California Air Resources Board (CARB) for
27 achieving reductions in particulate matter emissions at the highest classification level for diesel
28 emission control strategies that is applicable to the particular engine and application. Such
29 technology shall not result in a net increase in nitrogen oxides.

30 “CARB” means the California Air Resources Board.

31 “Certified engine configuration” means a new, rebuilt, or remanufactured engine
32 configuration—

33 that has been certified or verified by USEPA or CARB;

34 that meets or is rebuilt or remanufactured to a more stringent set of engine emissions
35 standards, as determined by DEP; and

36 in the case of a certified engine configuration involving the replacement of an existing
37 engine or vehicle, an engine configuration that replaced an engine that was removed from the
38 vehicle and returned to the supplier for remanufacturing to a more stringent set of engine
39 emissions standards or for scrappage.

40 “CMAQ” means the federal Congestion Mitigation and Air Quality Improvement
41 Program reauthorized by Congress in 2005 by Sections 1101, 1103 and 1808 of the Safe,
42 Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
43 (SAFETEA–LU) (Pub. L. 109–59, Aug. 10, 2005).

44 “Contractor” means any person that enters into a public works contract with a public
45 agency, or any person that enters into an agreement with such person or entity, to perform work
46 or provide labor or services related to such public works contract.

47 "Defective" means a condition in which an emission control system or component is
48 malfunctioning due to age, wear, mal-maintenance or design defects.

49 "DEP" means the Massachusetts Department of Environmental Protection.

50 "DERA" means the Diesel Emission Reduction Act, enacted by Congress as sections
51 791—797 of the Energy Policy Act of 2005 (Pub. L. 109–58, Aug. 8, 2005).

52 "Fleet" means one or more diesel vehicles or mobile or stationary diesel engines owned,
53 controlled or operated by the same person (and by any person that controls, is controlled by, or
54 has common control with such same person).

55 "Heavy-heavy duty diesel vehicle" means a motor vehicle with a gross vehicle
56 weight rating of at least 33,000 pounds that is powered by a diesel engine.

57 "Incremental cost" means the cost of a contractor's actions to comply with the
58 requirements of section 106(a)(4)(B) and (5)(B) of this act, less the baseline cost that would
59 otherwise be incurred by the applicant or contractor in the normal course of business.
60 Incremental costs may include added lease or fuel costs as well as capital costs.

61 "Level 1 Control" means a Verified Diesel Emission Control Device that achieves a
62 particulate matter (PM) emission reduction of 25% or more from uncontrolled engine emission
63 levels.

64 "Level 2 Control" means a Verified Diesel Emission Control Device that achieves a
65 particulate matter (PM) emission reduction of 50% or more from uncontrolled engine emission
66 levels.

67 "Level 3 Control" means a Verified Diesel Emission Control Device that achieves
68 a particulate matter (PM) emission reduction of 85% or more from uncontrolled engine emission
69 levels, or that reduces emissions to less than or equal to 0.01 grams of PM per brake horsepower-
70 hour. Level 3 Control includes repowering or replacing the existing diesel engine with an engine
71 meeting USEPA's 2007 Heavy-duty Highway Diesel Standards, or in the case of a nonroad
72 engine, an engine meeting the USEPA's Tier 4 Nonroad Diesel Standards; Level 3 Control also
73 includes new diesel engines meeting said USEPA emissions standards.

74 "Motor vehicle" means any self-propelled vehicle designed for transporting persons or
75 property on a street or highway, including an on-road diesel vehicle.

76 "Nonroad engine" means an internal combustion engine (including the fuel
77 system) that is used in a regulated nonroad vehicle.

78 "PM2.5" means particulate matter that is 2.5 micrometers or smaller in size.

79 “Primarily engaged in interstate commerce” means, with respect to a Regulated Highway
80 Diesel Vehicle, a vehicle that is not registered in the Commonwealth, is engaged in interstate
81 commerce, and during its life (or if longer than 3 years, the most recent 3 calendar years) has
82 operated for more than 50% of its travel miles outside of the Commonwealth, in accordance with
83 regulations promulgated by DEP pursuant to this act.

84 “Public agency” means a commonwealth, city, county, administration,
85 department, division, bureau, board or commission, or a corporation, institution or agency of
86 government, the expenses of which are paid in whole or in part from the public treasury.

87 “Public works contract” means a contract with a public agency for a construction
88 program or project involving the construction, demolition, restoration, rehabilitation, repair,
89 renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge;
90 a contract with a public agency regarding the preparation for any construction program or project
91 involving the construction, demolition, restoration, rehabilitation, repair, renovation, or
92 abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract
93 with a public agency for any final work involved in the completion of any construction program
94 or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or
95 abatement of any building, structure, tunnel, excavation, roadway, park or bridge.

96 “Regulated Highway Diesel Vehicle” means any of the following heavy-heavy duty
97 diesel vehicles having a model year 1994 through 2006 and operating within the Commonwealth
98 and not primarily engaged in interstate commerce, all as may be further defined in an inclusive
99 manner in regulations promulgated by DEP pursuant to this act:

100 commercial and transit buses;

101 waste haulers;

102 highway and other maintenance, construction and other trucks owned by or operated on
103 behalf of public agencies, including but not limited to dump trucks, graders and snow plows;

104 freight and cargo delivery trucks with central fleet maintenance or fueling locations
105 within the State; and

106 such other 1994-2006 model year heavy-heavy-duty highway diesel vehicles not
107 primarily engaged in interstate commerce as DEP may designate by regulation.

108 “Regulated Nonroad Vehicle” means a vehicle or equipment operating within the
109 Commonwealth that is powered by a nonroad engine, seventy-five horsepower and greater, and
110 that is a crawler, tractor, dozer, backhoe, or skid-steer loader, all as may be further defined in an
111 inclusive manner in regulations promulgated by DEP pursuant to this act.

112 “Retrofit” means to equip a diesel motor vehicle or nonroad vehicle with new particulate
113 emissions-reducing parts or technology verified by USEPA or CARB after manufacture of the
114 original engine.

115 “RMV” means the Massachusetts Registry of Motor Vehicles.

116 “Ultra low sulfur diesel fuel” means diesel fuel that has a sulfur content of no more than
117 fifteen parts per million.

118 “USEPA” means the United States Environmental Protection Agency.

119 “USEPA’s 2007 Heavy-duty Highway Diesel Standards” means those regulations
120 promulgated by USEPA and published in the Federal Register at 66 Fed. Reg. 5002 on January
121 18, 2001.

122 “USEPA’s Tier 4 Nonroad Diesel Standards” means those regulations promulgated by
123 USEPA and published in the Federal Register at 69 Fed. Reg. 38958 on June 29, 2004.

124 “Verified diesel emission control device” means:

125 an emission control device or strategy that has been verified to achieve a specified diesel
126 PM reduction by USEPA or CARB; or

127 replacement or repowering with an engine that is certified to specific PM emissions
128 performance by USEPA or CARB.

129 Section 39W. DEP Regulations.

130 Within one year of the effective date of this act, DEP shall, after written notice and public
131 hearing, promulgate regulations implementing the provisions of this act.

132 Section 39X. Reduction of on-road diesel emissions.

133 Level 3 Controls required. Except as provided in subsections (b), (c) and (d), on and
134 after January 1, 2013, no fleet owner or operator shall operate any Regulated Highway Diesel
135 Vehicle in the Commonwealth unless that vehicle has installed Level 3 controls and unless such
136 controls are properly maintained and functioning.

137 (b) Existing controls. Any Regulated Highway Diesel Vehicle that has operational

138 Level 1 Control installed prior to the effective date of this act shall have an additional two
139 years to meet the requirements of subsection (a), and any Regulated Highway Diesel Vehicle that
140 has operational Level 2 Control installed prior to the effective date of this act shall have an
141 additional four years to meet the requirements of subsection (a).

142 Small fleets. Any owner or operator of a fleet or fleets (including for the purpose of this
143 subsection any fleet or fleets owned or operated by related persons) consisting in the aggregate
144 of five or fewer Regulated Highway Diesel Vehicles, shall have an additional two years to
145 comply with the requirements of subsections (a), (b) and (d)(1).

146 Exemptions.

147 Level 2 Controls. Subsection (a) shall not apply to any Regulated Highway Diesel
148 Vehicle if DEP makes a written finding that no Verified diesel emissions control device with
149 Level 3 Controls exists for such vehicle, in which case such fleet owner or operator shall install
150 Level 2 Controls that are available and appropriate for such vehicle as determined by DEP.

151 Low-use Vehicles. Subsections (a), (b), and (d)(1) shall not apply to any Regulated
152 Highway Diesel Vehicle whose propulsion engine was operated in the Commonwealth for fewer
153 than 1,000 miles and less than 100 hours during the preceding calendar year, as confirmed by
154 engine operation data from a properly functioning odometer and non-resettable hour meter.

155 Emergency Vehicles. Subsections (a), (b), (d)(1) shall not apply to any vehicles that are
156 specially equipped and operated for emergency response by a state authority, offices of
157 emergency management, sheriff's office, police department or fire department.

158 (e) Penalties.

159 (1) Any owner or operator of a Regulated Highway Diesel Vehicle that is found by DEP
160 to be in noncompliance with this section shall be liable to pay a civil penalty in an amount
161 assessed by DEP not to exceed $5,000 per violation, with each day of noncompliance of each
162 vehicle constituting a separate violation, and may have the registration of said vehicle revoked
163 by RMV, all in accordance with regulations promulgated by DEP, and, as appropriate, RMV.

164 (2) Monies collected in penalties will be distributed 50% to the Diesel Emissions
165 Reduction Fund, 25% to DEP as the enforcing agency, and 25% to the ticketing agency, i.e. state
166 or local police.

167 (f) Sticker Display. Each regulated highway diesel vehicle subject to the provisions
168 of this section shall display a compliance sticker clearly and conspicuously indicating its
169 installed level of emissions control

170 (g) All emissions control technology shall be operated, maintained and serviced as
171 recommended by the manufacturer.

172 (h) Ultra low sulfur diesel highway fuel required. After the effective date of this act,
173 no person shall sell, deliver or distribute diesel fuel for diesel motor vehicles within the State
174 other than ultra-low sulfur diesel fuel, and no person shall operate a diesel motor vehicle within
175 the State using diesel fuel other than ultra low sulfur diesel fuel.

176 Section 39Y. Public Works Contracts Environmental Performance Specifications.

177 On and after six months following effective date of this act, any solicitation for a public
178 works contract, and any contract entered into as a result of such solicitation, shall include the
179 following specifications that all contractors shall comply with in the performance of such
180 contract:

181 Ultra low sulfur diesel fuel or an ultra low sulfur diesel blend with a sulfur content of 15
182 ppm or less shall be used in all diesel nonroad vehicles and heavy duty diesel vehicles;

183 All Regulated Nonroad Vehicles on site for more than three days during the project shall
184 install and operate:

185 a minimum of Level 1 Controls no later than January 1, 2011; and,

186 Level 3 Controls no later than January 1, 2013;

187 All heavy-heavy duty diesel vehicles on site for more than three days during the project
188 shall install and operate Level 3 Controls no later than January 1, 2011;

189 Each Regulated Nonroad Vehicle and heavy-heavy duty diesel vehicle on site shall
190 display a compliance sticker clearly and conspicuously indicating its installed level of emissions
191 control; and

192 All emissions control technology shall be operated, maintained and serviced as
193 recommended by the manufacturer.

194 (1) Any public works contract shall provide full or partial reimbursement from the public
195 works project funds for incremental costs incurred by eligible contractors that are necessary to
196 bring Regulated Nonroad Vehicle and heavy-heavy duty diesel vehicles used on that specific
197 project into compliance with the requirements of subsections (2)(A), and (B) and (3) for that
198 specific project; provided, however, that no reimbursement shall be payable for costs incurred
199 after 18 months following the applicable compliance date. Each relevant agency shall establish
200 annually, on January 1st, the reimbursement percentage to be applied to all of its public works
201 contracts for each calendar year beginning in 2010 through 2014. Eligible contractors shall
202 apply for such reimbursement providing such information as the public agency shall require.
203 Only one reimbursement shall be provided for each Regulated Nonroad Vehicle or heavy-heavy
204 duty diesel vehicle; expenditures shall not be eligible for reimbursement to the extent they were
205 incurred to bring such vehicle into compliance with a different provision of this act or any other
206 federal or state law or regulation, or if such expenditures have been previously reimbursed using
207 funds from any other public works contract or any other public agency, and each application for
208 reimbursement shall include appropriate contractor certifications concerning these prohibitions.

209 (2) The costs of compliance with subsection (a) that are reimbursed by the public agency
210 under subsection (b)(1) shall not be included in the project bid or considered by the public
211 agency in evaluating bids.

212 The public agency entering into a public works contract may elect to provide
213 reimbursement for retrofits of project Regulated Nonroad Vehicle and heavy-heavy duty diesel
214 vehicles authorized under subsection (b) in the form of rebates in amounts established by DEP
215 for particular types of vehicles; provided that DEP has established by regulation applicable
216 policies, procedures and safeguards for such rebates.

217 Any public works contract shall provide for enforcement of the contract provisions
218 required by subsection (a) and penalties for noncompliance of such provisions.

219 Subsections (a)(2) and (3) shall not apply to a Regulated Nonroad Vehicle or heavy-
220 heavy duty diesel vehicle where the involved public agency makes a written finding, which is
221 approved, in writing, by DEP, that no Verified diesel emissions control device with Level 3
222 Controls exists for such vehicle, in which case the vehicle may operate on the project site only if
223 it has been retrofit with Level 2 Controls that are available and appropriate for such vehicle as
224 determined by DEP; provided that if the involved public agency makes a written finding, which
225 is approved, in writing, by DEP, that no Verified diesel emissions control device with Level 2
226 Controls exists for such vehicle, said vehicle may operate on site once it has been retrofit with
227 such Level 1 Controls that are available and appropriate for such vehicle as determined by DEP.
228 All findings made pursuant to this subsection and information relating thereto shall be publicly
229 available, and DEP shall post them on its website.

230 Section 39Z. Diesel Emissions Reduction Funding Program

231 Fund. The Diesel Emissions Reduction Fund (the "Fund") is hereby established as an
232 account in the state treasury.

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

235 Interest earned on the fund shall be credited to the Fund.

236 The Fund consists of: (1) the contributions, fees, and surcharges under: (A) subsections
237 5-7 and 9; and (B) penalties and fees deposited in the Fund pursuant with this act.

238 Monies in the Fund may be used only to implement the Program, provided that a
239 maximum of two per cent of the money in the Fund may be used for administrative costs
240 incurred by the DEP and the state treasurer. Monies allocated to an eligible project but not
241 expended in any fiscal year may be carried over to succeeding fiscal years.

242 A surcharge is hereby imposed on the retail sale, lease, or rental of new nonroad diesel
243 vehicles in an amount equal to one per cent of the sales price or the lease or rental amount.

244 A surcharge is hereby imposed on every retail sale, lease or rental of every heavy duty
245 diesel vehicle that is of a model year of 1998 or earlier and that is sold or leased in this state.
246 The amount of the surcharge is 2.5% of the total consideration.

247 In addition to the registration fees charged under section 33 of Chapter 90, a surcharge is
248 hereby imposed on the registration of a heavy duty diesel vehicle under that section in an amount
249 equal to ten percent of the total fees due for registration of such vehicle there under. Said
250 surcharges shall be remitted to the state treasurer for deposit in the Fund.

251 The bonding authority is hereby authorized to issue up to $10,000,000 annually before
252 2018 in bonds to be used solely to fund revolving loans to eligible diesel emission reduction
253 projects as described in this section.

254 The Fund shall also consist of designated monies received by the State under DERA,
255 CMAQ, environmental penalties assessed by the director, supplemental environmental project
256 funds, and any other sources of revenue that may hereafter so be designated.

257 (10)The state treasurer shall adopt any procedures needed for the collection,

258 administration and enforcement of the surcharge authorized by this subsection, and shall
259 deposit all surcharges to the credit of the Fund.

260 Establishment and Administration of the Program. DEP, in consultation with the state
261 treasurer, shall establish by regulations promulgated pursuant to this act the Massachusetts
262 Diesel Emissions Reduction Funding Program in accordance with this act.

263 DEP shall administer the Program and shall provide grants and low-cost revolving loans
264 from the Fund, on a competitive basis, to eligible projects to achieve significant reductions of
265 diesel particulate emissions and/or reduced exposure to diesel particulate matter.

266 In administering the Program and in accordance with the requirements of this act, DEP
267 shall:

268 manage Program funds and oversee the Program;

269 produce guidelines, protocols, and criteria for eligible projects;

270 develop methodologies for evaluating project benefits and cost-effectiveness;

271 develop procedures for monitoring whether the emissions reductions projected for
272 projects awarded grants under this chapter are actually achieved;

273 prepare reports regarding the progress and effectiveness of the Program; and

274 take all appropriate and necessary actions so that emissions reductions achieved through
275 the Program may be credited by USEPA to the appropriate emissions reduction objectives in the
276 state implementation plan.

277 Applications.

278 To receive a grant or loan under the Program, the applicant shall submit to DEP an
279 application at a time, in a manner, and including such information DEP may require.

280 An application under this subsection shall include--

281 a description of the air quality of the area in which the project fleets will operate;

282 a description of the project proposed by the applicant, including--

283 any certified engine configuration or verified technology proposed to be used or funded
284 in the project; and

285 the means by which the project will achieve a significant reduction in diesel emissions;

286 an evaluation of the quantifiable and unquantifiable benefits of the emissions reductions
287 of the proposed project;

288 an estimate of the cost of the proposed project;

289 a description of the age and expected lifetime control of the equipment to be used or
290 funded in the proposed project;

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

293 provisions for the monitoring and verification of the project; and

294 such other information as may be required by DEP.

295 Eligibility.

296 A proposed project must meet the requirements of this section to be eligible for a grant or
297 loan under the Program.

298 DEP may consider for funding the following types of projects --

299 Installation of a retrofit technology, including any incremental costs of a repowered or
300 new diesel engine, that significantly reduces particulate emissions through development and
301 implementation of a certified engine configuration or a verified diesel emission control device
302 for (i) a bus; (ii) a medium-duty truck or a heavy-duty truck; (iii) a commercial marine engine;

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

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

307 In providing a grant or loan under the Program, and subject to the provisions of
308 subsection (c), DEP shall give priority to otherwise eligible projects that, as determined by DEP-
309 -

310 maximize public health benefits;

311 are the most cost-effective;

312 serve areas (i) with the highest population density;(ii) that are poor air quality areas,
313 including areas identified by DEP as in nonattainment or maintenance of national ambient air
314 quality standards for a criteria pollutant, Federal Class I areas; or areas with toxic air pollutant
315 concerns; (iii) that receive a disproportionate quantity of air pollution from a diesel fleets,
316 including truckstops, ports, rail yards, terminals, and distribution centers; or (iv) that use a
317 community-based multistakeholder collaborative process to reduce toxic emissions;

318 include a certified engine configuration or verified technology that has a long expected
319 useful life;

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

322 conserve diesel fuel

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

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

331 A proposed project based on the use of a certified engine configuration or verified
332 technology must document, in a manner acceptable to DEP, a reduction in particulate emissions
333 of at least 50 percent compared with the baseline emissions adopted by DEP for the relevant
334 engine year and application. After study of available emissions reduction technologies, after
335 public notice and comment, DEP may revise the minimum percentage reduction in particulate
336 emissions required by this subsection to improve the ability of the program to achieve its goals.

337 If a baseline emissions standard does not exist for on-road or non-road diesels in a
338 particular category DEP, for purposes of this section, shall establish an appropriate baseline
339 emissions level for comparison purposes.

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

346 Cost-effectiveness

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

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

355 Except as provided by subsection (e)(7), DEP may not award a grant for a proposed
356 project the cost-effectiveness of which, calculated in accordance with subsections (e)(1) and (2)
357 and criteria developed thereunder, exceeds $135,000 per ton of PM10 emissions. This
358 subsection does not restrict DEP authority under other law to require emissions reductions with a
359 cost-effectiveness that exceeds $135,000 per ton.

360 DEP may not award a grant that, net of taxes, provides an amount that exceeds the
361 incremental cost of the proposed project.

362 DEP shall adopt guidelines for capitalizing incremental lease costs so those costs may be
363 offset by a grant under this section.

364 In determining the amount of a grant under this section, DEP shall reduce the incremental
365 cost of a proposed new purchase, lease, retrofit, repower, or add-on equipment project by the
366 value of any existing financial incentive that directly reduces the cost of the proposed project,
367 including tax credits or deductions, other grants, or any other public financial assistance.

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

372 Section 39AA. Miscellaneous.

373 Reporting. Persons subject to this act, including owners and operators of Regulated
374 Highway Diesel Vehicles and Regulated Nonroad Vehicles, shall provide such information,
375 reporting and monitoring as DEP may require by regulations promulgated pursuant to this act for
376 the purpose of implementing the provisions of this act.

377 Equitable Relief Authorized. In addition to other remedies provided in this act, DEP may
378 seek injunctive relief in any court of competent jurisdiction to enforce any provision of this act.

379 Severability. If any clause, sentence, paragraph, section or provision of this act shall be
380 adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,
381 impair or invalidate the remainder of this act, but shall be confined in its operation to the clause,
382 sentence, paragraph, section or provision of this act directly involved in the controversy in which
383 the judgment shall have been rendered.

384 Effective Date. This act shall take effect immediately upon enactment.