

REGULATION FOR LOW EMISSIONS AND ZERO EMISSIONS VEHICLE STANDARDS (9VAC5-95)

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD

9VAC5 CHAPTER 95
REGULATION FOR LOW EMISSIONS AND ZERO EMISSIONS VEHICLE
STANDARDS

9VAC5-95-10. Applicability.

A. The provisions of this chapter apply to new motor vehicles or new motor vehicle engines beginning with the 2025 model year as follows:

1. A low emission vehicle (LEV) program for criteria pollutants and greenhouse gas emissions for motor vehicles with a gross vehicle weight of 14,000 pounds or less, and

2. A zero emission vehicle (ZEV) program only for motor vehicles with a gross vehicle weight of 14,000 pounds or less.

B. The provisions of this chapter apply throughout the Commonwealth of Virginia.

C. This chapter shall not become effective prior to January 1, 2024.

9VAC5-95-20. Definitions.

A. For the purpose of this regulation and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this regulation, all terms not defined here shall have the meanings given them in 9VAC5-10 (General Definitions), unless otherwise required by context.

C. Terms defined.

"Authorized emergency vehicle" has the meaning given in Code of Virginia § 46.2-920.

"CARB" means the California State Air Resources Board as defined in California Health and Safety Code division 26, part 1, chapter 1, section 39003.

"Light duty truck" has the meaning given under California Code of Regulations title 13, section 1900(b)(11).

"Medium-duty passenger vehicle" has the meaning given under California Code of Regulations title 13, section 1900(b)(12).

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"Medium-duty vehicle" has the meaning given under California Code of Regulations title 13, section 1900(b)(13).

"Military tactical vehicle" means a land combat or transportation vehicle, excluding a rail-based vehicle, that is designed for and used by a branch of the U.S. armed forces or used as an authorized emergency vehicle by or for a governmental agency.

"Model year" means the manufacturer's annual production period that includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. The model year for a motor vehicle manufactured in two or more stages is the model year in which the chassis is completed.

"Motor vehicle manufacturer" means a small, independent low, intermediate, or large volume manufacturer as defined under California Code of Regulations, title 13, section 1900(b)(8), (9), (10), and (22).

"New motor vehicle" means a first effective model year or later model year motor vehicle with less than 7,500 miles of use accumulated as of the date of the sale or lease.

"Passenger car" has the meaning given under California Code of Regulations title 13, section 1900(b)(17).

"Transitional zero-emission vehicle" or "TZEV" has the meaning given under California Code of Regulations title 13, sections 1962.2(c) and (i)(16).

"Used motor vehicle" means a first effective model year or later model year motor vehicle with 7,500 miles or more of use accumulated as of the date of the sale or lease.

"Zero emission vehicle" or "ZEV" has the meaning given under California Code of Regulations title 13, section 1962.2(i)(18).

9VAC5-95-30. Low Emission Vehicle (LEV) Standards.

A. No person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, acquire, receive, purchase, or rent a vehicle listed in subdivisions 1 through 3 of this subsection that is a 2025 or subsequent model-year vehicle in Virginia unless the vehicle is California-certified and complies with the standards incorporated by reference under 9VAC5-95-50 except as provided under subsection B of this section.

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1. New motor vehicles that are passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles.

2. New light- or medium-duty motor vehicle engines, and

3. Motor vehicles with a new motor vehicle engine.

B. This chapter does not apply to:

1. A used motor vehicle,

2. A new motor vehicle sold to another dealer,

3. A new motor vehicle sold to be wrecked or dismantled,

4. A new motor vehicle designed exclusively for off-highway use,

5. A new motor vehicle sold for registration out-of-state,

6. A new motor vehicle that has been certified to standards adopted under authority granted in USC title 42, section 7521, and that is in the possession of a rental agency in Virginia and that is next rented with a final destination outside of Virginia,

7. An authorized emergency vehicle,

8. A military tactical vehicle,

9. A new motor vehicle transferred by inheritance,

10. A new motor vehicle transferred by court decree,

11. A new motor vehicle purchased and registered in another state by a person who is a resident of that state and who subsequently establishes residency in Virginia. Upon registering the new motor vehicle in Virginia, the person shall provide evidence to the board of the previous residence and registration.

C. Fleet average emissions shall be determined as follows.

1. For 2025 model year motor vehicles and all subsequent model year motor vehicles to which this chapter applies, a motor vehicle manufacture shall not exceed the fleet average emission values under California Code of Regulations title 13, section 1961.2. Credits and debits may be accrued and used based on a manufacturer's sales in Virginia of motor vehicles subject to this part according to California Code of Regulations title 13, section 1961.2.

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2. For 2025 model year motor vehicles and all subsequent model year motor vehicles to which this part applies, a motor vehicle manufacturer shall not exceed the fleet average GHG exhaust emission standards under California Code of Regulations title 13, section 1961.3 or the GHG emission standards under California Code of Regulations title 13, section 1956.8(h)(6). Credits and debits may be accrued and used based on a manufacturer's sales in Virginia of motor vehicles subject to this part according to California Code of Regulations title 13, section 1961.3.

D. Beginning with the 2025 model year and all subsequent model years, all new motor vehicles subject to this chapter produced by a motor vehicle manufacturer and delivered for sale or lease in Virginia shall be affixed with emission control labels and environmental performance labels according to California Code of Regulations title 13, section 1965.

E. For all motor vehicles subject to this chapter, the motor vehicle manufacturer shall provide defect warranty coverage that complies with California Code of Regulations title 13, sections 2035, 2037 to 2041, and 2046.

F. For all motor vehicles subject to this part and subject to recall in California, the motor vehicle manufacturer shall undertake a recall campaign in this state according to California Code of Regulations title 13, sections 2111 to 2121 and 2122 to 2135, unless the manufacturer demonstrates to the board that the recall is not applicable to motor vehicles registered in Virginia.

G. Reporting requirements shall be as follows.

1. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer shall annually submit to the board a report demonstrating that the motor vehicle manufacturer has met the requirements of subdivision C 1 of this section, for its fleet delivered for sale in Virginia.

2. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer shall annually submit to the board a report demonstrating that the motor vehicle manufacturer has met the requirements of subdivision C 2 of this section, for its fleet delivered for sale in Virginia.

3. If requested by the board, a motor vehicle manufacturer shall submit copies on all assembly-line emissions testing and functional test results collected as a result of compliance with this part, warranty claim reports, recall reports, and any other reports that are submitted to CARB under the regulations incorporated by reference under 9VAC5-95-50. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board in lieu of submitting reports for vehicles subject to this regulation.

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4. If the board deems it necessary to administer and enforce this part, the board will require a motor vehicle manufacturer subject to this part to submit additional documentation, including all certification materials submitted to CARB.

H. Record availability and retention, and reporting noncompliance shall be as follows.

1. Upon request of the board, a manufacturer subject to this part shall furnish to the board all records that relate to the motor vehicles that are subject to this chapter and that are relevant for determining compliance with this chapter. Unless otherwise specified, a person subject to this part shall retain all relevant records for at least 5 years after creating the records.

2. If a report issued by a motor vehicle manufacturer under subsection G demonstrates noncompliance with the fleet average under subsection C for a model year, the manufacturer shall, within 60 days, file a report with the board to document the noncompliance. The report shall identify all motor vehicles delivered for sale or lease in Virginia, the models' corresponding certification standards, and the percentage of each model delivered for sale in Virginia and California in relation to total fleet sales in the respective state.

9VAC5-95-40. Zero Emission Vehicle (ZEV) standards.

A. Any motor vehicle manufacturer may establish a Virginia-specific ZEV credit account in the ZEV Credit System and make a one-time deposit into its account a number of proportional credits equal to its 2025 model year starting California credit balance multiplied by the ratio of the average number of passenger cars and light-duty trucks that a manufacturer produced and delivered for sale in Virginia to the average number of passenger cars and light-duty trucks the manufacturer produced and delivered for sale in California during the time period selected by the manufacturer for calculation of its ZEV requirement for the first effective model year. The deposit shall be made only after all credit obligations for model year 2024 and earlier have been satisfied. While manufacturers may trade or sell these proportional credits to any other manufacturer, these credits may be used to meet up to 18% of its ZEV program credit requirements in any model year, unless and until this chapter is superseded by regulations updating the Advanced Clean Car Program. No vehicle manufacturer will be awarded or provided with any other form of ZEV program credits or credit balance prior to January 1, 2024 or at the beginning of the compliance period of the regulations.

B. Beginning with the 2025 model year, a motor vehicle manufacturer's sales fleet of passenger cars and light-duty trucks produced by motor vehicle manufacturers and delivered for sale or lease in Virginia shall generate at least the same applicable percentage of ZEV credits required under California Code of Regulations, title 13, section 1962.2.

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C. Credit bank; reporting; and recordkeeping requirements shall be as follows.

1. Beginning in the 2025 model year, a motor vehicle manufacturer subject to this chapter shall open an account in the California ZEV credit system for banking credits earned in Virginia. The account shall be opened no later than March 1 of the calendar year after the end of 2025. A motor vehicle manufacturer shall notify the board within 30 days of opening an account in the California ZEV credit system for the manufacturer's Virginia ZEV credits.

2. At least annually by May 1 of the calendar year after the close of a model year, a motor vehicle manufacturer shall submit a report to the board that identifies the necessary delivery and placement data of all motor vehicles generating ZEV credits and all transfers and acquisitions of ZEV credits, according to California Code of Regulations, title 13, section 1962.2. The report may be amended based on late sales.

3. Upon request of the board, a manufacturer subject to this chapter shall furnish to the board all records that relate to the motor vehicles that are subject to this chapter and that are relevant for determining compliance with this part. Unless otherwise specified, a person subject to this chapter shall retain all relevant records for at least 5 years after creating the records.

D. A motor vehicle manufacturer that delivers for sale in Virginia fewer ZEVs or TZEVs than required to meet its ZEV credit obligation in a given model year shall make up the deficit by submitting a commensurate amount of ZEV credits to the board according to California Code of Regulations, title 13, section 1962.2(g)(7). The number of motor vehicles not meeting the ZEV credit obligation shall be equal to the manufacturer's credit deficit, rounded to the nearest 1/100th and calculated according to the equation in California Code of Regulations, title 13, section 1962.2(g)(8).

9VAC5-95-50. Documents incorporated by reference.

A. The California Code of Regulations, title 13, sections 1900, 1956(h) (medium duty greenhouse gas emission standards only), 1961.2, 1961.3, 1962.2, 1962.3, 1965, 1968.2, 1976, 1978, 2035, 2037 to 2041, 2046, 2062, 2109, 2111 to 2121, 2122 to 2135, 2139, and 2141 to 2149, as amended, are incorporated by reference.

B. The California Code of Regulations is available on line at <https://oal.ca.gov/publications/ccr/>.

C. In the standards designated in subsection A of this section, make the following substitutions, unless context requires otherwise:

1. "California" means "Virginia";

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2. "CARB," "ARB," or "Air Resources Board" means the department; and
3. "Executive Officer" means the board.

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