

## DEPARTMENT OF ENERGY AND ENVIRONMENT

**NOTICE OF FINAL RULEMAKING****Adoption of California Vehicle Emission Standards**

The Director of the Department of Energy and Environment (“DOEE”), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4)); Section 2 of the Clean Cars Act of 2008, effective May 13, 2008 (D.C. Law 17-151; D.C. Official Code § 50-731); Mayor’s Order 2006-61, dated June 14, 2006; and Mayor’s Order 2018-44, dated May 2, 2018, hereby gives notice of the adoption of the following amendments to Chapter 9 (Air Quality - Motor Vehicular Pollutants, Lead, Odors, and Nuisance Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (“DCMR”), which repeal current Sections 905 through 916 and replace them with new Sections 905 through 913 to implement California Advanced Clean Cars 2 (“ACC 2”), repeal definitions in Section 999 that are no longer applicable, and add new definitions. These rules were adopted as final by the Director of DOEE on December 15, 2023 and shall become effective upon publication of this notice in the *District of Columbia Register*.

**Summary of Final Rulemaking****Repeal of 20 DCMR §§ 905 through 916**

This rulemaking repeals current Sections 905 through 916 of Title 20 because these sections are no longer applicable as of December 31, 2006. Prior to repeal, Sections 905 through 914 implemented provisions of the Clean Fuel Fleet (“CFF”) 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 implemented the National Low Emission Vehicle (“NLEV”) program, and Section 916 implemented the Heavy-Duty Diesel Engine Emission (“HDDE”) standards.

On February 11, 2000, the District finalized the NLEV regulations at Section 915 (47 DCR 886, Feb. 11, 2000). When the District submitted the NLEV regulation as a Phase II Ozone Attainment State Implementation Plan (“SIP”) revision, the District withdrew its submission of the District’s SIP for CFF (adopted on May 15, 1995) because an equivalency analysis indicated that benefits from the District’s participation in the NLEV program would offset emissions reductions from the CFF Program. Therefore, Sections 905 through 912 are 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; therefore the requirements of Section 915 are no longer applicable. Finally, DOEE is repealing Section 916 because it applied to HDDE standards for model years 2005 and 2006, and the requirements of 20 DCMR § 916 are no longer applicable.

**Adoption of 20 DCMR §§ 905 through 913**

The Director of DOEE adopts these regulations pursuant to the requirements of Section 2 of the Clean Cars Act of 2008, effective May 13, 2008 (D.C. Law 17-151; D.C. Official Code § 50–731). Section 2 of the Clean Cars Act, D.C. Official Code § 50–731, requires the District’s adoption of

California's vehicle emissions standards and compliance requirements. The California Advanced Clean Cars 2 ("ACC 2"), as adopted through this rulemaking, sets standards and compliance requirements for vehicles model year 2027 and beyond that are bought, sold, and registered in the District of Columbia. Section 209(b) of the Clean Air Act ("CAA"), 42 U.S.C. § 7543(b), permits the state of California to implement its own standards for motor vehicles if they are at least as stringent as the federal standards and a waiver is received from the Administrator of the Environmental Protection Agency.<sup>1</sup> The California Air Resources Board ("CARB") requested EPA grant a waiver for ACC 2 on December 20, 2022, pursuant to Section 209(b) of the CAA.

While the District's adoption of California's regulation will take effect upon publication of this notice in the *District of Columbia Register*, these emissions standards will become enforceable in the District only after California's waiver receives United States Environmental Protection Agency ("EPA") approval.

Major vehicle manufacturers, including Ford<sup>2</sup>, General Motors<sup>3</sup>, Honda<sup>4</sup>, and Toyota<sup>5</sup> have made statements or spoken in support of the adoption of ACC 2. District residents are already accruing savings in refueling costs from electrification.<sup>6</sup> Electric vehicle prices continue to decrease over time and EPA projects that when considering all of the economic incentives available the average electric vehicle will cost \$400 to \$4,000 less than a gasoline equivalent by 2032. Even greater cost savings occur when the maintenance and fuel savings of approximately \$10,000 that the average owner will save over eight years of ownership are considered.<sup>7</sup>

EPA proposed emissions standards for light-duty vehicles and Class 2b and 3 ("medium-duty") vehicles that would reduce harmful air pollutant emissions starting with model year 2027.<sup>8</sup> However, DOE is adopting California's more stringent vehicle emission standards in accordance with Section 2 of the Clean Cars Act of 2008, D.C. Official Code § 50-731.

### **Discussion of Public Comment**

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<sup>1</sup> California, Massachusetts, New York, Oregon, Vermont, Virginia, and Washington have finalized the regulation for model year 2026. Colorado, Delaware, Maryland, New Jersey, and New Mexico have finalized the regulation for model year 2027. Maine and Rhode Island have proposed the regulation for model year 2027.

<sup>2</sup> Ford Media Center, *Ford Statement on Proposed Advanced Clean Cars II Regulations In California* (Aug. 24, 2022), <https://media.ford.com/content/fordmedia/fna/us/en/news/2022/08/24/ford-statement-on-proposed-advanced-clean-cars-ii-regulations-in.html>.

<sup>3</sup> Jim Motavalli, *Do California's Zero Emission by 2035 Rules Go Far Enough?*, AUTOWEEK (Aug. 25, 2022), <https://www.autoweek.com/news/industry-news/a40993559/california-zero-emission-by-2035-rules-passed/>.

<sup>4</sup> Honda, *Statement on California Mandate for 100% EVs by 2035* (Aug. 25, 2022), <https://hondanews.com/en-US/honda-corporate/releases/release-1503019bd8a757ea08267d7944099b3a-statement-on-california-mandate-for-100-evs-by-2035>.

<sup>5</sup> David Shepardson, *Toyota recognizes California authority to set vehicle emissions standards*, REUTERS (Aug. 23, 2022), <https://www.reuters.com/business/sustainable-business/toyota-recognizes-california-authority-set-vehicle-emissions-standards-2022-08-23/>.

<sup>6</sup> Cohen, Michael. *Washington Post*. "Is it cheaper to refuel your EV battery or gas tank? We did the math in all 50 states." (August 8, 2023) <https://www.washingtonpost.com/climate-environment/interactive/2023/electric-vehicle-charging-price-vs-gasoline/>.

<sup>7</sup> US EPA. "Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles Draft Regulatory Impact Analysis." (April 23, 2023) <https://nepis.epa.gov/Exc/ZyPDF.cgi?Dockey=P10175J2.pdf>.

<sup>8</sup> 88 Fed. Reg. 29184, May 5, 2023

A Notice of Proposed Rulemaking to adopt ACC 2 was published in the *District of Columbia Register* for a thirty (30) day public notice and comment period on December 9, 2022, at 69 DCR 014969. The public comment period ended on January 9, 2023, and DOEE virtually held a public hearing on January 9, 2023. The Department received three (3) comment letters on this rulemaking, from Children’s Environmental Health Network, Sierra Club, and Valero. No comments were made at the public hearing. Two (2) of the commenters submitted letters in support of the rulemaking and therefore require no further response.

A third commenter expressed concerns that DOEE lacks the legal and legislative authority to adopt California’s ACC 2. The District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06) authorizes the Department to “[a]dopt air pollution control standards, require and issue permits, and establish any other program necessary to regulate sources of air pollution emissions in the District”, “[a]dopt ambient air quality standards”, and “[a]dopt standards governing emission of nuisance air pollutants likely to injure public health or welfare or interfere with reasonable enjoyment of life and property.” Additionally, the Clean Cars Act of 2008 requires the District’s adoption of the California standards. Specifically, Section 2(1) of the Clean Cars Act of 2008, D.C. Official Code § 50–731(1), states that the Mayor:

“[s]hall establish and maintain a low-emissions vehicle program by adopting California emissions standards and compliance requirements applicable to vehicles of model year 2012, and each model year thereafter, pursuant to section 177 of the Clean Air Act, approved August 7, 1977 (91 Stat. 750; 42 U.S.C. § 7507).”.

Further, Section 177 of the CAA authorizes any State with an approved non-attainment SIP to choose between accepting the federal standards or adopting the California emission standards for motor vehicles to meet the National Ambient Air Quality Standards (“NAAQS”). 42 U.S.C. § 7507. The District is designated as nonattainment for the 2015 Ozone NAAQS<sup>9</sup> and has an approved SIP.

The commenter also argued that DOEE does not have the authority under Section 177 of the Clean Air Act, 42 U.S.C. § 7507, to adopt the California standards until the California standards receive a waiver from the Environmental Protection Agency. However, the commenter’s interpretation of Section 177 is overly broad. As the U.S. Court of Appeals for the Second Circuit explained in *Motor Vehicle Manufacturers Association of the United States, Inc. v. New York State Department of Environmental Conservation*,

“[W]hat is the waiver a precondition to—DEC’s adoption of the LEV plan or DEC’s enforcement of the LEV plan, or both. The most sensible response, it appears to us, is that the waiver is a precondition to enforcement of the standard that has been adopted. In other words, it is sensible for DEC to adopt the standards prior to the EPA’s having granted a waiver, so long as the DEC makes no attempt to enforce the plan prior to the time when the waiver is actually obtained.”

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<sup>9</sup> 83 Fed. Reg. 25776, June 4, 2018

*Motor Vehicle Manufacturers Association of the United States, Inc. v. New York State Department of Environmental Conservation*, 17 F.3d 521, 533-34 (2<sup>nd</sup> Cir. 1994).

Therefore, DOEE has legal and legislative authority to adopt ACC 2 and to do so in advance of EPA issuing a waiver. DOEE did not make any changes to the rulemaking in response to this comment.

The commenter also stated that the District's transportation sector decarbonization planning should embrace all available technologies as a means to reducing greenhouse gas ("GHG") emissions. Firstly, the District is limited under Section 177 of the CAA only to adopting the standards as adopted by California and does not have the authority to alter them to include different requirements for various technologies. Additionally, adopting the ACC 2 program reduces GHG emissions in accordance with the District's GHG reduction targets established in the Clean Energy DC Plan<sup>10</sup>, and the District's Climate Commitment Act.<sup>11</sup> Vehicle emissions constitute twenty-one percent (21%) of the District's GHG emissions and these amendments improve air quality by reducing vehicle GHG emissions.<sup>12</sup> Further, as noted above, District law requires that the District adopt the California emissions standards. Therefore, DOEE did not make any changes to the rulemaking in response to this comment.

No comments were received objecting to including this rulemaking in the District's State Implementation Plan ("SIP"). In accordance with Section 172(c) of the Clean Air Act, the District will submit the rulemaking to the United States Environmental Protection Agency (EPA) for approval as a revision to the District's SIP. 42 U.S.C. § 7502(c).

### **Updates in Final Rulemaking**

In the final rulemaking DOEE removed the following language from Section 905.1, "that have a production period beginning no less than two years after the effective date of this regulation" and clarified in 905.1 that the applicable model year is 2027 for 20 DCMR §§ 905 through 913. DOEE updated the model year to 2027 in 20 DCMR §§ 905.1, 906.2, and 912.1.

DOEE made technical changes to Sections 912.2(a), 912.2(c), 912.3(f), and 999. These changes were made to align the regulation with current rulemaking standards regarding the use of numbers in text. In Section 999, where references are made to sections of applicable California regulations, the language was amended to use full citation format to avoid confusion. No substantive changes were made. Finally, in Section 999, amendments were made to remove excessive definitions and abbreviations that are used and defined in the incorporated California regulations.

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<sup>10</sup> Available at <https://doee.dc.gov/cleanenergydc>.

<sup>11</sup> Available at <https://code.dccouncil.gov/us/dc/council/laws/24-176>.

<sup>12</sup> Available at <https://doee.dc.gov/service/greenhouse-gas-inventories><https://doee.dc.gov/service/greenhouse-gas-inventories>.

**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, renamed, and replaced with the following:**

**905 VEHICLE EMISSION STANDARDS - APPLICABILITY AND EXEMPTIONS**

- 905.1 Except as provided in §§ 905.2 and 905.3, §§ 905 through 913 of this chapter apply to all new 2027 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 the District of Columbia.
- 905.2 The greenhouse gas exhaust emission standards and test procedures under Cal. Code Regs. tit. 13, § 1961.3 and related recordkeeping and warranty requirements under Cal. Code Regs. tit. 13, § 1961.2 and Cal. Code Regs. tit. 13, § 2037 of the California standards are applicable to vehicles regulated under this section, 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 and previously registered, other than with temporary tags, in another state;
  - (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 the District of Columbia as a result of a rental that was initiated in a state other than the 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 the 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 from Cal. Code Regs. tit. 13, §§ 1900-2235, as promulgated by the CARB on August 22, 2022, are applicable to vehicles of model year 2027 and each model year thereafter, and are hereby adopted by reference, with the terms used and defined:

<b>Section Number</b>	<b>Section Title</b>
Chapter 1, Article 1, § 1900	Definitions
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
Chapter 1, Article 2, § 1961.2	Exhaust Emission Standards and Test Procedures - 2015 through 2025 Model Year Passenger Cars and Light-Duty Trucks, and 2015 through 2028 Medium-Duty Vehicles
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 Passenger Vehicles
Chapter 1, Article 2 § 1961.4	Exhaust Emission Standards and Test Procedures - 2026 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles
Chapter 1, Article 2, § 1962.2	Zero-Emission Vehicle Standards for 2018 through 2025 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
Chapter 1, Article 2, § 1962.3	Electric Vehicle Charging Requirements
Chapter 1, Article 2 § 1962.4	Zero-Emission Vehicle Requirements for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
Chapter 1, Article 2, §1962.5	Data Standardization Requirements for 2026 and Subsequent Model Year Light-Duty Zero Emission Vehicles and Plug-in Hybrid Electric Vehicles

Section Number	Section Title
Chapter 1, Article 2, § 1962.6	Battery Labeling Requirements
Chapter 1, Article 2, § 1962.7	In-Use Compliance, Corrective Action and Recall Protocols for 2026 and Subsequent Model Year Zero-Emission and Plug-in Hybrid Electric Passenger Cars and Light-Duty Trucks
Chapter 1, Article 2, § 1962.8	Warranty Requirements for Zero-Emission and Batteries in Plug-in Hybrid Electric 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
Chapter 1, Article 2, § 1965	Emission Control, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model-Year Motor Vehicles
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
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
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
Chapter 1, Article 2, § 1975	Standards and Test Procedures for Crankcase Emissions
Chapter 1, Article 2, § 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions
Chapter 1, Article 2, § 1977	Certification and Service Documents - 1993 and Subsequent Model Motor Vehicles
Chapter 1, Article 2, § 1978	Standards and Test Procedures for Vehicle Refueling Emissions
Chapter 1, Article 5, § 2030	Liquefied Petroleum Gas or Natural Gas Retrofit Systems
Chapter 1, Article 5, § 2032	Off-Vehicle Charge Capable Hybrid Electric Vehicle Conversion Systems
Chapter 1, Article 6, § 2035	Purpose, Applicability, and Definitions
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

Section Number	Section Title
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
Chapter 1, Article 6, § 2039	Emissions Control System Warranty Statement
Chapter 1, Article 6, § 2040	Vehicle Owner Obligations
Chapter 1, Article 6, § 2041	Mediation; Finding of Warrantable Condition
Chapter 2, Article 1, § 2062	Assembly-Line Test Procedures — 1998 and Subsequent Model Years
Chapter 2, Article 2, § 2101	Compliance Testing and Inspection — New Vehicle Selection, Evaluation, and Enforcement Action
Chapter 2, Article 2, § 2106	New Vehicle Assembly-Line Inspection Testing
Chapter 2, Article 2, § 2107	Assembly-Line Quality-Audit Testing
Chapter 2, Article 2, § 2108	Order of Executive Officer
Chapter 2, Article 2, § 2109	New Vehicle Recall Provisions
Chapter 2, Article 2.1, § 2111	Applicability
Chapter 2, Article 2.1, § 2112	Definitions
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
Chapter 2, Article 2.1, § 2113	Initiation and Approval of Voluntary and Influenced Emission-Related Recalls
Chapter 2, Article 2.1, § 2114	Voluntary and Influenced Recall Plans
Chapter 2, Article 2.1, § 2115	Eligibility for Repair
Chapter 2, Article 2.1, § 2116	Repair Label
Chapter 2, Article 2.1, § 2117	Proof of Correction Certificate
Chapter 2, Article 2.1, § 2118	Notification
Chapter 2, Article 2.1, § 2119	Recordkeeping and Reporting Requirements
Chapter 2, Article 2.1, § 2120	Other Requirements Not Waived
Chapter 2, Article 2.1, § 2121	Penalties
Chapter 2, Article 2.2, § 2122	General Provisions

Section Number	Section Title
Chapter 2, Article 2.2, § 2123	Initiation and Notification of Ordered Emissions-Related Recalls
Chapter 2, Article 2.2, § 2124	Availability of Public Hearing
Chapter 2, Article 2.2, § 2125	Ordered Recall Plan
Chapter 2, Article 2.2, § 2126	Approval and Implementation of Recall Plan
Chapter 2, Article 2.2, § 2127	Notification of Owners
Chapter 2, Article 2.2, § 2128	Repair Label
Chapter 2, Article 2.2, § 2129	Proof of Correction Certificate
Chapter 2, Article 2.2, § 2130	Capture Rates and Alternative Measures
Chapter 2, Article 2.2, § 2131	Preliminary Tests
Chapter 2, Article 2.2, § 2132	Communication with Repair Personnel
Chapter 2, Article 2.2, § 2133	Recordkeeping and Reporting Requirements
Chapter 2, Article 2.2, § 2134	Penalties
Chapter 2, Article 2.2, § 2135	Extension of Time
Chapter 2, Article 2.3, § 2136	General Provisions
Chapter 2, Article 2.3, § 2137	Vehicle, Engine, and Trailer Selection
Chapter 2, Article 2.3, § 2138	Restorative Maintenance
Chapter 2, Article 2.3, § 2139	Testing
Chapter 2, Article 2.3, § 2140	Notification and Use of Test Results
Chapter 2, Article 2.4, § 2141	General Provisions
Chapter 2, Article 2.4, § 2142	Alternative Procedures
Chapter 2, Article 2.4, § 2143	Failure Levels Triggering Recall and Corrective Action
Chapter 2, Article 2.4, § 2144	Emission Warranty Information Report
Chapter 2, Article 2.4, § 2145	Field Information Report
Chapter 2, Article 2.4, § 2146	Emissions Information Report
Chapter 2, Article 2.4, § 2147	Demonstration of Compliance with Emission Standards
Chapter 2, Article 2.4, § 2148	Evaluation of Need for Recall
Chapter 2, Article 2.4, § 2149	Notification and Subsequent Action
Chapter 2, Article 3, § 2150	Assembly-Line Surveillance
Chapter 2, Article 3, § 2151	New Motor Vehicle Dealer Surveillance
Chapter 3, Article 1, § 2175	Highway Exhaust Emissions — Light-Duty Vehicles
Chapter 3, Article 1, § 2175.5	Exemption of Vehicles
Chapter 3, Article 1, § 2176	Mandatory Inspection Exhaust Emissions -- Light-Duty and Medium-Duty Vehicles
Chapter 4, Article 2, § 2220	Applicability
Chapter 4, Article 2, § 2221	Replacement Parts
Chapter 4, Article 2, § 2222	Add-on Parts and Modified Parts
Chapter 4, Article 2, § 2224	Surveillance
Chapter 4, Article 2, § 2225	Enforcement Action
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 – ZERO-EMISSION VEHICLE CREDIT PERCENTAGE REQUIREMENTS**

908.1 For all new vehicles subject to § 905, compliance with the Zero-Emission Vehicle Credit Percentage Requirements shall be demonstrated by each motor vehicle manufacturer.

908.2 Compliance with § 908.1 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.

**909 VEHICLE EMISSION STANDARDS - VEHICLE TESTING**

909.1 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.

909.2 Motor vehicle certification testing performed for the California Air Resources Board (CARB) and associated findings made by CARB will be acceptable to demonstrate compliance with § 909.1 of this regulation.

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

909.4 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.

909.5 If a vehicle manufacturing facility that manufactures vehicles for sale in the District of Columbia that are certified to the California standards 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.

909.6 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.

**910 VEHICLE EMISSION STANDARDS - WARRANTY**

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

910.2 Reports generated for or by the California Air Resources Board (CARB) and associated findings made by CARB shall be acceptable to demonstrate compliance with this chapter.

**911 VEHICLE EMISSION STANDARDS - MANUFACTURER COMPLIANCE DEMONSTRATION**

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

- (a) Documenting total deliveries of vehicles for sale in the District of Columbia during the applicable model year in each test group or subgroup as applicable and defined under the California standards;
- (b) Demonstrating, based on vehicles delivered for sale in the District of Columbia, compliance with the:
  - (1) California Fleet Average NMOG Requirements;
  - (2) California Fleet Average Greenhouse Gas Requirements; and
  - (3) California Zero-Emission Vehicle Credit Percentage Requirements; and
- (c) Prepared according to the procedures defined in the California standards.

911.2 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.

## **912 AFTERMARKET CATALYTIC CONVERTERS**

912.1 No person shall install, sell, offer for sale, or advertise in the District of Columbia:

- (a) Unless it has been exempted pursuant to the requirements of Cal. Code Regs. tit. 13, § 2222, any new aftermarket catalytic converter intended for use on a 2027 or subsequent model year gasoline-powered passenger car, light-duty truck, or medium-duty vehicle that had originally been certified with a catalytic converter; or
- (b) Any used, recycled, or salvaged catalytic converter.

912.2 Installers of new aftermarket catalytic converters shall:

- (a) Verify that the vehicle is specifically included in the vehicle application list for the new aftermarket catalytic converter being installed using means such as, but not limited to:
  - (1) The aftermarket catalytic converter manufacturer's vehicle application guide;
  - (2) The aftermarket catalytic converter manufacturer's website;
  - (3) Contacting the aftermarket catalytic converter manufacturer;
  - (4) Other manufacturer's documentation distributed to installers; or
  - (5) Contacting the Department;
- (b) Install the new aftermarket catalytic converter so that the California Air Resources Board (CARB) Executive Order Number and other identifying information is visible from the underside of the vehicle;
- (c) Retain records pertaining to the sale and installation of the aftermarket catalytic converters for a minimum of four (4) years from the date of installation; and
- (d) Keep records onsite at the installation location, either in hardcopy or electronically, which shall be produced upon request from the Department.

912.3 Manufacturers, distributors, wholesalers, and retailers of aftermarket catalytic converters shall:

- (a) Ensure that the information required under § 912.2(a) is available to installers;
- (b) Provide records pertaining to the delivery and sale of aftermarket catalytic converters in the District upon request from the Department;
- (c) Submit semi-annual warranty information reports of catalytic converters sold in the District to the Department using the same format used to report this information to CARB as set forth in Cal. Code Regs. tit. 13, § 2222;
- (d) Maintain sufficient records, such as performance specifications, test data, or other information, to substantiate that a replacement catalytic converter is in compliance with this section;
- (e) Keep records open for reasonable inspection by the Department or its designated agent(s); and
- (f) Maintain records for four (4) years from the year of manufacture of the replacement catalytic converter.

912.4 A person shall not install a new aftermarket catalytic converter unless:

- (a) The vehicle is beyond its original emissions warranty coverage period and a legitimate need for replacing the existing catalytic converter is established and documented on the repair invoice;
- (b) The new aftermarket catalytic converter is installed in the same location as the original equipment manufacturer catalytic converter; and
- (c) The installation does not alter the location, position, number of catalytic converters, nor the location, position, number, or orientation of oxygen sensors, nor disable other emission control devices.

### **913 VEHICLE EMISSION STANDARDS – INSPECTION AND ENFORCEMENT**

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

913.2 The inspections 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) Include on-premises operation and testing of an engine or vehicle; and
  - (d) Include a review of any related records, including records of emissions-related part repairs performed under warranty.
- 913.3 Refusal to allow or interference with inspections initiated pursuant to this chapter shall be considered a violation of this chapter.
- 913.4 The Department, or its designated agent(s), may perform functional tests, steady-state tests, and other tests as reasonably necessary to ensure compliance with §§ 905-913 of this chapter.
- 913.5 The Department may use emission test standards defined in the California Assembly Line and In-Use Requirements to verify compliance with the requirements of this chapter in addition to all other compliance procedures authorized or required by the California standards.
- 913.6 Except as otherwise specified in this section, any order or enforcement action taken by the California Air Resources Board (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 applies to all vehicles subject to this chapter.
- 913.7 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 applies to vehicles subject to this chapter.
- 913.8 The Department may exempt District of Columbia vehicles from the provisions of §§ 905 to 913 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.
- 913.9 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.
- 913.10 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.*).

913.11 A person who violates any provision of this chapter shall be subject to 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.*).

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

914 [RESERVED]

915 [RESERVED]

916 [RESERVED]

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

Subsection 999.1 is amended as follows:

By repealing the following 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 the following definitions in alphabetical order to the remaining list of definitions:

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

**California Fleet Average Greenhouse Gas (GHG) Requirements** – the requirements established under Cal. Code Regs. Tit. 13, § 1961.1(a)(1), including all calculation procedures and credit and debit provisions specified in Cal. Code Regs. tit. 13, § 1961.1.

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

**California Recall Requirements** - the requirements established under Cal. Code Regs. tit. 13 §§ 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.

**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, California Fleet Average Greenhouse Gas Requirements, and California Zero-Emission Vehicle Credit Percentage Requirements.

**California Warranty Requirements** - the requirements established under Cal. Code Regs. tit. 13, §§ 1900, 2035, 2037, 2038, 2039, 2040, and 2041.

**California Zero-Emission Vehicle Credit Percentage Requirements** - the requirements established under Cal. Code Regs. tit. 13, § 1962.2(b)(1), including all calculation procedures and credit and debit provisions specified in Cal. Code Regs. tit. 13, §1962.2.

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

**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 the District of Columbia to include the Director, who shall act as the agent of the California Executive Officer in the District of Columbia.

**Light-duty truck (LDT)** - any 2000 and subsequent model motor vehicle certified to the standards in Cal. Code Regs. tit. 13, § 1961(a)(1), 1961.2, or 1961.4 rated at eight thousand five hundred (8,500) pounds gross vehicle weight or less, and any other motor vehicle, rated at six thousand (6,000) pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

**Medium-duty passenger vehicle:**

- (a) Any medium-duty vehicle with a gross vehicle weight rating of less than ten thousand (10,000) pounds that is designed primarily for the transportation of persons.
- (b) "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 twelve (12) persons;
- (iii) Is designed for more than nine (9) persons in seating rearward of the driver's seat; or
- (iv) Is equipped with an open cargo area of seventy-two (72) inches in interior length or more, or a covered box not readily accessible from the passenger compartment of seventy-two (72) inches in interior length or more.

**Medium-duty vehicle** - any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of eight thousand five hundred (8,500) pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero emission vehicle certified to the standards in Cal. Code Regs. tit. 13, § 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of fourteen thousand (14,000) pounds or less; any 1995 through 2003 model year heavy-duty vehicle certified to the standards in Cal. Code Regs. tit. 13, § 1960(h)(1) having a manufacturer's gross vehicle weight rating of fourteen thousand (14,000) pounds or less; and any 2000 or subsequent model year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero emission vehicle certified to the standards in Cal. Code Regs. tit. 13, § 1961(a)(1), 1961.2, 1961.4, 1962, 1962.1, or 1962.2 having a manufacturer's gross vehicle weight rating between eight thousand five hundred and one (8,501) and fourteen thousand (14,000) pounds.

**Motor vehicle:**

- (a) 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.

**New vehicle:**

- (a) A new motor vehicle, or any motor vehicle with an odometer reading of less than seven thousand five hundred (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 seven thousand five hundred (7,500) miles or more.

**State** – the District of Columbia when used in the California Code of Regulations provisions incorporated by reference in this regulation.

**Test group** – is a basic classification unit that has the meaning given in the “California 2015 through 2025 Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Year Greenhouse Gas Exhaust Emission Standards and Test Procedures Passenger Cars, Light-Duty Trucks, and Medium Duty Vehicles,” incorporated by reference in Cal. Code Regs. tit. 13, § 1961.2, or the “California 2026 and Subsequent Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in Cal. Code Regs. tit. 13, § 1961.4(c)(1), as applicable.

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

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

**Vehicle:**

- (a) A device by which any person or property may be propelled, moved, or drawn upon a highway; and
- (b) “Vehicle” does not include a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

**Zero emission vehicle**– a vehicle that produces zero (0) exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.

**Subsection 999.2 is amended as follows:**

**By repealing the following abbreviations:**

**AFV** - Alternative Fuel Vehicle  
**BHP-hr** - Brake horse power-hour  
**CPFV** - Clean Fuel Fleet Vehicle  
**CFF** - Clean Fuel Fleet  
**g/mi** - Grams per mile  
**GVWR** - Gross Vehicle Weight Rating  
**EPA** - Environmental Protection Agency  
**HDV** - Heavy Duty Vehicle  
**HOV** - High Occupancy Vehicle  
**ILEV** - Inherently Low Emissions Vehicle

**LDV** – light-duty vehicle including PCs, LDTs, and MDPVs  
**LEV** - Low Emission Vehicle  
**LDT** - Light Duty Truck  
**LVW** - Loaded Vehicle Weight  
**LW** - Loaded Weight  
**MY** - Model Year  
**NMHC** - Non-Methane Hydrocarbon  
**NOx** - Nitrogen Oxides  
**OEM** - Original Equipment Manufacture  
**TW** - Total Weight  
**ULEV** - Ultra Low Emission Vehicle  
**VIN** - Vehicle Identification Number  
**WMATA** - Washington Metropolitan Transit Authority  
**ZEV** - Zero Emissions Vehicle

**By adding the following abbreviations in alphabetical order to the remaining list of abbreviations:**

**CARB** - California Air Resources Board.

**GHG** – Greenhouse Gas

**New Subsection 999.3 is added to read as follows:**

999.3 Any term in §§ 905 to 913 that is not defined in this chapter shall be as defined in the California regulations and documents adopted or incorporated by reference in §§ 905 to 913 of this chapter. Definitions in the California regulations and documents shall prevail in any case of discrepancy.