

CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS

Subchapter D. PENNSYLVANIA CLEAN VEHICLES PROGRAM

GENERAL PROVISIONS

§ 126.401. Purpose.

(a) This subchapter establishes a clean vehicles program under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone and other air pollutants from new motor vehicles.

(b) The subchapter adopts and incorporates by reference certain provisions of the California Low Emission Vehicle Program.

(c) The subchapter also exempts certain new motor vehicles from the Pennsylvania Clean Vehicles Program.

(d) The Department may not implement or enforce any vehicle emission standard which is not legally permitted to be regulated under the Clean Air Act or other applicable Federal or State law or regulation.

§ 126.402. [Reserved].

LOW EMISSION VEHICLES

§ 126.411. General requirements.

(a) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, titled or registered in this Commonwealth starting with the 2008 model year and each model year thereafter.

(b) The provisions of the California Low Emission Vehicle Program, Title 13 CCR, Division 3, Chapters 1 and 2, are adopted and incorporated herein by reference, and apply except for the following:

(1) The zero emissions vehicle percentage requirement in Title 13 CCR, Division 3, Chapter 1, § 1962.

(2) The emissions control system warranty statement in Title 13 CCR, Division 3, Chapter 1, § 2039.

§ 126.412. Emission requirements.

(a) Starting with the model year 2008, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Starting with the model year 2008, compliance with the NMOG fleetwide average in Title 13 CCR, Division 3, Chapter 1, § 1961 shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth.

(c) Credits and debits for calculating the NMOG fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR, Division 3, Chapter 1.

(d) NMOG fleet average credits generated during the 2008, 2009 and 2010 model years may be applied toward any of the model years 2008 through 2010 for the purpose of demonstrating compliance with subsections (b) and (c). The credits generated during this period may be applied at full value for any of the model years 2008 through 2010.

(e) New motor vehicles subject to this subchapter must possess a valid emissions control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1.

§ 126.413. Exemptions.

(a) The following new motor vehicles are exempt from the Pennsylvania Clean Vehicles Program requirements of this subchapter:

(1) Emergency vehicles.

(2) A light-duty vehicle transferred by a dealer to another dealer for ultimate sale outside of this Commonwealth.

(3) A light-duty vehicle transferred for use exclusively off-highway.

(4) A light-duty vehicle transferred for registration out-of-State.

(5) A light-duty vehicle granted a National security or testing exemption under section 203(b)(1) of the Clean Air Act (42 U.S.C.A. § 7522(b)(1)).

(6) A light-duty vehicle held for daily lease or rental to the general public which is registered and principally operated outside of this Commonwealth. For purposes of this paragraph, a light-duty vehicle is deemed to be principally operated outside of this Commonwealth if it is registered outside of this Commonwealth in accordance with the Inter-Jurisdictional Agreement on Apportioning Vehicle Registration Fees developed under the Intermodal Surface Transportation and Efficiency Act of 1991 (Pub. L. 102-240, 105 Stat. 1914), and known as the

International Registration Plan, or a successor plan for apportioning vehicle registration fees internationally.

(7) A light-duty vehicle engaged in interstate commerce which is registered and principally operated outside of this Commonwealth.

(8) A light-duty vehicle acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth if the replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(9) A light-duty vehicle transferred by inheritance or court decree.

(10) A light-duty vehicle defined as a military tactical vehicle or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to application of section 216(2)).

(11) A light-duty vehicle titled or registered in this Commonwealth before December 9, 2006.

(12) A light-duty vehicle having a certificate of conformity issued under the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth and upon registration of the vehicle provides satisfactory evidence to the Department of Transportation of the previous residence and registration.

(13) A vehicle transferred for the purpose of salvage.

(b) To title or register an exempted vehicle, the person seeking title or registration shall provide satisfactory evidence, as determined by the Department of Transportation, demonstrating that the exemption is applicable.

APPLICABLE NEW MOTOR VEHICLE TESTING

§ 126.421. New motor vehicle certification testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements must be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, § 1961, as determined by testing in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

§ 126.422. New motor vehicle compliance testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter must be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, § 1961, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

§ 126.423. Assembly line testing.

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), inspection testing and quality audit testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR, Division 3, Chapter 2. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR, Division 3, Chapter 2, of a statistically significant sample, may substitute for the 100% testing rate required in Title 13 CCR, Division 3, Chapter 2, with the written consent of the Department.

§ 126.424. In-use motor vehicle enforcement testing.

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR, Division 3, Chapter 1, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of compliance with subsection (a), in-use vehicle enforcement testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) The results of testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to emission inspection program).

§ 126.425. In-use surveillance testing.

(a) For purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB.

(b) For purposes of program planning and analysis, in-use surveillance testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

(c) The results of in-use surveillance testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to emission inspection program).

MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS

§ 126.431. Warranty and recall.

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or lease, titled or registered in this Commonwealth, shall warrant to the owner that each vehicle will comply over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, §§ 2035—2038, 2040 and 2041.

(b) Each motor vehicle manufacturer shall, upon a written request, submit to the Department failure of emission-related components reports, as defined in Title 13 CCR, Division 3, Chapter 2, for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 CCR, Division 3, Chapter 2. For purposes of compliance with this subsection, a manufacturer may submit copies of the reports submitted to CARB.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under Title 13 CCR, Division 3, Chapter 2, shall extend to all motor vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth that would be subject to the recall campaign if sold, leased, offered for sale or lease or registered as a new motor vehicle in California, unless within 30 days of CARB approval of the recall campaign, the manufacturer demonstrates, in writing, to the Department's satisfaction that the recall campaign is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth.

(d) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any order issued by or enforcement action taken by CARB to correct noncompliance with any provision of Title 13 CCR, which results in the recall of any vehicle pursuant to Title 13 CCR, Division 3, Chapter 2, shall be deemed to apply to all motor vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth that would be subject to the order or enforcement action if sold, leased, offered for sale or lease or registered as a new motor vehicle in California, unless within

30 days of issuance of the CARB action, the manufacturer demonstrates, in writing, to the Department's satisfaction that the action is not applicable to vehicles sold, leased, offered for sale or lease, titled or registered in this Commonwealth.

§ 126.432. Reporting requirements.

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2008 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each test group over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department by March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each test group for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR, Division 3, Chapter 1.

(c) Fleet average reports must, at a minimum, identify the total number of vehicles, including offset vehicles, sold in each test group delivered for sale in this Commonwealth, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth in relation to total fleet sales.

(d) Compliance with the NMOG fleet average for the 2008, 2009 and 2010 model years must be demonstrated following the completion of the 2010 model year.

MOTOR VEHICLE DEALER RESPONSIBILITIES

§ 126.441. Responsibilities of motor vehicle dealers.

A dealer may not sell, offer for sale or lease, or deliver a new motor vehicle subject to this subchapter unless the vehicle has received the certification described in § § 126.421 and 126.422 (relating to new motor vehicle certification testing; and new motor vehicle compliance testing), and conforms to the following standards and requirements contained in Title 13 CCR, Division 3, Chapter 2, § 2151:

- (1) Ignition timing is set to manufacturer's specification with an allowable tolerance of $\pm 3^\circ$.
- (2) Idle speed is set to manufacturer's specification with an allowable tolerance of ± 100 revolutions per minute.
- (3) Required exhaust and evaporative emission controls including exhaust gas recirculation (EGR) valves, are operating properly.
- (4) Vacuum hoses and electrical wiring for emission controls are correctly routed.

(5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

DEPARTMENT RESPONSIBILITIES

§ 126.451. Responsibilities of the Department.

The Department will do the following:

(1) Monitor and advise the EQB of any proposed or final-form rulemakings under consideration by CARB or its successor that amend the Title 13 CCR, Division 3, Chapter 1 and 2 requirements incorporated by reference in this subchapter.

(2) The Department will:

(i) Prepare a Regulatory Analysis Form to be submitted to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for each proposed or final CARB rulemaking amending the Title 13 CCR, Division 3, Chapter 1 and 2 requirements incorporated by reference in this subchapter. The Department will complete the relevant provisions of the Regulatory Analysis Form as practical, including a cost/benefit analysis of the proposed or final CARB rulemaking.

(ii) Evaluate the estimated incremental cost to manufacture vehicles that comply with the California Low Emission Vehicle Program compared to the cost to manufacture vehicles that comply with the Federal Tier II vehicle emissions regulation, or its successor, promulgated under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) to the extent data is available. This evaluation will be conducted on any proposed or final-form rulemakings under consideration by CARB or its successor amending the Title 13 CCR, Division 3, Chapter 1 and 2 requirements incorporated by reference in this subchapter and will be distributed to the EQB and the Chairpersons of the House and Senate Environmental Resources and Energy Committees.

(iii) Submit comments on proposed or final-form rulemakings amending the Title 13 CCR, Division 3, Chapter 1 and 2 requirements incorporated by reference in this subchapter to CARB on behalf of the residents of this Commonwealth.

(3) The Department, in conjunction with the Department of Transportation, will study and evaluate the feasibility of modifying the Pennsylvania vehicle emission inspection program. In performing the study and evaluation, the Department, in conjunction with the Department of Transportation, will consider the additional reductions in NO_x, VOCs and other pollutants to be achieved through implementation of the Title 13 CCR, Division 3, Chapter 1 and 2 requirements. The Department will submit the findings and recommendations to the EQB no later than September 10, 2007.

(4) As soon as possible, but no later than June 11, 2007, the Department will notify the EQB of the specific reductions in NO_x, VOCs, carbon monoxide and any other reductions approved by the EPA as a result of the incorporation of the Pennsylvania Clean Vehicles Program in the

Commonwealth's SIP. The report must include a comparison of the incremental benefit reductions derived using EPA-approved methodology versus reductions which would have been