

Chapter 127: NEW MOTOR VEHICLE EMISSION STANDARDS

SUMMARY: This regulation establishes motor vehicle emission standards for new passenger cars, light duty trucks, medium duty vehicles, and heavy-duty diesel vehicles.

1. Scope/Applicability.

- A. This regulation applies statewide.
- B. This regulation applies to:
 - 1. Any 2001 and subsequent model-year passenger cars, light duty trucks or 2003 and subsequent model-year medium-duty vehicles, and 2005 and 2006 model-year heavy-duty diesel engines and vehicles.
 - 2. All 2008 and subsequent model year heavy duty diesel vehicles and engines.
 - 3. Beginning with Model Year 2009, manufacturers must meet the Zero Emissions Vehicle sales requirement.

2. Definitions.

- A. **AT PZEV.** "AT PZEV" means advanced technology partial emissions vehicle.
- B. **California-certified.** "California-certified" means having a valid executive order and approved by CARB for sale in California.
- C. **CARB.** "CARB" means the California Air Resources Board.
- D. **Dealer.** "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.
- E. **Delivered for Sale.** "Delivered for sale" means delivered for sale or for lease in Maine.
- F. **Emergency Vehicle.** "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, used for repairing damaged lighting or electrical equipment.
- G. **Emission Control Labels.** "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.

- H. **Fleet Average Emission.** “Fleet average emission” means a vehicle manufacturer's average vehicle emissions of all non-methane organic gases from all new vehicles delivered for sale to Maine in any model-year.
- I. **Heavy-Duty Diesel Engine.** “Heavy-duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater.
- J. **Heavy-Duty Motor Vehicle.** “Heavy-duty motor vehicle” means a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater.
- K. **Light-Duty Truck.** “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.
- L. **Lease.** “Lease” means any commercial transaction recognized under the laws of this State as a means of creating a right to use a good and includes renting. It also includes offering to rent or lease.
- M. **Manufacturer.** “Manufacturer” means any small, intermediate or large volume vehicle manufacturer as defined in Title 13, California Code of Regulations Section 1900.
- N. **Medium-Duty Vehicle.** “Medium-duty vehicle” means any 2003 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 2003 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.
- O. **Model-year.** "Model-year" means the manufacturer's annual production period for each engine family which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.
- P. **New Motor Vehicle.** “New Motor Vehicle” means any passenger car, light-duty truck or 2003 and subsequent model-year medium-duty vehicle and 2005 and subsequent model-year heavy-duty engines and vehicles with 7,500 miles or fewer on its odometer
- Q. **New Motor Vehicle Engine.** “New motor vehicle engine” means a new engine in a motor vehicle.
- R. **NMOG Credit.** “NMOG credit” means non-methane organic gas credit.

- S. **Passenger car.** "Passenger car" means any motor vehicle designed with a capability for transportation of human beings and having a design capacity of twelve individuals or less.
- T. **PZEV.** "PZEV" means partial zero emission vehicle.
- U. **Recall.** "Recall" means:
- (1) A manufacturer's issuing of notices directly to consumers that vehicles in their possession or control should be corrected; and/or
 - (2) A manufacturer's efforts to actively locate and correct vehicles in the possession or control of consumers.
- V. **Sell.** "Sell" means any commercial vehicles transaction recognized under the laws of this State as a means of transferring ownership of a good and includes barter. It also includes offering for sale.
- W. **Smog Index Label.** "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.
- X. **Ultimate purchaser.** "Ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.
- Y. **Ultra-Small Volume Manufacturer.** "Ultra-small volume manufacturer" means any manufacturer with California sales less than or equal to 300 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model-year based on the average number of vehicles and engines sold by the manufacturer in the previous three consecutive model-years.
- Z. **Urban Bus.** "Urban bus" means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine, or of a type normally powered by a heavy heavy-duty diesel engine, with a load capacity of fifteen (15) or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area.
- AA. **VECs.** "VECs" means vehicle equivalent credits.
- BB. **ZEV Credit.** "ZEV Credit" means Zero Emission Vehicle Credit.
- CC. **ZEV--Zero-Emission Vehicle.** Means any motor vehicle which is CARB certified to produce zero emissions of any criteria pollutants under any and all possible operational modes and conditions. Incorporation of a fuel-fired heater, designed to create heat for the purpose of warming the passenger compartment of a vehicle and that does not contribute to the propulsion of the vehicle, shall not preclude a motor vehicle from being certified as a ZEV (1) provided the fuel-fired heater cannot be operated at ambient temperatures above 40°F, (2) the heater is demonstrated to have zero fuel evaporative emissions under any and all possible operational modes and conditions, and (3) the emissions of any pollutant from the

fuel fired heater when operated at an ambient temperature between 68°F and 86°F do not exceed the emission standard for that pollutant for a ULEV under section 1961(a)(1)

3. Incorporation by Reference.

This chapter incorporates by reference certain sections of Title 13, California Code of Regulations. Appendix A lists the sections of 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 chapter are the version of the section as of the amended date in Appendix A.

4. Prohibitions.

A. New Vehicle Emission Requirements. No person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, or rent a new vehicle that is a 2001 or subsequent model-year passenger car or light-duty truck or 2003 or subsequent model-year medium-duty vehicle, 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);
- (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;
- (3) The evaporative emissions standards in Title 13, California Code of Regulations Sections 1976;
- (4) The refueling emissions standards in Title 13, California Code of Regulations Section 1978;
- (5) The malfunction and diagnostic system requirements in Title 13, California Code of Regulations Section 1968.1;
- (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. New Heavy-Duty Diesel Vehicle Requirements. No person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, or rent a 2005 or 2006 and 2008 and subsequent model-year heavy-duty diesel engine, a new motor vehicle equipped with a 2005 or 2006 and 2008 and subsequent model-year heavy-duty diesel engine, or a motor vehicle with a new 2005 or 2006 and 2008 and subsequent model-year heavy-duty diesel engine, 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.

C. Zero Emission Vehicle Requirements. Beginning with the 2009 model year, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale

in the State of Maine shall contain at least the same percentage of ZEVs subject to the requirements, including credit and banking provisions, set forth in the California Code of Regulations, Title 13, section 1962 using Maine specific vehicle numbers.

D. **Alternative Zero Emission Vehicle Compliance.** As an alternative means of compliance with the requirements of Section 4(C), an automobile manufacturer may instead opt to utilize the following alternative compliance mechanisms. If a manufacturer opts to utilize the alternative compliance mechanisms, such manufacturer shall notify the commissioner in writing by October 1, 2005.

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(1) A manufacturer may earn Maine ZEV credits for the introduction into Maine of PZEVs, AT PZEVs, and ZEVs beginning with 2004 model year provided that:

(a) The vehicle credit values for this alternative compliance path shall be the same as the California Code of Regulations, Title 13, section 1962.

(b) After the credit value for a vehicle is established by CARB pursuant to California Code of Regulations, Title 13, section 1962, a Maine multiplier will be applied to such credit value for that vehicle in accordance with Table 1. The Maine multiplier shall not be applied to Type III ZEVs placed in service pursuant to the California Requirements for Large Volume Manufacturers as identified in the California Code of regulations, Title 13, section 1962(b)(2).

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Table 1, Maine Multiplier

Model Year	Requirement	PZEV Credit Multiplier	AT PZEV Credit Multiplier	ZEV Credit Multiplier
2004	Voluntary Early Introduction	1.5	2.25	3
2005	Voluntary Early Introduction	1.5	2.25	3
2006	Voluntary Early Introduction	1.3	1.7	2
2007	Voluntary Early Introduction	1.15	1.3	1.5
2008	Voluntary Early Introduction	1.15	1.3	1.5
2009	Equivalency with California Program	1	1	1

(c) Maine ZEV credit use, life, banking and trading will be calculated as per California Code of Regulations, Title 13, section 1962.

(d) At the time each manufacturer opts into this compliance path, each manufacturer shall make available for purchase or lease in Maine any PZEV, AT-PZEV, and ZEV models, except type III ZEVs placed in service pursuant to California Code of Regulations, Title 13, section 1962(b)(2), sold or leased in California.

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(e) The commissioner shall calculate the amount of credits earned based on the report received pursuant to section 8(B)(4). The commissioner shall establish ZEV compliance accounts for each manufacturer and allocate the credits earned to such compliance accounts, including separate accounts for PZEV, AT-PZEV, NEV, Type 0 ZEVs, Type I ZEVs, Type II ZEVs, Type III ZEVs, transportation system, and extended service. For each account, in the event that the number of credits earned pursuant to this subsection is less than the number of credits that would have been awarded to a manufacturer under Section 4(D)(2), the commissioner shall calculate the difference and apply a number of credits equal to such difference to such manufacturer's compliance account.

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(f) A manufacturer shall be entitled to full credit for each Type III ZEV placed in service prior to model year 2012 in any state that has adopted the California ZEV mandate.

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- (2) The commissioner shall set aside a number of Maine ZEV credits proportionally equivalent to the number of ZEV credits possessed by the requesting manufacturer for use in the State of California at the beginning of the 2009 model year. This transfer will be performed only after all credit obligations for model years 2008 and earlier have been satisfied in California. The manufacturer's California credit balances shall be multiplied by the ratio of the average number of PC's and LDT1's produced and delivered for sale in Maine to the combined average number of PCs and LDT1s produced and delivered for sale in California in model years 2003 through 2005 or, alternatively, by the ratio of PCs and LDT1s produced and delivered for sale in Maine to the combined number of PCs and LDT1s produced and delivered for sale in California in model year 2009. In either case, the time period used to determine the credit transfer ratio will also be used to determine model year 2009 ZEV sales requirements in Maine.

The commissioner shall establish ZEV compliance accounts for each manufacturer and allocate the credits calculated under this section 4(D)(2) to such compliance accounts, including separate accounts for PZEV, AT-PZEV, NEV, Type 0 ZEVs, Type I ZEVs, Type II ZEVs, Type III ZEVs, transportation system, and extended service. The commissioner shall notify such manufacturer of the number of ZEV credits available for use by July 31, 2009 and annually thereafter. Credits issued pursuant to this subsection may only be used in Maine for compliance with the ZEV provisions of section 4(C) subject to the same requirements and limitations on credit use set forth in the California Code of Regulation, Title 13, section 1962 adjusted for Maine specific vehicle numbers.

A manufacturer shall be entitled to full credit for each type III ZEV placed in service prior to model year 2012 in any state that has adopted the California ZEV mandate.

Furthermore, each manufacturer operating under this compliance path shall:

- (a) By May 1, 2009, provide the commissioner with the total number of PC & LDT1 vehicles produced and delivered for sale in Maine and California for 2003 through 2005 model years.

Alternatively, by May 1, 2009, provide the commissioner with the total projected number of PC and LDT1 vehicles to be produced and delivered for sale in Maine and California in model year 2009. By March 1, 2010, provide the commissioner with actual 2009 model year PC and LDT1 vehicles produced and delivered for sale in Maine and

California. The commissioner shall adjust and notify such manufacturer of the number of ZEV credits established based on actual 2009 model year data by May 31, 2010.

(b) By May 1, 2009, provide the commissioner with the total number of banked California credits after all 2008 model year and earlier obligations have been met.

(c) Starting with model year 2009, make available for purchase or lease in Maine any PZEV, AT-PZEV, and ZEV models, including all ZEVs except type III ZEVs placed in service pursuant to California Code of Regulations, Title 13, section 1962(b)(2), that are sold, leased or offered for sale in California.

(3) Any manufacturer who fails to meet the requirements of its respective alternative compliance path shall be subject to full compliance with the ZEV mandate provisions set forth in Section 4(C).

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E. **Exemptions.** Section 4(A) and 4(B) 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-road use;
- (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 rental agency in Maine and is next rented with a final destination outside of Maine;
- (5) which is a 2005 or 2006 and 2008 and subsequent model-year heavy-duty diesel engine manufactured by an ultra-small volume manufacturer or intended for use in an urban bus;
- (6) with an engine that the California Air Resources Board determines, following a technology review, is inappropriate to require compliance for heavy-duty diesel engines of that particular model-year and engine family; or
- (7) which is a military tactical vehicle or equipment.

5. **Warranty.**

For all 2004 and subsequent model-year California-certified vehicles delivered for sale to Maine, 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.

6. **Recall.**

For all 2001 and subsequent model-year California-certified vehicles registered in Maine, 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 2109 through

2133, and 2135 through 2149, unless within 10 days of CARB approval of said recall, the manufacturer demonstrates to the Department that such recall is not applicable to vehicles registered in Maine. Each manufacturer must send to owners of Maine 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.

7. Manufacturer Fleet Requirements.

A. Each manufacturer shall meet the following fleet requirements for the number of vehicles delivered for sale to Maine.

- (1) Effective for 2004 and subsequent model-years, each manufacturer shall comply with the fleet average emission requirements and, for 2001 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 2003 shall be treated as though they were earned in model-year 2003.
- (2) Effective for 2005 and subsequent model-years, each manufacturer shall comply with the medium-duty vehicle phase-in requirements and, for 2003 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 2005 shall be treated as though they were earned in model-year 2005.
- (3) Beginning with the 2009 model year, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Maine shall contain at least the same percentage of ZEVs subject to the requirements, including credit and banking provisions, set forth in the California Code of Regulations, Title 13, section 1962 using Maine specific vehicle numbers.

B. Each manufacturer shall meet the following fleet requirements for the number of vehicles projected for sale to Maine.

- (1) Effective for 2004 and subsequent model-years, each manufacturer shall comply with the LEV II phase-in requirements, in accordance with Title 13, California Code of Regulations Section 1961.

8. Manufacturer Reporting Requirements.

A. **Delivery Reporting.** Commencing with the 2001 model-year for passenger cars and light-duty trucks and the 2003 model-year for medium-duty vehicles, each manufacturer shall submit annually, to the Department, by March 1 following the end of each model-year, a report, itemized by test group, documenting total new vehicles delivered for sale to Maine.

B. **Fleet Reporting.**

- (1) Each manufacturer shall submit annually to the Department, by March 1 following the end of each model-year, a report that demonstrates that the manufacturer has met the fleet requirements of Section 7 in Maine.

- (2) For 2001 and subsequent model-year passenger cars and light-duty trucks and for 2003 and subsequent model-year medium-duty vehicles, each manufacturer shall submit by January 1 of the model-year, a report projecting the manufacturer’s compliance with the model-year fleet requirements of Section 7 in Maine.
- (3) If a manufacturer wants to bank VECs or NMOG 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 NMOG credits in Maine.
- (4) Each manufacturer shall submit a compliance report to the commissioner no later than ~~March~~ ^{May 1st} following the completed model year demonstrating compliance with Sections 4~~(C)~~ or 4~~(D)~~. The compliance report shall include vehicle sales organized by engine family and identify the number of Maine ZEV credits earned. Such report may be amended based on late sales.

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C. Recall Reporting.

- (1) Each manufacturer shall submit for 2001 and subsequent model-year vehicles, within 10 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 Maine.
- (2) Each manufacturer shall submit recall campaign progress reports for vehicles registered in Maine, 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 Department if the equivalent reports have been waived by CARB.

D. Documentation.

A manufacturer, a dealer or a transporter of new vehicles shall, upon request, provide to the Department any documentation, which the Department determines to be necessary for the effective administration and enforcement of this Chapter.

9. Regional Document Repository.

Maine may enter into an agreement with other states to establish a regional document repository.

10. Dealer Inspection.

The Department or its agents may conduct inspections on any premises owned, operated, used, leased, or rented by any dealer.

11. Severability.

Each Section of this Chapter shall be deemed severable, and in the event that any Section of this Chapter is held invalid, the remainder shall continue in full force and effect.

AUTHORITY: 38 M.R.S.A., Sections 585, 585-A, 585-D.

EFFECTIVE DATE: February 17, 1993
Amended: March 30, 1994
Amended: December 31, 2000
Amended December 22, 2001
Amended December 28 2004

BASIS STATEMENT OF FEBRUARY 17, 1993

Portions of the State of Maine exceed both the state and federal ambient air quality standard for ozone. Mobile sources have been identified as the single greatest source of both volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions, precursors to ozone formation. In addition, mobile sources are significant emitters of air toxics. The 1990 Clean Air Act Amendments (CAAA) mandate that Maine's moderate nonattainment areas achieve a 15 percent reduction in VOCs by November 15, 1996, and that Maine implement a strategy for the long-term maintenance of air quality.

Chapter 127 establishes exhaust and evaporative emission standards for all non-exempt 1996 and newer passenger cars and light-duty trucks. Beginning with the 1996 model-year, all new passenger cars and light-duty trucks subject to Chapter 127 must have received an Executive Order issued by the California Air Resources Board certifying that the specified engine family or model-year has been certified for sale in California.

By the year 2015, Chapter 127 will result in a 56 percent reduction in mobile source emissions of VOCs and a 38 percent reduction in mobile source emissions of NOx. Air toxics emissions from mobile sources will be reduced by approximately 64 percent. It is estimated that vehicles certified to the Chapter 127 standards will cost an additional \$200 over the cost of a comparable, non-certified vehicle.

The Department received numerous comments on the proposal from both proponents and opponents. Proponents noted the cost-effective manner in which Chapter 127 addresses long-term emission reductions and air quality maintenance through the use of currently available technology, while opponents criticized the proposal on its cost, effectiveness, technological demands and fuel related issues. In addition to the Basis Statement, the Department has filed with the Secretary of State the response to comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF MARCH 30, 1994

This regulation has been amended to incorporate restrictions on the implementation of the Maine New Motor Vehicle Emissions Standards made by the 116th First Regular Session of the Maine Legislature. The effective date of the regulation and applicable dates have been changed in response to the restrictions set forth in 38 M.R.S.A Section 585-D. The regulation has also been amended by deleting provisions for in-use vehicle enforcement testing due to resource constraints and concerns over the Department's legal authority to conduct such testing. One commentor suggested that all emissions related motor vehicle recalls instituted by either the California Air Resources Board or motor vehicle manufacturers automatically apply to vehicles subject to this regulation unless the Department determines the recall is not applicable within 30 days. The regulation was amended to reflect this comment.

Chapter 127 requires that all new motor vehicles subject to the regulation be manufactured and certified to more stringent emission standards than those required by the federal government. These more stringent emission standards are necessary for the long term maintenance of air quality in the face of increased vehicle usage and economic development. The emission reductions resulting from this regulation will also be necessary to attain the State ozone air quality standard of .081 ppm.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its responses to comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF DECEMBER 21, 2000

On February 17, 1993, Maine adopted the Chapter 127, New Motor Vehicle Emission standards, which provide for cleaner new vehicles than those vehicles manufactured under federal emission standards. However, legislation was subsequently passed stipulating that the effective date of the regulation was dependent on whether states in the northeast and the Ozone Transport Region also adopted similar rules. The automobile manufacturers were notified in December 1997 that these conditions were met, and Maine's LEV program commenced with model-year 2001 motor vehicles. The Legislature subsequently removed the triggers from legislation.

This amendment of Chapter 127, through a repeal and replace, reflects changes to the California Low Emission Vehicle Program that were made since the Maine program was adopted in 1993. The California Air Resources Board first adopted LEV standards in 1990. These first LEV standards run from 1994 through 2003. LEV2 regulations, running from 2004 through 2010, represent continuing progress in emission reductions. The state's passenger vehicle fleet continues to grow, we continue to increase the number miles driven, and more sport utility vehicles and pickup trucks are used as passenger cars rather than work vehicles. The new, more stringent LEV2 standards are necessary for Maine to attain and maintain federally-mandated clean air standards and further reduce the many harmful pollutants emitted from motor vehicles.

In addition this amendment also repeals the Zero Emission Vehicle mandate. The original Zero Emission Vehicle mandate would require that, starting with model-year 2003 motor vehicles, 10 percent of new vehicles sold in Maine be Zero Emission Vehicles. A portion of the 10 percent mandate can be made through partial "ZEV credits" for vehicles such as gasoline/electric hybrids and super clean gasoline-powered vehicles.

In September 2000 the California Air Resources Board decided to keep its ZEV mandate in place. While upholding the ZEV mandate the Board expressed concerns on several issues: current lack of ZEV availability, market demand, and cost and incentives for ZEVs. CARB directed their staff to review the regulation and propose appropriate modifications to address these issues and assure successful penetration of ZEVs into the market. The Department has similar reservations and recommends that the Board repeal the current ZEV mandate and revisit the ZEV mandate after California has completed its evaluation.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its responses to comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF DECEMBER 6, 2001

California incorporated EPA's federal Tier II standards that were more stringent for light and medium duty vehicles than the previously adopted LEV II standards. California also adopted EPA's more

stringent standards for heavy-duty gasoline engines beginning in model-year 2005. By adopting these standards, Maine continues to receive only the cleanest vehicles available in every vehicle category.

In the 1990s, seven large manufacturers of heavy-duty diesel engines (HDDEs) violated federal certification regulations by turning off, or defeating, emissions control equipment during in-use highway driving. When the Heavy-Duty Diesel Engines (HDDE) certification violations were discovered, it was found that operation outside the scope of the Federal Test Procedure (FTP) test cycle could result in significant emission increases. To address this and resolve litigation over these certification violations, in 1998, the Department of Justice, the EPA and the California Air Resources Board (CARB) signed consent decrees with seven engine manufacturers, which account for approximately 60% of the manufactured HDDE engines for sale in the United States. In the consent decrees, the settling manufacturers are required, among other things, to produce HDDEs that comply with prescribed emission standards that are lower than those currently required by CARB and EPA regulations, as measured by FTP, no later than October 1, 2002. These standards are approximately 50 percent cleaner than currently available engines, cutting NO_x emissions in half.

In addition, the majority of the settling manufacturers agreed to produce engines by October 1, 2002, that would meet supplemental test procedures including the Not-To-Exceed (NTE) test and the EURO III European Stationary Cycle (ESC) test. The NTE requirement would apply under any engine operating conditions that could reasonably be expected in normal vehicle use. ESC primarily represents the typical highway cruise operating conditions of heavy-duty diesel vehicles. This can help prevent excess emission increases during highway driving.

The consent decrees state that these requirements must be met for a period of two years for diesel engines for model-year vehicles 2003-2004. U.S. EPA adopted in 1997 more stringent emission standards for HDDE vehicles effective for model-year 2004. Recognizing the effectiveness of the supplemental tests, on October 29, 1999, the EPA published a Notice of Proposed Rulemaking (64 FR 58472) proposing to adopt similar supplemental test procedures for 2004 and subsequent model-year HDDEs. However, because of statutory federal timing constraints, the NTE and ESC test procedures will not be required until the 2007 model-year for federally certified HDDEs (65 FR 59896, October 6, 2000). Therefore, once the consent decree requirements expire in 2004, the settling manufacturers will not be obligated to comply with the supplemental test procedures for model-years 2005 or 2006.

In order to assure continued compliance by the settling manufacturers and to begin compliance by all other manufacturers with model-year 2005, California adopted rules on December 8, 2000, to include the NTE and ESC tests in the required California certification process for 2005 and subsequent model-year HDDEs. California's supplemental test procedures parallel those in the consent decrees and the EPA's Final Rule for 2007 and subsequent model-year HDDEs. By adopting California's NTE standards, Maine closes the regulatory gap from the expiration of the consent decrees in 2004 to when the federal test procedures take effect in 2007. Adopting the proposed test procedures will require settling manufacturers to continue producing clean engines during the 2005 and 2006 model-year and require non-settling manufacturers to produce cleaner engines two years prior to the EPA 2007 rule.

Promulgation of the NTE standards would reduce NO_x emissions from HDDE vehicles by 50 %, which is a known precursor to the production of ozone. Based on predicted California sales, the cost-effectiveness of the HDDE test procedures is a lifetime reduction of 2.41 tons of NO_x at a cost of \$340/ton. Adoption of these NTE standards would aid the State in maintaining NAAQS for ozone by reducing the in-use emissions of air contaminants from HDDE vehicles.

BASIS STATEMENT FOR AMENDMENTS FOR DECEMBER 2, 2004

The purpose of this rule making is to adopt California's 2007 Heavy-Duty Diesel Engine (HDDE) emission standards and extend beyond 2006 the Not-To Exceed (often referred to as the NTE Rule) and Euro III European Stationary Cycle emission test procedures for on-road heavy-duty diesel engines. The California standard will be phased in over four years - 50% of the new engines sold in model years 2007 through 2009 are to meet the new NOx standard with full compliance in model year 2010. These standards will not be in effect in Maine until 2008, the second year of the four-year phase-in period. Therefore, the standards that will apply in Maine for 2008, 2009 and 2010 will be the identical standards in effect in California for each criteria pollutant for those three years.

EPA's 2007 heavy-duty diesel rule requires engines to emit 95% less NOx and 90% less harmful diesel particulate matter than the current engine standard. California's adopted HDDE regulations for model years 2007 and subsequent years are substantively identical to the EPA rule for model year 2007. We propose to adopt California's standard to continue to receive these significant emissions reductions in the event that EPA's 2007 rule is delayed or weakened.

The trucking industry has suggested a delay may be necessary or that Congress should create financial incentives to help address the cost of buying these new engines. States are concerned that congressional action or a last minute industry legal challenge could postpone the implementation of the federal rule in 2007.

This rulemaking is part of a multi-state initiative. To date 13 states have committed to adopting California's heavy-duty diesel emission standards to ensure that a significant portion of the domestic market for HDDEs is required to meet the more stringent emission standards and that states receive the associated significant emission reduction benefits.

Adoption of the 2007 California HDDE emission standards would aid the State in attaining and maintaining NAAQS for ozone by reducing the in-use emissions of air contaminants from HDDE vehicles.

BASIS STATEMENT FOR AMENDMENTS OF DECEMBER 2, 2004

In December 2000 the Board repealed the ZEV program. While California Air Resources Board (CARB) upheld its ZEV program, CARB expressed concerns on several issues: current lack of ZEV availability, market demand, and cost and incentives for ZEVs. CARB directed their staff to review the regulation and propose appropriate modifications to address these issues and assure successful penetration of ZEVs into the market. The Department had similar reservations and recommended that the Board repeal the current ZEV program and revisit the ZEV program after California completed its evaluation.

When California adopted the ZEV program in 1993, battery electric vehicles were virtually the only vehicles available that could meet the ZEV requirements. In April 2003 CARB finalized modifications to its ZEV program that better aligned the program requirements with the status of current technology development. These modifications allow gasoline-electric hybrids and gasoline powered vehicles that meet the SULEV standard with zero evaporative emissions to meet up to 80% of the ZEV requirement. The ZEV percentage requirements remained at 10% but started in model year 2005, allowing manufacturers to earn and bank credits for vehicles produced prior to the 2005 model year.

The 2003 changes also include an "alternative compliance path" that allows AT PZEVs (gasoline-electric hybrids) to be used to meet the pure ZEV obligations, provided that the manufacturer meets a requirement for a specified number of fuel cell vehicles (250 fuel cell vehicles from 2001 to 2008).

Many of these technologies have at least some qualities inherent to ZEV's, such as extremely low emissions and extended durability, partial all-electric range or the use of an inherently durable non-combustion engine. The program introduces significant flexibility into the ZEV sales requirement and broadens the scope of vehicles that can qualify for meeting some portion of the ZEV sales requirement.

Based on the California Zero Emission Vehicle Program modifications, the Department finds that California has addressed the concerns expressed in 2000.

Maine - like six other states in the Northeast (Vermont, Massachusetts, and New York with existing programs; Connecticut, RI, and NJ with new programs)- has chosen to implement California's LEV program. Unlike those six states, however, Maine has not incorporated the Zero Emission Vehicle program. New Hampshire has neither program.

Reductions in mobile source emissions are an important part of achieving air quality goals. Maine, federal, state, and local governments are working to bring ozone and particulate levels into compliance with the National Ambient Air Quality Standard (NAAQS) through State Implementation Plan (SIP) attainment and maintenance plans, and to ensure that future air quality reaches and continues to achieve these health-based standards. In addition mobile sources are a major contributor to air toxics such as benzene and green house gases such as carbon dioxide. The Department finds that the Zero Emissions Vehicle program will result in significant reductions of volatile organic compounds, air toxics, and carbon dioxide.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its responses to comments received during the comment period.

Appendix A

Title 13 CCR	Title	Section Amended Date
Chapter 1	Motor Vehicle Pollution Control Devices.	
Article 1	General Provisions.	
1900	Definitions.	12/22/99
Article 2	Approval of Motor Vehicle Pollution Control Devices (New Vehicles).	
1956.8	Exhaust Emissions Standards and Test Procedures — 1985 and Subsequent Model Heavy-Duty Engines and Vehicles.	7/25/01
1960.1	Exhaust Emissions Standards and Test Procedures — 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles.	11/27/99
1961	Exhaust Emission Standards and Test Procedures — 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.	5/4/01
1962	Zero Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	12/19/03
1965	Emission Control and Smog Index Labels — 1979 and Subsequent Model-Year Motor Vehicles.	12/22/99
1968.1	Malfunction and Diagnostic System Requirements — 1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Engines.	11/27/99
1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions.	11/27/99
1978	Standards and Test Procedures for Vehicle 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 Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
2037	Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.	11/27/99
2038	Performance Warranty for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles.	11/27/99

Title 13 CCR	Title	Section Amended Date
2039	Emissions Control System Warranty Statement.	12/26/90
2040	Vehicle Owner Obligations.	12/26/90
2046	Defective Catalyst.	1/16/79
Article 7.	Procedures for Certifying Used Modifier-Certified Motor Vehicles and Licensing Requirements for Vehicle Emission Test Laboratories.	
Chapter 2	Enforcement of Vehicle Emission Standards and Surveillance Testing.	
Article 1	Assembly-Line Testing.	
2062	Assembly-Line Test Procedures - 1998 and Subsequent Model-years.	11/27/99
Article 1.5	Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and 2006 Model-year Heavy-Duty Engines and Vehicles.	
2065	Applicability of Chapter 2 to 2005 and 2006 Model-year Heavy-Duty Engines and Vehicles.	7/25/01
Article 2	Enforcement of New and In-Use Vehicle Standards.	
2101	Compliance Testing and Inspection — New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
2109	New Vehicle Recall 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 Model-year.	11/27/99
Article 2.1	Procedures for In-Use Vehicle Voluntary and Influenced Recalls.	
2111	Applicability.	1/26/95
2112	Definitions.	11/27/99
	Appendix A to Article 2.1.	11/27/99
2113	Initiation and Approval of Voluntary and Influenced Emission-Related Recalls.	1/26/95
2114	Voluntary and Influenced Recall 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 Vehicle Ordered Recalls.	
2121	Penalties.	1/26/95
2122	General Provisions.	1/26/95
2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95

Title 13 CCR	Title	Section Amended Date
2124	Availability of Public Hearing.	1/26/95
2125	Ordered Recall Plan.	1/26/95
2126	Approval and Implementation of Recall 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 Vehicle Enforcement Test Procedures.	
2136	General Provisions.	1/26/95
2137	Vehicle Selection.	11/27/99
2138	Restorative Maintenance.	11/27/99
2139	Testing.	11/27/99
2140	Notification and Use of Test Results.	11/27/99
Article 2.4	Procedures for Reporting Failure of Emission-Related Components.	
2141	General Provisions.	2/23/90
2142	Alternative Procedures.	2/23/90
2143	Failure Levels Triggering Recall.	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.	11/27/99
2148	Evaluation of Need for Recall.	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