

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NEW JERSEY ADMINISTRATIVE CODE

TITLE 7  
CHAPTER 27  
SUBCHAPTER 29

**LOW EMISSION VEHICLE (LEV) PROGRAM**

**REGULATORY HISTORY**

Effective: January 17, 2006  
Operative: January 27, 2006  
See: 38 N.J.R. 497(b)

**TABLE OF CONTENTS**

<b><u>Section</u></b>	<b><u>Page</u></b>
REGULATORY HISTORY .....	1
7:27-29.1 Definitions .....	2
7:27-29.2 Purpose .....	6
7:27-29.3 Applicability--LEV Program.....	6
7:27-29.4 Emission certification standards.....	7
7:27-29.5 NMOG fleet-wide average exhaust emission requirement .....	7
7:27-29.6 ZEV sales requirement .....	7
7:27-29.7 ZEV Credit Bank.....	7
7:27-29.8 Fees.....	9
7:27-29.9 Vehicle testing.....	10
7:27-29.10 Warranty.....	10
7:27-29.11 Reporting requirements.....	11
7:27-29.12 Enforcement.....	11
7:27-29.13 Incorporation by reference.....	12
7:27-29.14 Severability.....	18

## **SUBCHAPTER 29 LOW EMISSION VEHICLE PROGRAM**

### **7:27-29.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Advanced technology partial zero emission vehicle” or “ATPZEV” means a vehicle certified as an advanced technology partial zero emission vehicle pursuant to the CARB vehicle standards for the applicable model year and has received a CARB Executive Order, but shall not include a partial zero emission vehicle or a zero emission vehicle.

"Air contaminant emission control system" means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine or a system or engine modifications on a motor vehicle which causes a reduction of air contaminants emitted from the motor vehicle engine, including but not limited to exhaust control systems, fuel evaporative control systems and crankcase ventilating systems.

"Business" means an occupation, profession or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; a profit-seeking enterprise or concern.

"California-certified" means a vehicle having a valid Executive Order stating that the vehicle meets all applicable requirements under applicable sections of Title 13, CCR and approved for sale in California by the CARB.

“California Air Resources Board” or “CARB” means the agency or its successor established and empowered to regulate sources of air pollution in the state of California, including motor vehicles, pursuant to Section 39003, California Health & Safety Code, as amended or supplemented.

"California credit balance" means the balance of credits that a manufacturer has on deposit with the California ZEV Bank on January 2, 2008.

"California credit ratio" means the ratio of the average number of PCs and LDT-1s that a manufacturer produced and delivered for sale in New Jersey to the average number of PCs and LDT-1s the manufacturer produced and delivered for sale in California during the time period selected by the manufacturer for calculation of their ZEV sales requirement for model year 2009, as set forth in Title 13, CCR, Section 1962.

“California low emission vehicle program” means the low emission vehicle program being implemented in the state of California, pursuant to the provisions of the Clean Air Act and the California Code of Regulations.

“CCR” means the California Code of Regulations.

"Certificate of conformity" means that document issued by California Air Resources Board, or the United States Environmental Protection Agency.

"Clean Air Act" or "CAA" means the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended and supplemented.

"Commissioner" means the Commissioner of the Department.

"Dealer" means any person actively engaged in the business of offering to sell, soliciting or advertising the sale, buying, transferring, leasing, selling or exchanging new motor vehicles and who has an established place of business.

"Delivered for sale" means vehicles that have received a bill of lading for sale in New Jersey and are shipped, or are in the process of being shipped to a dealer in New Jersey.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency vehicle" means any publicly owned vehicle operated by a peace officer in the performance of their duties, any authorized emergency vehicle used for fighting fires or responding to emergency fire calls and any publicly owned authorized emergency vehicle used by an emergency medical technician or –paramedic or any ambulance used by a private entity under contract with a public agency.

"Emission standards" means specified limitations on the discharge of air contaminants into the atmosphere.

"Engine family" means the basic classification unit comprised of the engine and drive train configuration selected by a manufacturer and used for the purpose of certification testing.

"Executive order" means a document issued by the CARB certifying that a specified test group or model year vehicle has met all applicable requirements adopted by the CARB pursuant to the applicable sections of Title 13, CCR for the control of specified air contaminants from motor vehicles and is thereby certified for sale in California. .

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Intermediate volume manufacturer" means a manufacturer that has been designated by the CARB as an intermediate volume manufacturer as defined at Title 13, CCR, Section 1900.

"Large volume manufacturer" means a manufacturer that has been designated by the CARB as a large volume manufacturer as defined at Title 13, CCR, Section 1900.

"Light-duty truck" means any 2000 and subsequent model year motor vehicle certified to the standards in Title 13, CCR, Section 1961(a)(1), rated at 8,500 pounds gross vehicle weight or

less, and any other motor vehicle rated at 6,000 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.

"LDT-1" or "Light-duty truck-1" means a light-duty truck with a loaded vehicle weight of 3,750 pounds or less.

"LDT-2" or "Light-duty truck-2" means a light-duty truck with a loaded vehicle weight of greater than 3,750 pounds and a gross vehicle weight of less than or equal to 8,500 pounds and includes medium-duty passenger vehicles when determining compliance with the greenhouse gas emission standards of this subchapter.

"Loaded vehicle weight" means the vehicle curb weight plus 300 pounds.

"Mail out" means a widely distributed general correspondence issued by the CARB whenever said board needs information from the public, or when it wishes to inform the public of new information. "Manufacturer" means any small, intermediate, or large volume vehicle manufacturer as defined at Title 13, CCR, Section 1900.

"Medium-duty passenger vehicle" means medium-duty passenger vehicle as defined at Title 13, CCR, Section 1900.

"Model year" means model year as defined at 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 85.2304, as supplemented or amended, and incorporated herein by reference.

"Motor vehicle" or "vehicle" means every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting such devices as run only upon rails or tracks and motorized bicycles.

"Motor vehicle engine" means an engine that is used to propel a motor vehicle.

"New motor vehicle engine" means a new engine in a motor vehicle.

"New vehicle" means any vehicle with 7,500 miles or fewer on its odometer.

"Non-methane organic gas" or "NMOG" means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

"Partial zero emission vehicle" or "PZEV" means a vehicle certified as a partial zero emission vehicle pursuant to the CARB vehicle standards for the applicable model year and has received a CARB Executive Order, but shall not include an advanced technology partial zero emission vehicle or a zero emission vehicle.

“Passenger car” means any motor vehicle designed primarily for transportation of individuals and having a design capacity of 12 individuals or fewer.

"Person" means an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, the United States, or any Board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States.

“Placed in service” means having been sold to an ultimate purchaser and not to a dealer or other distribution chain entity, and having been individually registered for on-road use by the New Jersey Motor Vehicle Commission.

“Sale” or “sell” means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.

"State" means the State of New Jersey, unless otherwise specified.

“Test group” means a grouping of vehicles as defined by 40 CFR 86.1827-01, as supplemented or amended, and incorporated herein by reference.

"Test vehicle" means an experimental or prototype motor vehicle that appears to have very low emission characteristics, or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit from the CARB.

"Ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person whom in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

“USEPA” means the United States Environmental Protection Agency.

“Vehicle equivalent credit” or “credit” means ZEV credit and represents one ZEV, PZEV or ATPZEV that a manufacturer delivers for sale in New Jersey, multiplied by the applicable credit multiplier as established in N.J.A.C. 7:27-29.7.

“Vehicle identification number” or “VIN” means a unique, 17 digit, alphanumeric code that the vehicle manufacturer assigns to a vehicle.

“Zero emission vehicle” or “ZEV” means a vehicle certified as a zero emission vehicle pursuant to the CARB zero emission vehicle standards for the applicable model year, but shall not include an advanced technology partial zero emission vehicle or a partial zero emission vehicle.

“ZEV Credit Bank” means the system designated by the Department, that records and tracks the generation, verification, transfer, voluntary retirement, use, and invalidation of vehicle equivalent credits.

### **7:27-29.2 Purpose**

- (a) This subchapter establishes in the State a LEV program, which incorporates the requirements of the California LEV program.
- (b) The LEV program shall apply to all model year 2009 and subsequent motor vehicles that are passenger cars and light-duty trucks subject to the California LEV program and delivered for sale in New Jersey on or after January 1, 2009.
- (c) This subchapter establishes the ZEV Credit Bank, through which manufacturers of passenger cars and light-duty trucks may earn, bank, and acquire from other manufacturers credits for certain qualifying vehicles. Vehicle manufacturers may use the credits to offset the ZEV sales requirements of the LEV program.

### **7:27-29.3 Applicability - LEV program**

- (a) Except as set forth in (b) and (c) below, no dealer or other person within this State shall deliver for sale, offer for sale, sell, import, deliver, purchase, rent, acquire, receive, or register on or after January 1, 2009 a new 2009 or subsequent model-year passenger car or light-duty truck unless the vehicle has been certified by the CARB and has received a CARB Executive Order.
- (b) Prior to January 1, 2010, model year 2009 vehicles that do not meet the requirements of (a) above, but were produced and delivered for sale in New Jersey on or before January 1, 2009, and have a certificate of conformity issued pursuant to the Clean Air Act, may be sold, offered for sale, purchased, acquired or received in New Jersey.
- (c) The prohibitions contained in (a) above shall not apply to passenger cars and light-duty trucks that are:
1. Held for daily lease or rental to the general public or engaged in interstate commerce, which are registered and principally operated outside of New Jersey;
  2. Test vehicles and emergency vehicles;
  3. Acquired by a resident of this State for the purposes of replacing a vehicle registered to such resident, which vehicle was damaged, or became inoperative beyond reasonable repair, or was stolen while out of this State; provided that such replacement vehicle is acquired out of State at the time the previously registered vehicle was either damaged or became inoperative beyond reasonable repair or was stolen;
  4. Transferred by inheritance;
  5. Transferred by court decree;
  6. Have a certificate of conformity issued pursuant to the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in this State;
  7. Sold directly from one dealer to another dealer;
  8. Sold for the purpose of being wrecked or dismantled;
  9. Sold exclusively for off-highway use; or
  10. Sold for registration out of State.

(d) For the purposes of this subchapter, it is presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of fewer than 7,500 miles has not been transferred to an ultimate purchaser.

#### **7:27-29.4 Emission certification standards**

Each model year 2009 and subsequent motor vehicle subject to N.J.A.C. 7:27-29.3(a) shall be California-certified.

#### **7:27-29.5 NMOG fleet-wide average exhaust emission requirement**

(a) A manufacturer of model year 2009 or later passenger cars or light-duty trucks delivered for sale in New Jersey on or after January 1, 2009, shall demonstrate compliance with the NMOG fleet-wide average exhaust emission requirement of Title 13, CCR, Section 1961, which average shall be based on the number of the manufacturer's vehicles subject to N.J.A.C. 7:27-29.3(a).

(b) A manufacturer may accrue NMOG credits and debits and use them in accordance with Title 13, CCR, Section 1961(c), except that the formula for accruing credits at Title 13, CCR, Section 1961(c) shall be based upon the number of vehicles the manufacturer produces and delivers for sale in New Jersey in accordance with N.J.A.C. 7:29.3(a).

#### **7:27-29.6 ZEV Sales Requirement**

(a) Beginning on January 1, 2009, for vehicles manufactured in model year 2009 and each subsequent model year, each manufacturer shall comply with the ZEV sales requirement at Title 13, CCR, Section 1962, including early credit and banking provisions.

(b) An intermediate volume or large volume manufacturer of ZEVs, ATPZEVs and PZEVs may use vehicle equivalent credits in accordance with Title 13, CCR, Section 1962, to offset the ZEV Sales Requirement of (a) above.

#### **7:27-29.7 ZEV Credit Bank**

(a) Beginning in model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs and PZEVs shall open an account in the ZEV credit bank. Except as set for in (h) below, the account must be opened no later than January 1, 2009.

(b) In order to open an account with the ZEV Credit Bank, the manufacturer shall submit to the Department an account application form containing the following information:

1. For the account holder:
  - i. Name;
  - ii. Mailing address;
  - iii. Telephone number;

- iv. Type of business (if applicable);
- v. Authorized representative's name, title, phone number, fax number and email address; and
- vi. Authorized representative's signature.

(c) Upon receipt of a complete account application, the Department shall issue a unique identifier for the account and notify the account applicant of the identifier.

(d) In order to deposit credits into the ZEV Credit Bank, a manufacturer shall submit a Notice of Credit Generation to the Department on a form that the Department provides. The Notice of Credit Generation shall include the following:

1. For ZEVs delivered for sale in the State:
  - i. Manufacturer's ZEV Credit Bank account identifier;
  - ii. Model year of vehicle qualifying for credit;
  - iii. CARB Executive Order number;
  - iv. ZEV Tier type (NEV, 0, I, II, III for California, III for Section 177 states);
  - v. Vehicle identification number; and
  - vi. Date the vehicle was delivered for sale in New Jersey.
2. For ZEVs placed in service in the State, all information listed under (d)1, above, and also the following:
  - i. Date the vehicle was placed in service
  - ii. Whether the vehicle was placed in service with an option to purchase or lease the vehicle;
3. For ATPZEVs and PZEVs delivered for sale in the State:
  - i. The vehicle certification class (ATPZEV or PZEV);
  - ii. The manufacturer's ZEV Credit Bank account identification;
  - iii. The model year of the vehicle(s);
  - iv. The date the vehicle was delivered for sale in New Jersey;
  - v. For ATPZEVs, the Federal test group;
  - vi. The CARB executive order number; and
  - vii. The number of vehicles delivered

(e) The number of the credits generated and deposited for each qualifying vehicle shall be the number of qualifying vehicles times the applicable multiplier forth in Title 13 of the California Code of Regulations section 1962, except the multiplier applied to vehicles produced and delivered for sale in New Jersey from January 1, 1999 to January 13, 2004 shall be the highest applicable multiplier used by the CARB for the period January 1, 1999 to January 13, 2004.

(f) A vehicle equivalent credit does not constitute or convey a property right.

(g) Except as provided in (h), below, annually each manufacturer shall submit to the Department Notices of Generation or notice of a transfer to another manufacturer. Credits generated that are not reported to the Department on or before September 1 following the close of the model year in which the qualifying vehicle was produced and delivered for sale in the State shall not be deposited into the manufacturer's account, and cannot be used to offset ZEV Sales Requirements.



(h) In order to generate and deposit credits for vehicles delivered for sale in the State during the 1999 through 2005 model years, a manufacturer shall open an account with the ZEV Credit Bank and submit an appropriate Notice of Credit Generation to the Department on or before September 1, 2006.

(i) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank; however, if the credits are to be used for future compliance with the ZEV sales requirement at N.J.A.C. 7:27-29.6, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.

(j) For each acquisition of credits from another manufacturer, the manufacturer from whom the credits are acquired shall supply the following information to the Department, on a form that the Department shall supply:

1. Date of acquisition;
2. Model year the credits were generated;
3. Type of vehicle (NEV, ZEV type, ATPZEV or PZEV); and
4. Number of credits in grams/mile NMOG.

(k) The Department will verify all credits and, if discrepancies are found, will notify the manufacturer and adjust the account. The Department may audit an account at any time.

(l) A manufacturer may deposit into its account in the ZEV Credit Bank a number of credits equal to its California credit balance as of January 2, 2008, multiplied by the California credit ratio. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

(m) A manufacturer electing to deposit credits under (l), above, shall offer for sale in New Jersey in model years 2009 through 2011 any PZEV, AT-ZEV or ZEV, except Type III ZEVs, that it offers for sale in California during the same period.

#### **7:27-29.8 Fees**

(a) Each intermediate volume and large volume vehicle manufacturer shall pay to the Department an annual fee of \$0.25 per vehicle for each passenger car and light-duty truck, including both Federal Tier 2 certified and California-certified vehicles, delivered for sale in New Jersey on or after January 1, 2005, and which vehicles the manufacturer has been required to report under Section D.6(a), "California Assembly-Line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," as set forth at Title 13, CCR, Section 2062.

(b) For vehicles delivered for sale in calendar year 2005 and thereafter, each intermediate volume and large volume manufacturer shall report its New Jersey production numbers to the Department by March 1 of the succeeding calendar year.

(c) The Department shall notify each manufacturer of the total fee due. The manufacturer shall remit the fee to the Department within 30 days after receipt of the Department's notice. Payment shall be made payable to the Treasurer, State of New Jersey.

(d) An intermediate volume or large volume manufacturer failing to pay the fee shall not be permitted to open an account in the ZEV Credit Bank, or earn, deposit, use or acquire vehicle equivalent credits until such time as its fee and any unpaid balance are paid.

### **7:27-29.9 Vehicle Testing**

(a) Each new vehicle model subject to N.J.A.C. 7:27-29.3(a) shall satisfy the motor vehicle emission requirements of Title 13, CCR, Sections 1960.1, 1960.5, 1961, 1962, 1962.1, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235.

1. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the applicable Executive Order.

(b) Each manufacturer of a vehicle subject to N.J.A.C. 7:27-29.3(a) shall conduct Inspection Testing and Quality Audit Testing in accordance with Title 13, CCR, Section 2062, and shall provide the test results to the Department upon request.

1. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the test results for testing conducted pursuant to N.J.A.C. 7:27-29.3(b) and the determination and findings made by the CARB.

(c) Each new vehicle subject to N.J.A.C. 7:27-29.3(a), prior to being offered for sale in New Jersey, shall meet the motor vehicle emission requirements of Title 13, CCR, Section 1961, as determined by compliance testing, conducted by CARB in accordance with Title 13, CCR, Sections 2101 through 2110, 2150, and 2151.

1. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the test results for testing conducted pursuant to N.J.A.C. 7:27-29.3(c) and the determination and findings made by the CARB.

(d) For the purposes of detection and repair of vehicles subject to this subchapter failing to meet the motor vehicle emission requirements of Title 13, CCR, Section 1961 the Department may conduct, after consultation with the CARB, In-Use Vehicle Enforcement Testing in accordance with the protocol and testing procedures in Title 13, CCR, Section 2140.

1. A manufacturer shall demonstrate compliance by presenting to the Department upon request copies of the test results for testing conducted pursuant to N.J.A.C. 7:27-29.3(d) and the determination and findings made by the CARB.

### **7:27-29.10 Warranty**

(a) Each manufacturer of a vehicle subject to N.J.A.C. 7:27-29.3(a) shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle shall comply over its period of

warranty coverage with all requirements of Title 13, CCR, Sections 2035 through 2038, 2040, and 2041.

(b) Each manufacturer of a vehicle subject to N.J.A.C. 7:27-29.3(a) shall submit to the Department upon request a Failure of Emission-Related Components report as defined at Title 13, CCR, Section 2144.

(c) For purposes of compliance with (b) above, a manufacturer may submit copies of the Failure of Emission-Related Components report that are submitted to the CARB.

#### **7:27-29.11 Reporting Requirements**

(a) In addition to the reporting requirements in N.J.A.C. 7:27-29.7 (ZEV Credit Bank) and 7:27-29.8 (Fees), beginning with the 2009 model year each manufacturer of a vehicle subject to N.J.A.C. 7:27-29.3(a) shall submit annually to the Department, no later than March 1 following the close of the model year, a report documenting total deliveries for sale in New Jersey of vehicles in each test group during that model year.

1. For the 2009 model year, the report shall separately show deliveries for sale prior to January 1, 2009 and on and after January 1, 2009.

(b) Beginning with the 2009 model year, each manufacturer of a vehicle subject to N.J.A.C. 7:27-29.3(a) shall submit annually to the Department, by no later than March 1 following the close of the model year, a report, prepared according to Title 13, CCR, Section 1961, calculating the NMOG fleet-wide average exhaust emission for the model year just ended for vehicles delivered for sale in New Jersey.

1. For the 2009 model year, the report shall separately show deliveries for sale prior to January 1, 2009 and on and after January 1, 2009.

#### **7:27-29.12 Enforcement**

(a) The Department or its representative shall have the right to enter and inspect any site, building, equipment, or vehicle, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., this subchapter, any exemption, or any order, consent order, agreement, or remedial action plan issued, approved or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any material, motor vehicle or motor vehicle engine or any emissions therefrom, at the facility; to sketch or photograph any portion of the site, building, vehicles or motor vehicle engines; to copy or photograph any document or record necessary to determine such compliance or non-compliance; and to interview any employees or representatives of the owner, operator or registrant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation or appropriate credentials as requested and compliance with appropriate standard safety procedures.

(b) Records to support any application, notice, report or amendment submitted to the Department under this subchapter shall be maintained for a period of no less than five years after submitting the information to the Department, and shall be made readily available to the Department upon request.

(c) Failure to comply with any of the obligations or requirements of this subchapter shall subject the violator to an enforcement action pursuant to the provisions of N.J.S.A. 26:2C-19 and N.J.A.C 7:27A-3.

(d) Any order or enforcement action taken by the CARB to correct noncompliance with any section of Title 13, CCR, which action results in the recall of any vehicle pursuant to Title 13, CCR, sections 2109 through 2135, shall be applicable in New Jersey, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of issuance of the CARB action that the action is not applicable to vehicles subject to N.J.A.C. 7:27-29.3(a).

(e) Any emission-related recall campaign, voluntary or otherwise, initiated by any manufacturer pursuant to Title 13, CCR, Sections 2113 through 2121, shall extend to all similar vehicles subject to N.J.A.C. 7:27-29.3(a), except where the manufacturer demonstrates to the Department's satisfaction within 30 days of the CARB approval of the campaign that the campaign is not applicable to vehicles subject to N.J.A.C. 7:27-29.3(a).

#### **7:27-29.13 Incorporation by reference**

(a) Unless specifically excluded by this subchapter, when a provision of the CCR is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(b) Prospective incorporation by reference means the ongoing process, beginning January 27, 2006, whereby all provisions of regulations incorporated into this subchapter from the CCR, as set forth in Table 1, below, are continually automatically updated in order to maintain consistency with the most current CCR. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a California rule, brought about by either judicial or administrative action and adopted or otherwise noticed by the state of California, shall be paralleled by a similar change to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its California counterpart. Similarly, to maintain consistency, all applicable new California regulations are also adopted into this subchapter by this automatic process.

(c) Provisions of the CCR that are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross-reference to a California citation that was not specifically incorporated, the cross-referenced citation is not incorporated by virtue of the cross-reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(d) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the CCR and the rules set forth in this subchapter, the provisions incorporated by reference from the CCR shall prevail.

(e) Nothing in these provisions incorporated by reference from the CCR shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Commissioner.

(f) On or after January 27, 2006, new California rules, amendments, supplements, and other changes, brought about through administrative or judicial action, automatically incorporated through the prospective incorporation by reference process, shall be effective upon publication in the California Regulatory Notice Register and operative on the operative date cited by California in the relevant California Regulatory Notice Register notice, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the California regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

(g) The following documents and sources are incorporated by reference within this subchapter

		Table 1
		California Code of Regulations (CCR)
		Title 13
		Provisions Incorporated by Reference
Title 13, CCR	Title	
		Chapter 1
		Motor Vehicle Pollution Control Devices
		Article 1
		General Provisions
Section 1900	Definitions	
		Article 2
		Approval of Motor Vehicle Pollution Control Devices (New Vehicles)
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles	
Section 1960.1	Exhaust Emission Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	
Section 1961	Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	

Section 1961.1

~~Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.~~

Section 1962

Zero Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles

Section 1965

Emission Control and Smog Index Labels – 1979 and Subsequent Model Year Vehicles

Section 1968.1

Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles

Section 1968.2

Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles

Section 1968.5

Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines

Section 1976

Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions

Section 1978

Standards and Test Procedures for Vehicle Refueling Emissions

Section 2035

Article 6 Emission Control System Warranty  
Purpose, Applicability and Definitions

Section 2036

Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.

Section 2037

Defects Warranty Requirements for 1990 and Subsequent

Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles

Section 2038 Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles

Section 2039 Emission Control System Warranty Statement.

Section 2040 Vehicle Owner Obligations

Section 2041 Mediation; Finding of Warrantable Condition

Section 2046 Defective Catalyst

## Chapter 2

Enforcement of Vehicle Emission Standards and Enforcement Testing.

### Article 1

Assembly Line Testing.

Section 2062 Assembly-line Test Procedures 1998 and Subsequent Model-years

### Article 2

Enforcement of New and In-use Vehicle Standards

Section 2101 Compliance Testing and Inspection – New Vehicle Selection, Evaluation and Enforcement Action.

Section 2109 New Vehicle Recall Provisions.

Section 2110 Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.

### Article 2.1

Procedures for In-Use Vehicle Voluntary and Influenced Recalls.

Section 2111 Applicability.

Section 2112 Definitions.

Appendix A to Article 2.1.

- Section 2113 Initiation and Approval of Voluntary and Influenced Recalls.
- Section 2114 Voluntary and Influenced Recall Plans.
- Section 2115 Eligibility for Repair.
- Section 2116 Repair Label.
- Section 2117 Proof of Correction Certificate.
- Section 2118 Notification.
- Section 2119 Record keeping and Reporting Requirements.
- Section 2120 Other Requirements Not Waived.
- Section 2121 Penalties

Article 2.2  
Procedures for In-Use Vehicle Ordered Recalls.

- Section 2122 General Provisions.
- Section 2123 Initiation and Notification of Ordered Emission-Related Recalls.
- Section 2124 Availability of Public Hearing.
- Section 2125 Ordered Recall Plan.
- Section 2126 Approval and Implementation of Recall Plan.
- Section 2127 Notification of Owners.
- Section 2128 Repair Label.
- Section 2129 Proof of Correction Certificate.
- Section 2130 Capture Rates and Alternative Measures.
- Section 2131 Preliminary Tests.
- Section 2132 Communication with Repair Personnel.
- Section 2133 Record keeping and Reporting Requirements.



Section 2135 Extension of Time

Article 2.3  
In-Use Vehicle Enforcement Test Procedures.

Section 2136 General Provisions.

Section 2137 Vehicle Selection.

Section 2138 Restorative Maintenance.

Section 2139 Testing.

Section 2140 Notification of In-Use Results.

Article 2.4  
Procedures for Reporting Failure of Emission-Related Components.

Section 2141 General Provisions

Section 2142 Alternative Procedures

Section 2143 Failure Levels Triggering Recall

Section 2144 Emission Warranty Information Report

Section 2145 Field Information Report

Section 2146 Emissions Information Report

Section 2147 Demonstration of Compliance with Emission Standards

Section 2148 Evaluation of Need for Recall

Section 2149 Notification of Subsequent Action

Chapter 3  
Surveillance Testing

Section 2150 Assembly-Line Surveillance

Section 2151 New Motor Vehicle Dealer Surveillance

Chapter 4.4  
Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks

Section 2235 Requirements.

(h) Any of the documents in (e) above may be obtained by contacting:  
Department of Environmental Protection

Division of Air Quality  
Bureau of Motor Vehicle Inspection and Maintenance  
P.O. Box 437  
Trenton, New Jersey 08625-0411  
Attention: LEV Program

They may also be obtained by contacting:

State of California  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, California 95814-4339

or at the California Office of Administrative Law website at <http://www.oal.ca.gov/>

**7:27-29.14 Severability**

(a) Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.