**DEPARTMENT OF ENERGY AND ENVIRONMENT**

**NOTICE OF Proposed RULEMAKING**

**Adoption of California Vehicle Emission Standards**

The Director of the Department of Energy and Environment (DOEE), in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code 8-151.01 *et seq*.) (2013 Repl. & 2018 Supp.)); the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.01 *et seq*.) (2013 Repl. & 2018 Supp.)); Section 2 of the Clean Cars Act of 2008, effective May 13, 2008 (D.C. Law 17-151; D.C. Official Code § 50-731 (2013 Repl.)); Mayor’s Order 2006-61, dated June 14, 2006; and Mayor’s Order 2018-044, dated May 2, 2018, hereby gives notice of a proposal to amend Chapter 9 (Air Quality - Motor Vehicular Pollutants, Lead, Odors, and Nuisance Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from publication of this notice in the *D.C. Register*.

This rulemaking action proposes to adopt the California Low-Emissions Vehicle III (CA-LEV III) standards and compliance requirements for vehicles of model year (MY) 2025 and beyond that are bought, sold, and registered in the District of Columbia, pursuant to the requirements of the Clean Cars Act of 2008 (the Act). Section 209(a) of the federal Clean Air Act (the CAA) prohibits any State or any political subdivision thereof from adopting or enforcing “any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines.” 42 U.S.C. § 7543(a). Section 209(b) of the CAA, however, permits the state of California to apply for a waiver from the prohibition in Section 209(a), in order to implement its own standards for motor vehicles, provided that they are at least as stringent as the federal standards. 42 U.S.C. § 7543(b). Currently, California has a waiver to set its own vehicle emission standards for criteria pollutants through model year 2025. Section 177 of the CAA authorizes any State with an approved non-attainment State Implementation Plan (SIP) to meet the National Ambient Air Quality Standards (NAAQS) to choose between maintaining the federal standards or adopting the California emission standards for motor vehicles. 42 U.S.C. § 7507. These States may, without EPA approval, adopt and enforce for any model year vehicle emission standards identical to California’s standards for which a waiver has been granted. *Id.* The District is designated as nonattainment for the 2015 Ozone NAAQS (83 Fed. Reg. 25776, June 4, 2018) and has an approved SIP, and is therefore authorized to adopt the California Standards.

In 2009, the U.S. Environmental Protection Agency (EPA), the National Highway Traffic Safety Administration (NHTSA), the California Air Resources Board (CARB), and automakers worked together to establish a national program of vehicle standards for GHG emissions and fuel economy. Under the national program, CARB deemed that federal GHG emissions standards complied with their own, based upon the understanding that those standards would achieve comparable emission reductions to California’s and would be based upon sound technological and scientific review. As a result, the District was previously able to rely on the national program for GHG emission reductions from vehicle emissions standards and compliance requirements.

However, last year the federal government proposed to revoke California’s waiver and to roll back the previously agreed upon vehicle emission standards for GHGs in the Safer Affordable Fuel Efficient (SAFE) Vehicles Rule for Model Years 2021-2025 Passenger Cars and Light Trucks, 83 Fed. Reg. 42,986 (proposed Aug. 24, 2018). The California Air Resources Board (CARB) subsequently completed a rulemaking to clarify that the “deemed to comply” provision of their regulations only applies to federal standards that achieve equivalent GHG reductions to California’s own standards, and would exclude any weakened standards adopted by the federal government (Cal. Office of Admin. Law, OAL Matter No. 2018-1114-03 (Dec. 12, 2018), available at: <https://www.arb.ca.gov/regact/2018/leviii2018/form400dtc.pdf>). EPA has since finalized the rulemakings to revoke California’s waiver, as well as roll back the federal standards. “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program” 84 Fed. Reg. 51,310 (September 27, 2019); “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks” 85 Fed. Reg. 24174 (April 30, 2020). The District is proposing to adopt the California emission standards for GHGs, contingent upon reinstatement of the waiver, because the rollback of the federal standards could negatively affect the District’s goal to reduce GHG emissions.

By adopting the CA-LEV III program, the District will achieve reductions in nitrogen oxides (NOx) and volatile organic compounds (VOCs), both of which are precursors to ozone (O3), for which the District is in nonattainment, as well as ensure reductions in greenhouse gases (GHGs) in accordance with the District’s GHG reduction targets in the Clean Energy DC Plan, available at https://doee.dc.gov/cleanenergydc. With vehicle emissions constituting twenty-one percent (21%) of the District’s GHG emissions, (available at https://doee.dc.gov/service/greenhouse-gas-inventories), reducing vehicle GHG emissions is an important component of the District’s GHG reduction goals. For this reason, the District’s Clean Energy DC Plan relied, in part, on the federal GHG tailpipe emission standards to achieve the District’s commitment to reduce GHG emissions by 50% below 2006 levels by the year 2032 as per the D.C. Dep’t of Energy & Env’t., Clean Energy DC (Oct. 2016), available at <https://doee.dc.gov/sites/default/files/dc/sites/ddoe/publication/attachments/Clean_Energy_DC_2016_final_print_single_pages_102616_print.pdf>. With the rollback of the federal standards, the District can no longer depend upon the federal standards for those emission reductions and, therefore, must adopt the California Standards to achieve comparable GHG reductions.

Through this rulemaking action, the Department also proposes to repeal §§ 905 through 916 of Title 20 because these sections are no longer in effect. Sections 905 through 914 implement provisions of the Clean Fuel Fleet Vehicle Program and Alternative Fuels Incentives Amendment Act of 1994, effective November 4, 1994 (D.C. Law 10-201; 20 DCMR § 905 *et seq.*). Section 915 implements the National Low Emission Vehicle (NLEV) program. Section 916 implements the Heavy Duty Diesel Engine Emission Standards.

On May 15, 1995, the District submitted a SIP revision to adopt the Clean Fuel Fleet (CFF) Program, which was implemented under the Clean Air Act Amendments of 1990 and applied to fleets in ozone nonattainment areas. It required that a percentage of new cars and light- and medium-duty trucks purchased by certain fleets meet lower hydrocarbon and nitrogen oxide emission standards. Individual states were required to ensure that appropriate fuels were available for operating the clean-fueled fleet vehicles. 42 U.S.C. § 7586.

On January 6, 1998, the District notified the U.S. Environmental Protection Agency (EPA) of its intention to opt-in to the NLEV program. National LEV was designed as a compliance alternative for Ozone Transport Commission (OTC) state programs, adopted pursuant to section 177 of the Clean Air Act (42 U.S.C. § 7507). It applied to passenger cars, light-duty trucks up through 6,000 gross vehicle weight rating (GVWR), and/or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate as gasoline, as these categories of motor vehicles were defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900. Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Voluntary Standards for Light-Duty Vehicles, 62 Fed. Reg. 31191 (June 6, 1997). The voluntary program committed auto manufacturers who opted in to the program to manufacture and sell lower emission vehicles and trucks in the Northeast Trading Region. *Id.* The District refrained from adopting and implementing a zero-emission vehicle (ZEV) mandate effective before model year 2006. On March 2, 1998, EPA found the NLEV program to be in effect, with emission standards applicable beginning with model year 1999. Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Finding of National Low Emission Vehicle Program in Effect,63 Fed. Reg. 11374-01 (Mar. 9, 1998).

On February 11, 2000, the District finalized the NLEV regulations at 20 DCMR § 915. 47 DCR 886 (Feb. 11, 2000). When the District submitted the NLEV regulation as a Phase II Ozone Attainment SIP revision, the District withdrew its submission of the District’s SIP for Clean Fuel Fleets that had been adopted on May 15, 1995. An equivalency analysis indicated that benefits from the District’s participation in the NLEV program would offset emissions reductions from the CFF Program. Therefore, 20 DCMR §§ 905 through 914 were no longer applicable. The NLEV program extended through model year 2006. After model year 2006, Federal Tier 2 Phase 2 (tailpipe and fuel) standards went into effect, so 20 DCMR § 915 was no longer applicable. Once finalized, the repeal of § 915 will be submitted to EPA as a SIP revision, since § 915 is currently in the District’s SIP.

Likewise, since § 916 applied to heavy duty diesel engine emission (HDDE) standards for model years 2005 and 2006, 20 DCMR § 916 was also no longer applicable after 2006.

**Chapter 9, AIR QUALITY - MOTOR VEHICULAR POLLUTANTS, LEAD, ODORS, AND NUISANCE POLLUTANTS, of Title 20 DCMR, ENVIRONMENT, is amended to read as follows:**

**Sections 905 through 916 are repealed and replaced with the following:**

**905 Vehicle Emission Standards - applicability and exemptions**

905.1 Except as provided in §§ 905.2 and 905.3 of this section, §§ 905-911 of this chapter apply to all new 2025 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles subject to the California Standards that are bought, sold, transferred, or registered in District of Columbia.

905.2 The greenhouse gas exhaust emission standards and test procedures under Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1961.3 and related recordkeeping and warranty requirements under Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1961.2 and Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2037 of the California Standards are applicable provided that California’s waiver from the U.S. Environmental Protection Agency pursuant to section 209(a) of the Clean Air Act is in effect, and only to such model years as they may be applied consistent with the Clean Air Act.

905.3 The greenhouse gas requirements of the California Standards are applicable to medium-duty vehicles only to the extent that they are medium-duty passenger vehicles.

905.4 This chapter does not apply to the following vehicles:

(a) A vehicle transferred by inheritance;

(b) A vehicle transferred by decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;

(c) A vehicle purchased by a nonresident prior to establishing residency in District of Columbia;

(d) A vehicle sold for the purpose of being wrecked or dismantled;

(e) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. § 7521 and which is in the possession of a rental agency in District of Columbia as a result of a rental that was initiated in a state other than District of Columbia;

(f) An emergency vehicle;

(g) A military tactical vehicle; and

(h) A vehicle exempted by California Health and Safety Code § 43656.

**906 vehicle emission standards - prohibitions AND Incorporation By Reference**

906.1 No person shall buy, sell, transfer, or register in District of Columbia a new motor vehicle subject to § 905 unless that new motor vehicle has been certified by the California Air Resources Board (CARB) to comply with all applicable California Standards.

906.2 The following requirements applicable to vehicles of model year 2025, and each model year thereafter, are hereby adopted by reference, with the terms used and defined:

1. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 1, § 1900 Definitions;
2. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1960.5 Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California, as effective October 16, 2002;
3. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1961.2 Exhaust Emission Standards and Test Procedures-2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles;
4. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1961.3 Greenhouse Gas Exhaust Emission Standards and Test Procedures 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles;
5. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1962.3 Electric Vehicle Charging Requirements;
6. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1965 Emission Control, Smog Index, and Environmental Performance Labels — 1979 and Subsequent Model-Year Motor Vehicles;
7. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1968.2 Malfunction and Diagnostic System Requirements — 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines;
8. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 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;
9. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1969 Motor Vehicle Service Information — 1994 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Engines and Vehicles, and 2007 and Subsequent Model Heavy-Duty Engines;
10. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1975 Standards and Test Procedures for Crankcase Emissions;
11. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1976 Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions;
12. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, §1977 Certification and Service Documents — 1993 and Subsequent Model Motor Vehicles;
13. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, § 1978 Standards and Test Procedures for Vehicle Refueling Emissions;
14. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 5, § 2030 Liquefied Petroleum Gas or Natural Gas Retrofit Systems;
15. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 5, § 2032 Off-Vehicle Charge Capable Hybrid Electric Vehicle Conversion Systems;
16. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2035 Purpose, Applicability, and Definitions;
17. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2037 Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.;
18. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2038 Performance Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicles Engines Used in Such Vehicles;
19. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2039 Emissions Control System Warranty Statement;
20. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2040 Vehicle Owner Obligations;
21. Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 6, § 2041 Mediation; Finding of Warrantable Condition;
22. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 1, § 2062 Assembly-Line Test Procedures — 1998 and Subsequent Model Years;
23. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2, § 2101 Compliance Testing and Inspection — New Vehicle Selection, Evaluation, and Enforcement Action;
24. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2, § 2106 New Vehicle Assembly-Line Inspection Testing;
25. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2, § 2107 Assembly-Line Quality-Audit Testing;
26. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2, § 2108 Order of Executive Officer;
27. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2, § 2109 New Vehicle Recall Provisions;
28. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2111 Applicability;
29. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2112 Definitions;
30. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, Appendix A to Article 2.1 California In-Use Vehicle Emission-Related Recall Procedures, Enforcement Test Procedures, and Failure Reporting Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, Motorcycles, 1997 and Subsequent Model-Year Off-Road Motorcycles and All-Terrain Vehicles, 2000 and Subsequent Model-Year Off-Road Compression-Ignition Engines, and 2008 and Subsequent Model-Year Spark-Ignition Inboard and Sterndrive Marine Engines;
31. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2113 Initiation and Approval of Voluntary and Influenced Emission-Related Recalls;
32. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2114 Voluntary and Influenced Recall Plans;
33. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2115 Eligibility for Repair;
34. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2116 Repair Label;
35. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2117 Proof of Correction Certificate;
36. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2118 Notification;
37. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2119 Recordkeeping and Reporting Requirements;
38. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2120 Other Requirements Not Waived;
39. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, § 2121 Penalties;
40. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2122 General Provisions;
41. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2123 Initiation and Notification of Ordered Emissions-Related Recalls;
42. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2124 Availability of Public Hearing;
43. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2125 Ordered Recall Plan;
44. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2126 Approval and Implementation of Recall Plan;
45. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2127 Notification of Owners;
46. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2128 Repair Label;
47. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2129 Proof of Correction Certificate;
48. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2130 Capture Rates and Alternative Measures;
49. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2131 Preliminary Tests;
50. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2132 Communication with Repair Personnel;
51. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2133 Recordkeeping and Reporting Requirements;
52. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2134 Penalties;
53. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, § 2135 Extension of Time;
54. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, § 2136 General Provisions;
55. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, § 2137 Vehicle and Engine Selection;
56. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, § 2138 Restorative Maintenance;

1. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, § 2139 Testing;
2. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, § 2140 Notification and Use of Test Results;
3. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2141 General Provisions;
4. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2142 Alternative Procedures;
5. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2143 Failure Levels Triggering Recall;
6. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2144 Emission Warranty Information Report;
7. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2145 Field Information Report;
8. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2146 Emissions Information Report;
9. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2147 Demonstration of Compliance with Emission Standards;
10. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2148 Evaluation of Need for Recall;
11. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, § 2149 Notification and Subsequent Action;
12. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 3, § 2150 Assembly-Line Surveillance;
13. Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 3, § 2151 New Motor Vehicle Dealer Surveillance;
14. Title 13, California Code of Regulations (CCR), Division 3, Chapter 3, Article 1, § 2175 Highway Exhaust Emissions — Light-Duty Vehicles;
15. Title 13, California Code of Regulations (CCR), Division 3, Chapter 3, Article 1, § 2175.5 Exemption of Vehicles;
16. Title 13, California Code of Regulations (CCR), Division 3, Chapter 3, Article 1, § 2176 Mandatory Inspection Exhaust Emissions -- Light-Duty and Medium-Duty Vehicles; and
17. Title 13, California Code of Regulations (CCR), Division 3, Chapter 4.4, § 2235 Requirements.

**907 VEHICLE EMISSION STANDARDS - Fleet Average Greenhouse Gas Requirements**

907.1 For all new vehicles subject to § 905, compliance with the California Fleet Average Greenhouse Gas Requirements shall be demonstrated by each motor vehicle manufacturer.

907.2 Compliance with § 907.1 shall be based on the number of vehicles, subject to this chapter, produced and delivered for sale in the District of Columbia by each manufacturer.

**908 VEHICLE EMISSION STANDARDS - Vehicle Testing**

908.1 All new vehicles subject to § 905 shall be certified to meet all applicable California Standards in accordance with the test procedures defined in those standards.

908.2 Motor vehicle certification testing performed for CARB and associated findings made by CARB will be acceptable to demonstrate compliance with § 908.1 of this regulation.

908.3 All manufacturers of new vehicles subject to this chapter shall comply with all applicable California Assembly Line and In-Use Requirements.

908.4 Motor vehicle testing and inspections performed for or by CARB and associated findings made by CARB will be acceptable to demonstrate compliance with this chapter, except as specified.

908.5 If a vehicle manufacturing facility that manufactures vehicles certified to the California Standards for sale in the District of Columbia is not subject to the California Assembly Line and In-Use Requirements administered by CARB, the Department may:

(a) Require demonstration of compliance with all California Assembly Line and In-Use Requirements; and

(b) Upon a manufacturer's written request and demonstration of need, approve the functional testing of a statistically significant testing sample instead of an otherwise required one hundred percent (100%) testing rate.

908.6 The Department may conduct tests and inspections performed in accordance with California Assembly Line and In-Use Requirements on vehicles produced or delivered for sale in the District of Columbia for purposes of:

(a) Compliance monitoring;

(b) Effectiveness demonstration;

(c) Detection of noncomplying vehicles in the District of Columbia; and

(d) The determination of appropriate corrective actions.

**909 VEHICLE EMISSION STANDARDS - Warranty**

909.1 All manufacturers of new vehicles subject to § 905 shall comply with all applicable California Warranty Requirements.

909.2 Reports generated for or by CARB and associated findings made by CARB shall be acceptable to demonstrate compliance with this chapter.

**910 VEHICLE EMISSION STANDARDS - Manufacturer Compliance Demonstration**

910.1 For all new vehicles subject to § 905, each vehicle manufacturer, upon request by the Department, shall submit reports:

(a) Documenting total deliveries of vehicles in each test group or subgroup as applicable and defined under the California Standards for sale in the District of Columbia during the applicable model year;

(b) Demonstrating, based on vehicles delivered for sale in the District of Columbia, compliance with the:

(1) California Fleet Average NMOG Requirements; and

(2) California Fleet Average Greenhouse Gas Requirements.

910.2 The reports required under § 910.1 shall be prepared according to the procedures defined in the California Standards; and shall be submitted to the Department in accordance with the deadlines defined in the California Standards.

910.3 For the purposes of determining if vehicles qualify for exemption under this chapter, the Department may require any vehicle manufacturer or dealer of vehicles subject to this chapter to submit any documentation that the Department determines necessary for the effective administration and enforcement of this chapter.

**911 VEHICLE EMISSION STANDARDS – INSPECTION AND Enforcement**

911.1 The Department, or its designated agent(s), has the right to conduct inspections and surveillance of new and used motor vehicles for the purposes of determining compliance with the requirements of this chapter.

911.2 The inspections authorized under § 911.1 of this regulation may:

(a) Be conducted on any premises owned, operated, used, leased, or rented by any vehicle dealer;

(b) Extend to all emissions-related parts and their operation;

(c) Require the on-premises operation and testing of an engine or vehicle; and

(d) Require inspection of any related records, including records of emissions-related part repairs performed under warranty.

911.3 Refusal to allow, or interference with, the inspections under this regulation shall be considered a violation of this chapter.

911.4 The Department, or its designated agent(s), may perform functional tests, steady-state tests, and other tests as reasonably necessary to ensure compliance with §§ 905-911 of this chapter.

911.5 In addition to all other compliance procedures defined in the California Standards, emission test standards defined in the California Assembly Line and In-Use Requirements may be used by the Department to verify compliance with the requirements of this chapter.

911.6 Except as otherwise specified in this section, any order or enforcement action taken by CARB to correct noncompliance with any requirement of the California Standards that results in the recall of any vehicle pursuant to the California Recall Requirements also shall be applicable to all vehicles subject to this chapter.

911.7 Except as specified in this chapter, any voluntary or influenced emissions-related recall campaign initiated by any manufacturer pursuant to the California Recall Requirements also shall extend to all applicable vehicles subject to this chapter.

911.8 The Department may exempt District of Columbia vehicles from the provisions of this chapter if a vehicle manufacturer demonstrates to the Department's satisfaction, within twenty-one (21) days of CARB approval of a recall campaign, that the campaign is not applicable to vehicles delivered for sale in District of Columbia.

911.9 The Department shall enforce the requirements of this chapter in accordance with the requirements defined in the California Standards and applicable federal and District of Columbia law.

911.10 Failure to submit any of the required reports, test data, inspection data, or any other information requested in this chapter shall be considered a violation and the Department may impose an administrative civil fine, penalty, and order for costs and expenses pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq*.).

911.11 A person who violates any provision of this chapter shall be subject to the sanctions pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801 et seq.).

911.12 Each instance or day of a violation of any provision of this chapter shall be a separate violation.

**912 [RESERVED]**

**913 [RESERVED]**

**914 [RESERVED]**

**915 [RESERVED]**

**916 [RESERVED]**

**Section 999, DEFINITIONS AND ABBREVIATIONS, is amended as follows:**

**By repealing the following definitions in Subsection 999.1, DEFINITIONS:**

**Alternative fuel**

**Alternative-fuel vehicle**

**Bi-fuel vehicle**

**Capable of being centrally fueled**

**Centrally fueled**

**Clean Air Act**

**Clean fuel**

**Clean-fuel fleet vehicle or CFFV**

**Contract fueling**

**Converted vehicle**

**Covered area**

**Covered fleet**

**Covered fleet operator**

**Covered fleet vehicle**

**Credit**

**Dedicated vehicle**

**Diesel fuel**

**Dual - fuel vehicle**

**Emergency vehicle**

**Executive Order**

**Federal fleet**

**Flexible-fueled vehicle**

**Fuel provider**

**Garaged under normal operations at a personal residence**

**Heavy duty diesel engine or HDDE**

**Heavy duty vehicle or HDV**

**High-Occupancy Vehicle or HOV lanes**

**Inherently low emission vehicle or ILEV**

**Law enforcement vehicle**

**Light duty truck or LDT**

**Light duty vehicle or LDV**

**Low-emission vehicle or LEV**

**Medium duty vehicle**

**Motor vehicle**

**National Low Emission Vehicle Program or NLEV**

**New heavy duty vehicle**

**Partially covered fleet**

**Power take-off equipment**

**Purchase or acquisition**

**Qualified second market vehicle**

**Section 177 program**

**Ultra low-emission vehicle or ULEV**

**Ultra-small volume manufacturer**

**Urban bus**

**ZEV mandate**

**Zero-emission vehicle or ZEV**

**By adding a definition for “California Assembly Line and In-Use Requirements” as follows**:

**California Assembly Line and In-Use Requirements** - the requirements established under Title 13 CCR §§ 1900, 2062, 2101, 2106, 2107, 2108, 2109, 2136, 2137, 2138, 2139, 2140, 2150, 2151, 2175, 2175.5, and 2176.

**By adding a definition for “California Certification Requirements” as follows**:

**California Certification Requirements** - the requirements established under Title 13 CCR §§ 1900, 1960.1, 1960.5, 1961, 1961.1, 1962, 1962.1, 1965, 1968.2, 1968.5, 1969, 1975, 1976, 1977, 1978, and 2235.

**By adding a definition for “California Fleet Average Greenhouse Gas (GHG) Requirements” as follows**:

**California Fleet Average Greenhouse Gas (GHG) Requirements** - the requirements established under Title 13 CCR § 1961.1(a)(1), including all calculation procedures and credit and debit provisions specified in Title 13 CCR § 1961.1.

**By adding a definition for “California Fleet Average NMOG Requirements” as follows**:

**California Fleet Average NMOG Requirements** - the requirements established under Title 13 CCR § 1961(b)(1), including all calculation procedures and credit and debit provisions specified in Title 13 CCR §1961.

**By adding a definition for “California Recall Requirements” as follows**:

**California Recall Requirements** - the requirements established under Title 13 CCR §§ 1900, 2109, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, and Appendix A to Article 2.1 of Chapter 2 of Division 3.

**By adding a definition for “California Standards” as follows**:

**California Standards** - the comprehensive set of requirements defined by California Certification Requirements, California Warranty Requirements, California Assembly Line and In-Use Requirements, California Recall Requirements, California Fleet Average NMOG Requirements, and California Fleet Average Greenhouse Gas Requirements.

**By adding a definition for “California Warranty Requirements” as follows**:

**California Warranty Requirements** - the requirements established under Title 13 CCR §§ 1900, 2035, 2037, 2038, 2039, 2040, and 2041.

**By adding a definition for “Certification” as follows**:

**Certification** - a finding by CARB that a motor vehicle, motor vehicle engine, or motor vehicle pollution control device satisfies the criteria adopted by CARB for the control of specified air contaminants from vehicular sources.

**By adding a definition for “Executive Officer” as follows**:

**Executive Officer** - the Executive Officer of the California Air Resources Board as used in California-adopted statutes, regulations, and procedures related to the California Standards. This meaning is extended for purposes of the application of California Standards in District of Columbia to include the Director, who shall act as the agent of the California Executive Officer in District of Columbia.

**By adding a definition for “Light-duty truck (LDT)” as follows**:

**Light-duty truck (LDT)** - any motor vehicle rated at 8,500 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.

**By adding a definition for “Light-duty truck 1 (LDT1)” as follows**:

**Light-duty truck 1 (LDT1)** - a light-duty truck with a loaded vehicle weight of 3,750 pounds or less.

**By adding a definition for “Light-duty truck 2 (LDT2)” as follows**:

**Light-duty truck 2 (LDT2)** - a light-duty truck with a loaded vehicle weight of 3,751 pounds or more.

**By adding a definition for “Medium-Duty Passenger Vehicle” as follows**:

**Medium-Duty Passenger Vehicle**:

1. "Medium-duty passenger vehicle" means any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons.
2. "Medium-duty passenger vehicle" does not include any vehicle which:

(i) Is an incomplete truck, that is, a truck that does not have the primary load carrying device or container attached;

(ii) Has a seating capacity of more than 12 persons;

(iii) Is designed for more than nine persons in seating rearward of the driver's seat; or

(iv) Is equipped with an open cargo area of 72.0 inches in interior length or more, or a covered box not readily accessible from the passenger compartment of 72.0 inches in interior length or more.

**By adding a definition for “Medium-duty vehicle” as follows**:

**Medium-duty vehicle** - any heavy-duty low-emission, ultra-low-emission, or super-ultra-low-emission vehicle having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

**By adding a definition for “Motor Vehicle” as follows**:

**Motor Vehicle:**

1. "Motor vehicle" means a vehicle that is self-propelled.

(b) "Motor vehicle" does not include a self-propelled wheelchair, motorized tricycle, or motorized quadricycle operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

**By adding a definition for “New Vehicle” as follows**:

**New Vehicle:**

1. "New vehicle" means a new motor vehicle, or any motor vehicle with an odometer reading of less than 7,500 miles, and the equitable or legal title to which has never been transferred to an ultimate purchaser.

(b) "New vehicle" does not include any vehicle with an odometer reading of 7,500 miles or more.

**By adding a definition for “State” as follows:**

**State** - District of Columbia.

**By adding a definition for “Transfer” as follows**:

**Transfer** - to sell, import, deliver, purchase, lease, rent, acquire, or receive a motor vehicle for titling or registration in District of Columbia.

**By adding a definition for “Ultimate purchaser” as follows**:

**Ultimate purchaser** - the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

**By adding a definition for “Vehicle” as follows**:

**Vehicle** – means

1. " A device by which any person or property may be propelled, moved, or drawn upon a highway; and

(b) Does not include a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

**Subsection 999.2, ABBREVIATIONS, is amended to read as follows:**

999.2 When used in this chapter, the following abbreviations shall have the meaning

ascribed:

**CARB** - California Air Resources Board.

**CCR** - the Code of California Regulations.

**MY** – Model Year

**NMOG** - non-methane organic gases.

**By adding a new Subsection 999.3 to read as follows:**

999.3 Any term that is not defined in this chapter shall be as defined in the California documents incorporated by reference in §§ 905 to 915 of this chapter. Definitions in the California documents shall prevail in any case of discrepancy.

All persons desiring to comment on the proposed rulemaking should file comments in writing not later than thirty (30) days after publication of this notice in the *D.C. Register*. Comments should be clearly marked “Public Comments: Vehicle Emission Standards” and filed with DOEE, Air Quality Division, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Robert Kelsey, or e-mailed to robert.kelsey2@dc.gov. Copies of the above documents may be obtained from DOEE at the same address.