

## Subchapter XI. Low Emission Vehicle Program.

### 5-1101 DEFINITIONS

The terms defined in this section shall apply to this subchapter only, and for purposes of this subchapter shall supersede definitions contained in any other regulation or in statutes. The definitions contained in *Air Pollution Control Regulations* § 5-101 shall govern in the absence of a superseding definition in this section.

- (a) "*California-certified*" means approved by CARB for sale in California.
- (b) "CARB" means the California Air Resources Board.
- (c) "*Dealer*" means any person engaged in the business of selling, offering to sell, soliciting or advertising the sale of *new vehicles* who holds a valid sales and service agreement, franchise or contract, granted by the *manufacturer* or distributor for the retail sale of said *manufacturer's* or distributor's *new vehicles*.
- (d) "*Emergency Vehicle*" means any authorized *vehicle* publicly owned and operated that is used by a peace officer, used for fighting fires or responding to emergency fire calls, used by emergency medical technicians or paramedics, used for towing or servicing other *vehicles*, or used for repairing damaged lighting or electrical equipment.
- (e) "*Emission Control Labels*" means a paper, plastic, metal or other permanent material, welded, riveted or otherwise permanently attached to an area within the engine compartment (if any), or to the engine, in such a way that it will be visible to the average person after installation of the engine in all *new vehicles* certified for sale in California, in accordance with Title 13, California Code of Regulations Section 1965.
- (f) "*Fleet Average Emission*" means a *vehicle manufacturer's* average *vehicle* emissions of all greenhouse and non-methane organic gases from all *new vehicles* delivered for sale or lease in Vermont in any *model-year*.
- (g) "Greenhouse gas" means the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.
- (h) "GHG Credit" means *greenhouse gas credit*.
- (i) "*Light-duty Truck*" means any 2000 and subsequent model *vehicle* certified to standards in Title 13, California Code of Regulations Section 1961(a)(1) rated at 8500 pounds gross *vehicle* weight or less, and any other *vehicle* rated at 6000 pounds gross *vehicle* weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a *vehicle*, or is available with special features enabling off-street or off-highway operation and use.

- (j) "Manufacturer" means any small, intermediate or large volume *vehicle manufacturer* as defined in Title 13, California Code of Regulations Section 1900.
- (k) "Medium-duty passenger vehicle" means any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:
  - (1) is an "incomplete truck," i.e., a truck that does not have the primary load carrying device or container attached; or
  - (2) has a seating capacity of more than 12 persons; or
  - (3) is designed for more than 9 persons in seating rearward of the driver's seat; or
  - (4) is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area, for purposes of this definition.
- (l) "Medium-duty Vehicle" means any 2000 through 2006 *model-year* heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission *vehicle* certified to the standards in Title 13, California Code of Regulations Sections 1956.8 (g) or (h) or 1960.1(h)(2), having a *manufacturer's gross vehicle weight* rating of 14,000 pounds or less; any 2000 through 2003 *model-year* heavy duty *vehicle* certified to the standards in Title 13, California Code of Regulations Section 1960.1(h)(1) having a manufacturer gross vehicle weight rating of 14,000 lbs. or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Title 13, California Code of Regulations Sections 1956.8 (g) or (h), 1961(a)(1) or 1962 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.
- (m) "Model-year" means, for each vehicle manufacturer the period which begins January 1 of the calendar year in which the model is first offered for sale and ends December 31 of the final calendar year of sale or, if the manufacturer has no annual production period, the calendar year. In case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.
- (n) "New Vehicle" means any vehicle with 7,500 miles or fewer on its odometer.
- (o) "NMOG Credit" means non-methane organic gas credit.
- (p) "Passenger Car" means any vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.
- (q) "PZEV Credit" means partial zero emission vehicle credit.

- (r) "Recall" means:
  - (1) the issuing of notices directly to consumers that vehicles in their possession or control should be corrected, and/or
  - (2) efforts to actively locate and correct vehicles in the possession or control of consumers.
- (s) "Smog Index Label" means a decal securely affixed by the manufacturer to a window of all passenger cars and light-duty trucks which discloses the smog index for the vehicle in accordance with Title 13, California Code of Regulations Section 1965.
- (t) "VECs" means vehicle equivalent credits.
- (u) "Vehicle" means a motor vehicle.
- (v) "ZEV Credit" means zero emission vehicle credit.

#### **5-1102 INCORPORATION BY REFERENCE**

- (a) This subchapter incorporates by reference certain sections of Title 13, California Code of Regulations. Appendix F lists the sections Title 13, California Code of Regulations incorporated by reference and the respective amended date for each section. The sections of Title 13, California Code of Regulations incorporated by reference in this subchapter are the version of the section as of the amended date in Appendix F.
- (b) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate, "California" shall mean "Vermont". For example, "delivered for sale in California" and "placed in service" are interpreted, except for determinations of whether a manufacturer is a large, medium, small or independent low volume manufacturer, as referring to vehicles in "Vermont".

#### **5-1103 NEW VEHICLE EMISSION REQUIREMENTS**

- (a) No person, including a *manufacturer* or *dealer*, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, acquire, receive, purchase, or rent a *new vehicle* that is a 2000 or subsequent *model-year passenger car* or *light-duty truck* or a 2004 or subsequent *model-year medium-duty vehicle* in Vermont unless the *vehicle* is *California-certified* and complies with the following criteria:
  - (1) the exhaust emissions standards in Title 13, California Code of Regulations Sections 1956.8(g) or (h), 1960.1, 1961(a) or 1962(a), and
  - (2) the *emission control label* and for 2002 or subsequent *model-years*, the *smog index label* requirements, in accordance with Title 13, California Code of Regulations Section 1965, and

- (3) the evaporative emissions standards in Title 13, California Code of Regulations Sections 1976, and
  - (4) the refueling emissions standards in Title 13, California Code of Regulations Section 1978, and
  - (5) the malfunction and diagnostic system requirements in Title 13, California Code of Regulations Section 1968.1, and
  - (6) the assembly-line testing procedure requirements in Title 13, California Code of Regulations Section 2062, and
  - (7) the specifications for fill pipes and openings of motor *vehicle* fuel tanks in Title 13, California Code of Regulations Section 2235.
- (b) No person, including a *manufacturer* or *dealer*, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, acquire, receive, purchase, or rent a *new* 2009 or subsequent *model-year passenger car, light-duty truck, or a medium-duty passenger vehicle* in Vermont unless the *vehicle* is *California-certified* and complies with the California *greenhouse gas* exhaust emission standards and meets all other applicable requirements of California Code, Title 13, Section 1961.1 and this Subchapter.
- (c) Subsection 5-1103(a) shall not apply to a *new vehicle*:
- (1) defined as an *emergency vehicle*;
  - (2) with a right-hand drive configuration that is not available in a *California-certified* model, purchased by a rural route postal carrier and used primarily for work;
  - (3) designed exclusively for off-highway use; or
  - (4) certified to standards promulgated pursuant to the authority contained in 42 U.S.C. Section 7521 and which is in the possession of a vehicle rental agency in Vermont and is next rented with a final destination outside of Vermont.
- (d) Subsection 5-1103(a) shall not apply to new vehicles in the following transactions:
- (1) a transfer by court decree;
  - (2) a transfer by inheritance;
  - (3) a purchase by a nonresident prior to establishing residency in Vermont; or
  - (4) a sale for the purpose of being wrecked or dismantled.

**5-1104 WARRANTY**

- (a) For all 2000 and subsequent model-year California-certified vehicles delivered for sale or lease in Vermont, each manufacturer shall provide a warranty for the ultimate purchaser and each subsequent purchaser that complies with the requirements of Title 13, California Code of Regulations Sections 2035 through 2038, 2040 and 2046.
- (b) For 2002 and subsequent model-years, each manufacturer shall include the emission control system warranty statement required by Title 13, California Code of Regulations Sections 2039, modified by some means (e.g. printed within the text or a sticker) to clearly inform Vermont owners of California-certified vehicles that the California Warranty applies to the vehicle. This statement shall provide a telephone number appropriate for Vermont.

**5-1105 RECALL**

- (a) For all 2000 and subsequent model-year California-certified vehicles registered in Vermont, each manufacturer shall undertake an action equivalent to that which is required by any order or enforcement action taken by CARB, or any voluntary or influenced emission related recall initiated by any manufacturer pursuant to Title 13, California Code of Regulations Sections 2101 through 2120, 2122 through 2133, and 2135 through 2149, unless within 30 days of CARB approval of said recall, the manufacturer demonstrates to the Agency that such recall is not applicable to vehicles registered in Vermont. Each manufacturer must send to owners of Vermont registered California-certified vehicles the same notice that is used for California owners required by Title 13, California Code of Regulations Sections 2118 or 2127, except that it should contain a telephone number appropriate for Vermont.

**5-1106 MANUFACTURER FLEET REQUIREMENTS.**

- (a) Each manufacturer shall meet the following fleet requirements for the new vehicles delivered for sale or lease in Vermont.
  - (1) Effective for 2004 and subsequent model-years, each manufacturer shall comply with the fleet average emission requirements and, for 2000 and subsequent model-years, may earn and bank NMOG credits, both in accordance with Title 13, California Code of Regulations Section 1961, except NMOG credits earned prior to model-year 2004 shall be treated as though they were earned in model-year 2004.
  - (2) Each manufacturer shall comply with the medium-duty vehicle phase-in requirements and, for 2004 and subsequent model-years, may earn and bank VECs, both in accordance with Title 13, California Code of Regulations Section 1961, except VECs earned prior to model-year 2007 shall be treated as though they were earned in model-year 2007.

Starting with MY 2007, all medium-duty vehicles must be LEV II certified in accordance with Title 13, California Code of Regulations Section 1961.

- (3) Effective for 2004 and subsequent model years, each manufacturer shall comply with the LEV II phase-in requirements, in accordance Title 13, California Code of Regulations Section 1961.
- (4) Effective for 2007 and subsequent model year vehicles, each manufacturer shall comply with the Zero Emission Vehicle sales requirement and, for 2000 and subsequent model year vehicles, may earn and bank ZEV and PZEV credit, both in accordance Title 13, California Code of Regulations Section 1962.
- (5) Effective for the 2009 and subsequent *model-year passenger cars, light-duty trucks, and medium-duty passenger vehicles*, each *manufacturer* shall comply with the *fleet average emission greenhouse gas* requirements, and for 2000 and subsequent *model-years* may earn and bank *GHG credits*, both in accordance with Title 13, California Code of Regulations Section 1961.1.
- (6) If the ZEV and PZEV credit provisions in Title 13, California Code of Regulations Section 1962 or the GHG provisions in Title 13, California Code of Regulations Section 1961.1 are changed, application of the revised credit provisions will be taken into account in any enforcement decisions regarding compliance with the sales requirement imposed by paragraph (4).

#### **5-1107 MANUFACTURER REPORTING REQUIREMENTS**

(a) Delivery Reporting.

- (1) Commencing with the 1999 model-year for passenger cars and light-duty trucks and the 2000 model-year for medium-duty vehicles, each manufacturer shall submit annually, to the Agency, by March 1 following the end of each model-year, a report, itemized by test group and emissions standard, documenting total new vehicles delivered for sale or lease in Vermont.

(b) Fleet Reporting.

- (1) Each manufacturer shall submit annually to the Agency, by March 1 following the end of each model-year, a report, itemized by test group and emissions standard, that demonstrates that the manufacturer has met the fleet requirements of subsection 5-1106(a) in Vermont.

- (2) For 2000 and subsequent model-year passenger cars and light-duty trucks and for 2004 and subsequent model-year medium-duty vehicles, each manufacturer shall submit by March 1 of the model-year, a report, itemized by test group, emissions standard, and California Executive Order, projecting the manufacturer's compliance with the model-year fleet requirements of subsection 5-1106(a) in Vermont. Manufacturers shall supply copies of CARB certification of test groups and Executive Orders in advance of projected sales.
- (3) If a manufacturer wants to bank VECs or GHG, NMOG, ZEV or PZEV credits, the manufacturer shall submit annually, by March 1 following the end of the model-year, a report which demonstrates that such manufacturer has earned VECs or GHG, NMOG, ZEV or PZEV credits in Vermont. Credits are to be calculated to three (3) decimal places.

(c) Recall Reporting.

- (1) For information and not for approval by Vermont, for 2000 and subsequent model-year vehicles, each manufacturer shall submit, within 30 days of CARB approval, a copy of any CARB approved voluntary, influenced or ordered recall plan specified by Title 13, California Code of Regulations Sections 2114 and 2125, supplemented with the number of affected vehicles registered in Vermont.
- (2) For information and not for approval by Vermont, each manufacturer shall submit recall campaign progress reports for vehicles registered in Vermont, within the timelines of, and containing the information required by, Title 13, California Code of Regulations Sections 2119 and 2133. Reports need not be submitted to the Agency if the equivalent reports have been waived by CARB.

(e) Documentation.

A manufacturer, a dealer or a transporter of new vehicles shall, upon request, provide to the Agency of Natural Resources or the Agency of Transportation any documentation which either Agency determines to be necessary for the effective administration and enforcement of this subchapter.

- (f) Reports and other information required by this subsection must be sent to: Director, Air Pollution Control Division, Vermont Agency of Natural Resources, Department of Environmental Conservation, Building 3 South, 103 South Main Street, Waterbury, Vermont, 05671-0402.

**5-1108 INSPECTIONS**

- (a) The Secretary of the Agency of Natural Resources or the Secretary of the Agency of Transportation or their designees may conduct inspections of any new and used vehicles and any related documentation for the purpose of determining compliance with the requirements of this subchapter.
  - (1) Inspections may be conducted on any conveyance used to transport new vehicles or on any premises owned or controlled by any dealer or manufacturer.
  - (2) Inspections may extend to all emission-related parts and may require the on-premises operation and testing of an engine or vehicle.
  - (3) Inspections may include functional tests and other tests as necessary to verify compliance with this subchapter.
- (b) Upon request, during an inspection, such dealer or manufacturer must make available to either Agency any related records, including records documenting vehicle origin, certification, delivery, or sales and records of emission related part repairs performed under warranty.

**5-1109 SEVERABILITY**

Each provision of this Subchapter is severable, and in the event that any provision of this Subchapter is held to be invalid, the remainder of the Subchapter shall continue in full force and effect.

**Appendix F**

Title 13 CCR	Title	Section Amended Date
Chapter 1	<i>Motor Vehicle Pollution Control Devices.</i>	
Article 1	General Provisions.	
1900	Definitions.	9/15/05; operative 1/1/06
Article 2	<i>Approval of Motor Vehicle Pollution Control Devices (New Vehicles).</i>	
1956.8(g) and (h)	Exhaust Emissions Standards and Test Procedures – 1985 and Subsequent Model Heavy-Duty Engines and Vehicles.	11/17/02
1960.1	Exhaust Emissions Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles.	10/16/02
1961	Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.	9/15/05; operative 1/1/06

1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.	9/15/05; operative 1/1/06
1962	Zero-Emission <i>Vehicle</i> Standards for 2005 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</i> .	12/19/03 [Adoption date]
1965	Emission Control and Smog Index Labels - 1979 and Subsequent <i>Model-Year Motor Vehicles</i> .	01/23/01
1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent <i>Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</i> and Engines.	11/27/99
1976	Standards and Test Procedures for Motor <i>Vehicle</i> Fuel Evaporative Emissions.	11/27/99
1978	Standards and Test Procedures for <i>Vehicle</i> Refueling Emissions.	11/27/99
Article 6	Emission Control System Warranty.	
2035	Purpose, Applicability, and Definitions.	12/26/90
2036	Defects Warranty Requirements for 1979 Through 1989 Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</i> ; 1979 and Subsequent Model Motorcycles and Heavy-Duty <i>Vehicles</i> ; and Motor <i>Vehicle</i> Engines Used in Such <i>Vehicles</i> .	5/15/99
2037	Defects Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</i> , and Motor <i>Vehicle</i> Engines Used in Such <i>Vehicles</i> .	11/27/99
2038	Performance Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles</i> and Motor <i>Vehicle</i> Engines Used in Such <i>Vehicles</i> .	11/27/99
Title 13 CCR	Title	Section Amended Date
2039	Emissions Control System Warranty Statement.	12/26/90
2040	<i>Vehicle</i> Owner Obligations.	12/26/90
2046	Defective Catalyst.	1/16/79 *

Chapter 2	Enforcement of <i>Vehicle</i> Emission Standards and Surveillance Testing.	
Article 1	Assembly-Line Testing.	
2062	Assembly-Line Test Procedures - 1998 and Subsequent <i>Model-years</i> .	11/27/99
Article 2	Enforcement of New and In-Use <i>Vehicle</i> Standards.	
2101	Compliance Testing and Inspection - <i>New Vehicle</i> Selection, Evaluation and Enforcement Action.	11/27/99
2109	<i>New Vehicle Recall</i> Provisions.	11/30/83 *
2110	Remedial Action for Assembly-Line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 <i>Model-year</i> .	11/27/99
Article 2.1	Procedures for In-Use <i>Vehicle</i> Voluntary and Influenced <i>Recalls</i> .	
2111	Applicability.	8/21/02
2112	Definitions.	8/21/02
	Appendix A to Article 2.1.	8/21/02
2113	Initiation and Approval of Voluntary and Influenced Emission-Related <i>Recalls</i> .	1/26/95
2114	Voluntary and Influenced <i>Recall</i> Plans.	11/27/99
2115	Eligibility for Repair.	1/26/95
2116	Repair Label.	1/26/95
2117	Proof of Correction Certificate.	1/26/95
2118	Notification.	1/26/95
2119	Recordkeeping and Reporting Requirements.	11/27/99
2120	Other Requirements Not Waived.	1/26/95
Article 2.2	Procedures for In-Use <i>Vehicle</i> Ordered <i>Recalls</i> .	
2122	General Provisions.	1/26/95
2123	Initiation and Notification of Ordered Emission-Related <i>Recalls</i> .	1/26/95
2124	Availability of Public Hearing.	1/26/95
2125	Ordered <i>Recall</i> Plan.	1/26/95
2126	Approval and Implementation of <i>Recall</i> Plan.	1/26/95
2127	Notification of Owners.	1/26/95
2128	Repair Label.	1/26/95
2129	Proof of Correction Certificate.	1/26/95
2130	Capture Rates and Alternative Measures.	11/27/99
2131	Preliminary Tests.	1/26/95
2132	Communication with Repair Personnel.	1/26/95
2133	Recordkeeping and Reporting Requirements.	1/26/95
2135	Extension of Time.	1/26/95
Article 2.3.	In-Use <i>Vehicle</i> Enforcement Test Procedures.	
2136	General Provisions.	1/26/95

2137	Vehicle Selection.	12/28/00
2138	Restorative Maintenance.	11/27/99
2139	Testing.	8/21/02
2140	Notification and Use of Test Results.	8/21/02
Article 2.4	Procedures for Reporting Failure of Emission-Related Components.	
2141	General Provisions.	12/28/00
2142	Alternative Procedures.	2/23/90
2143	Failure Levels Triggering <i>Recall</i> .	11/27/99
2144	Emission Warranty Information Report.	11/27/99
2145	Field Information Report.	11/27/99
2146	Emissions Information Report.	11/27/99
2147	Demonstration of Compliance with Emission Standards.	8/21/02
2148	Evaluation of Need for <i>Recall</i> .	11/27/99
2149	Notification of Subsequent Action.	2/23/90
Chapter 4.4	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks	
2235	Requirements.	9/17/91

\* file date, effective 30 days later