

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

AIR POLLUTION CONTROL REGULATION NO. 37

RHODE ISLAND'S LOW-EMISSION VEHICLE PROGRAM



Effective 5 June 1996

Last Amended 21 December 2012

AUTHORITY: These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

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37.1 Definitions

Unless otherwise expressly defined in this section, the terms used in this regulation shall be defined by reference to the Rhode Island Air Pollution Control General Definitions Regulation. As used in this regulation, the following terms shall, where the context permits, be construed as follows:

- 37.1.1 "**Emission control system**" means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine or a system or engine modification on a motor vehicle which causes a reduction of air contaminants emitted from the motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems and crankcase ventilating systems.
- 37.1.2 "**California Air Resources Board**" or "**CARB**" means the California state agency established and empowered to regulate sources of air pollution in California, including motor vehicles, pursuant to Division 26 (Air Resources) of the California Health & Safety Code .
- 37.1.3 "**California Standards**" means those emission standards for motor vehicles and new motor vehicle engines, in force and effect at the time of adoption of these regulations, that the state of California CARB has adopted and is permitted to adopt pursuant to the authority of 42 U.S.C. Section 7543 and which other states are permitted to adopt pursuant to 42 U.S.C. Section 7507.
- 37.1.4 "**CCR**" means the California Code of Regulations
- 37.1.5 "**Certification**" means a finding by CARB, the U.S. Environmental Protection Agency, or the Department, that a motor vehicle, motor vehicle engine, or emission control system has satisfied the criteria adopted by CARB for the control of specified air contaminants from motor vehicles.
- 37.1.6 "**Certified device**" means an emission control system for which a certification has been issued by the U.S. Environmental Protection Agency, CARB or the Department.
- 37.1.7 "**Dealer**" means any person engaged in the business of selling, offering to sell, soliciting or advertising the sale of new vehicles who holds a valid sales and service agreement, franchise or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new vehicles.

37.1.8 **"Emergency Vehicle"** means any publicly owned vehicle operated by a peace officer in performance of their duties, any authorized emergency vehicle used for fighting fires or responding to emergency fire calls, any publicly owned authorized vehicle used by an emergency medical technician or paramedic, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, any motor vehicle of mosquito abatement, vector control, or pest abatement agencies and used for those purposes, or any ambulance used by a private entity under contract with a public agency.

37.1.9 **"Emission standard"** means specified limitations on the discharge of air contaminants into the atmosphere.

37.1.10 **"Fleet Average"** means a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases, non-methane organic gases plus oxides of nitrogen, or all greenhouse gases from all vehicles subject to this regulation, produced and delivered for sale in Rhode Island in any model year, based on the calculation in Title 13 CCR 1961, 1961.1, 1961.2, or 1961.3, and incorporated herein by reference.

37.1.11 **"Greenhouse gas"** means any of the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.

37.1.12 **"Heavy-duty vehicle"** means any motor vehicle having a manufacturer's gross vehicle weight rating greater than 8,500 pounds, except passenger cars.

37.1.13 **"Light-duty truck"** means any motor vehicle rated at 8,500 pounds gross vehicle weight or less, that 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.

37.1.14 **"LEV"** means a low-emission vehicle.

37.1.15 **"Mail Out"** means a widely distributed general correspondence issued by CARB whenever said board needs information from the public, or when it wishes to inform the public of new information.

37.1.16 **"Manufacturers advisory correspondence"** means a document issued by CARB, which is a policy interpretation for further clarification of the CCR applicable to motor vehicles.

37.1.17 **"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. The medium-duty passenger vehicle definition does not include any vehicle which: (1) is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or (2) has a seating capacity of more than 12 persons; or (3) is designed for more than 9 persons in

seating rearward of the driver's seat; or (4) is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area, for purposes of this definition.

37.1.18 "**Medium-duty vehicle**" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 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 section 1960.1(h)(2) of Title 13 CRR having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; any 1995 through 2003 model year heavy-duty vehicle certified to the standards in section 1960.1(h)(1) of Title 13 CRR having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962 of Title 13 CRR having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

37.1. 19 "**Model year**" means a motor vehicle manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

37.1.20 "**Motor Vehicle**" means a vehicle which is self-propelled but does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle, if operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

37.1.21 "**New vehicle**" means any passenger car or light duty truck with 7,500 miles or fewer on its odometer.

37.1.22 "**NMOG**" means non-methane organic gas.

37.1.23 "**NMOG + NO_x**" means the combined emissions of non-methane organic gases and oxides of nitrogen .

37.1.24 "**NO_x**" means oxides of nitrogen.

37.1.25 "**Passenger car**" means any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

37.1.26 "**Recall**" means:

(a) A manufacturer's issuing of notices directly to consumers that vehicles in their possession or control should be corrected, or;

(b) A manufacturer's efforts to actively locate and correct vehicles in the possession or control of consumers.

37.1.27 "**Recall campaign**" means that plan approved by CARB or the Department, by which the manufacturer will effect the recall of non-complying vehicles.

37.1.28 "**Test Group**" means a grouping of vehicles as defined by 40 CFR 86.1827-01.

37.1.29 "**Test vehicle**" means an experimental or prototype motor vehicle which appears to have very low emission characteristics or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit from CARB pursuant to Manufacturers Advisory Correspondence no. 83-01.

37.1.30 "**Ultimate purchaser**" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

37.1.31 "**Used motor vehicle**" means motor vehicle that is not a new motor vehicle.

37.1.32 "**ZEV**" means a zero emission vehicle.

37.2 Applicability

37.2.1 The Department hereby adopts the sections of the California Advanced Clean Cars Program applicable to passenger cars, light-duty trucks and medium-duty vehicles under Title 13 CCR.

37.2.2 This regulation shall apply to all 2008 model year and subsequent model year passenger cars , light-duty trucks, and 2009 model year and subsequent model year medium-duty vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, or registered in the State of Rhode Island.

37.2.3 The greenhouse gas emission standards of Title 13 CCR 1961.1 and related provisions of this regulation shall apply to all 2009 and subsequent model year passenger cars, light-duty trucks and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired received or registered, in the State of Rhode Island.

37.2.4 All technical guidance issued by CARB relative to the implementation of Title 13 CCR, including but not limited to Manufacturers Advisory Correspondences and Mail Outs shall be applicable to all vehicles subject to this regulation.

37.3 Emission Requirements

37.3.1 No person shall sell, import, deliver, purchase, lease, rent, acquire, receive, or register a new vehicle subject to this regulation in the State of Rhode Island that has not been certified by CARB as compliant with all applicable requirements of Title 13 CCR 1900, 1960.1, 1960.5, 1961, 1961.1, 1961.2, 1961.3, 1962, 1962.1, 1962.2, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235, incorporated herein by reference, unless the vehicle is sold directly from one dealer to another dealer, sold for the purpose of being wrecked or dismantled, sold exclusively for off-highway use, or sold for registration out of state, and except as provided in section 37.3.7.

37.3.2 It is conclusively presumed under this regulation that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

37.3.3 Fleet Average Requirements

(a) Effective model years 2008 through 2014, compliance with the Fleet Average NMOG Mass Emission Requirement in Rhode Island, as set forth at Title 13 CCR 1961, shall be demonstrated for each motor vehicle manufacturer according to the procedures in Title 13 CCR 1961, and shall be based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer in the State of Rhode Island.

(b) Effective model year 2015, and for each subsequent model year, compliance with the fleet average NMOG+NO_x Requirement in Rhode Island, as set forth at Title 13 CCR 1961.2, shall be demonstrated for each motor vehicle manufacturer according to the procedures in Title 13 CCR 1961.2, and shall be based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer in the State of Rhode Island.

(c) Effective model years 2009 through 2016, compliance with the Fleet Average Greenhouse Gas Exhaust Mass Emission Requirements, as set forth at Title 13 CCR 1961.1, shall be demonstrated for each motor vehicle manufacturer according to the procedures in Title 13 CCR 1961.1, and shall be based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer in the State of Rhode Island.

(d) Effective model year 2017, and for each subsequent model year, compliance with the Fleet Average Greenhouse Gas Exhaust Mass Emission Requirements, as set forth at Title 13 CCR 1961.3, shall be demonstrated for each motor vehicle manufacturer according to the procedures in Title 13 CCR 1961.3, and shall be based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer in the State of Rhode Island.

(e) Emission credits and debits, based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer, in the State of Rhode Island, may be accrued and utilized by each vehicle manufacturer pursuant to the procedures set forth at Title 13 CCR 1961, 1961.1, 1961.2, and 1961.3

37.3.4 ZEV Requirements

(a) For model years 2009 through 2017, each manufacturer shall comply with the Zero Emission Vehicle standards in Rhode Island and based on Rhode Island total vehicle sales, as set forth in Title 13 CCR 1962.1.

(b) For model year 2018 and for each subsequent model year, each manufacturer shall comply with the Zero Emission Vehicle standards in Rhode Island and based on Rhode Island total vehicle sales, as set forth in Title 13 CCR 1962.2.

(c) Credits and debits, based on the number of vehicles, subject to this regulation, produced and delivered for sale by each manufacturer, in the State of Rhode Island, may be accrued and utilized by each vehicle manufacturer pursuant to the procedures set forth at Title 13 CCR 1962.1 and 1962.2.

37.3.5 Exemptions from section 37.3

(a) Motor vehicles are exempt if held for daily lease or rental to the general public or engaged in interstate commerce which are registered and principally operated outside the State of Rhode Island.

(b) Motor vehicles are exempt if they are defined as test vehicles, as emergency vehicles, or qualifying for exemption under Section 43656 of the California Health and Safety Code, incorporated herein by reference.

(c) Motor vehicles are exempt if purchased by a nonresident prior to establishing residency in the State of Rhode Island.

(d) Motor vehicles are exempt if transferred by inheritance, or by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction.

(e) Motor vehicles are exempt if acquired by a resident of the State of Rhode Island for the purpose of replacing a vehicle registered to said resident which was damaged or inoperative, beyond reasonable repair, or was stolen while out of the State; provided that such replacement vehicle is acquired out of the State at the time the previously registered vehicle became damaged or inoperative, beyond reasonable repair, or was stolen.

37.4 Anti-tampering Provisions

- (a) No person shall disconnect, modify, or alter any certified device, except for purposes of repair or replacement.
- (b) No person shall operate or leave standing upon any highway, any motor vehicle subject to this regulation or subject to the motor vehicle emission standards adopted pursuant to 42 U.S.C. Section 7521 unless the motor vehicle is equipped with all of the required certified devices which are correctly installed and in operating condition.

37.5 Vehicle Testing

37.5.1 New Vehicle Certification Testing

- (a) All new vehicle models subject to this regulation, sold or leased in the State of Rhode Island, must be certified as meeting the California Standards in Title 13 CCR 1960.1, 1960.5, 1961, 1961.1, 1961.2, 1961.3, 1962, 1962.1, 1962.2, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235, incorporated herein by reference, as determined by testing conducted in accordance with the testing procedures incorporated in said Section of Title 13. Testing reports must be provided by the manufacturer to the Department upon request.
- (b) For the purposes of certifying compliance with section 37.4.1(a), New Vehicle Certification Testing determinations and findings made by CARB shall be deemed acceptable.

37.5.2 Assembly Line Testing.

- (a) All manufacturers of new vehicles subject to this regulation, shall conduct Inspection Testing and Quality Audit Testing in accordance with Title 13 CCR 2062, and incorporated herein by reference. Testing reports must be provided to the Department upon request.
- (b) For the purposes of determining compliance with section, 37.4.2(a) Inspection Testing and Quality Audit Testing determinations and findings made by CARB shall be deemed acceptable.
- (c) In the event a facility that manufactures vehicles certified to the California Standards for sale in Rhode Island is not subject to the above Inspection Testing and Quality Audit Testing requirements of CARB, the Department may, after consultation with CARB, require Inspection Testing and Quality Audit Testing at such facility in accordance with Title 13 CCR

2062, 2106, 2107, and 2150, and incorporated herein by reference; provided that upon a manufacturer's written request and demonstration of need, functional testing pursuant to the procedures incorporated in Title 13 CCR 2062 of a statistically significant sample may substitute for the 100% testing rate in Title 13 CCR 2062, with the written consent of the Department.

37.5.3 New Vehicle Compliance Testing

(a) New vehicle models subject to this regulation, prior to their being offered for sale or lease in the State of Rhode Island, must meet the California Standards in Title 13 CCR 1900, 1960.1, 1960.5, 1961, 1961.1, 1961.2, 1961.3, 1962, 1962.1, 1962.2, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR 2101 - 2110, 2150, and 2151, and incorporated herein by reference. Testing reports must be provided by the manufacturer to the Department upon request.

(b) For the purpose of compliance with section 37.4.3(a), New Vehicle Compliance Testing determinations and findings made by CARB shall be deemed acceptable.

37.5.4 In-Use Vehicle Enforcement Testing

(a) For purposes of detection and repair of vehicles subject to this regulation and failing to meet the California Standards in Title 13 CCR 1900, 1960.1, 1960.5, 1961, 1961.1, 1961.2, 1961.3, 1962, 1962.1, 1962.2, 1965, 1968.1, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2101, 2111, and 2235, the Department may conduct, in consultation with CARB, In-Use Vehicle Enforcement Testing in accordance with the protocol and testing procedures in Title 13 CCR 2140, and incorporated herein by reference. Testing reports must be provided by the manufacturer to the Department upon request.

(b) For the purposes of compliance with section 37.4.4(a), In-Use Vehicle Enforcement Testing determinations and findings made by CARB shall be deemed acceptable.

37.5.5 In-Use Surveillance Testing

(a) For the purposes of testing and monitoring the overall effectiveness in the State of Rhode Island of the program set forth in this regulation in controlling emissions, the Department may conduct In-Use Surveillance Testing in consultation with CARB.

(b) For the purposes of program planning and analysis, In-Use Surveillance Testing determinations and findings made by CARB shall be deemed acceptable.

37.6 Warranty

37.6.1 All manufacturers of new vehicles that are sold, leased, offered for sale or lease, or registered in the State of Rhode Island shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with all requirements of Title 13 CCR 2035 - 2041, and incorporated herein by reference. All manufacturers shall submit to the Department, upon request, Failure of Emission-Related Components reports as defined at Title 13 CCR 2144, for vehicles subject to this regulation, in compliance with the procedures in Title 13 CCR, and incorporated herein by reference.

37.6.2 For purposes of compliance with section 37.5.1, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to CARB in lieu of submitting reports for vehicles subject to this regulation.

37.7 Reporting Requirements

37.7.1 Commencing with the 2008 model year, each manufacturer shall submit annually, to the Department, by no later than March 1 of the calendar year following the close of the completed model year, a report documenting total deliveries for sale of vehicles in each test group over that model year, in the State of Rhode Island.

37.7.2 For model years 2011 through 2014, each manufacturer shall submit annually to the Department, by no later than March 1 of the calendar year following the close of the completed model year, a report, prepared according to the procedures in Title 13, CCR Section 1961 calculating the Fleet Average NMOG Emission Rate for the model year just ended.

37.7.3 Commencing with model year 2015, each manufacturer shall submit annually to the Department, by no later than March 1 of the year following the close of the completed model year, a report, prepared according to the procedures in Title 13, CCR Section 1961.2, calculating the Fleet Average NMOG+NOx Mass Emission Rate for the model year just ended.

37.7.4 For the purposes of determining if vehicles qualify for exemption under section 37.3.7, the Department may require any motor vehicle manufacturer or dealer of vehicles subject to this regulation to submit any documentation the Department deems necessary for the effective administration and enforcement of this regulation.

37.7.5 Commencing with the model year 2009, each manufacturer shall submit annually, to the Department, by no later than March 1 of the calendar year following the close of the completed model year, a report documenting the fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks and medium-duty passenger vehicles, delineated by model type, that are produced and delivered for

sale in the State of Rhode Island, as determined in accordance with the provisions set forth in CCR, Title 13, section 1961.1 and 1961.3.

- 37.7.6 Commencing with the model year 2009, each manufacturer shall submit annually, to the Department, by no later than March 1 of the calendar year following the close of the completed model year, a report documenting compliance with the requirements of section 37.3.4, as determined in accordance with the provisions set forth in CCR, Title 13, sections 1962.1 and 1962.2.

37.8 Enforcement

- 37.8.1 The Department may conduct inspection and surveillance of new and used motor vehicles for the purposes of determining compliance with the requirements set forth in section 37.3.

(a) Inspections by the Department or its agents, pursuant to section 37.7.1 may be conducted on any premises owned, operated, used, leased, or rented by any vehicle dealer. Said inspection may extend to all emission-related parts and operation and may require the on-premises operation and testing of an engine or vehicle, and inspection of any related records, including records of certified device repair performed under warranty.

(b) The Department or its agents may perform functional tests, steady-state tests, and other tests as reasonably necessary. In addition, the California Motor Vehicle Inspection program emissions tests standards in Title 13 CCR 2176, and incorporated herein by reference, applicable to the appropriate model year vehicle, may be used by the Department to verify compliance with section 37.

- 37.8.2 Any order or enforcement action taken by CARB to correct noncompliance with any provision of the California Standards that results in the recall of any vehicle pursuant to Title 13 CCR 2109-2135, incorporated herein by reference, shall apply to all vehicles subject to this regulation, except where the manufacturer demonstrates to the Department's satisfaction within 21 days of issuance of said CARB action, that said action is not applicable to said vehicles in Rhode Island.

- 37.8.3 Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to Title 13 CCR 2113 - 2121 shall extend to all applicable vehicles subject to this regulation, except where the manufacturer demonstrates to the Department's satisfaction within 21 days of CARB approval of the campaign, that said campaign is not applicable to said vehicles in Rhode Island.

- 37.8.4 The Department shall enforce the requirements of this regulation in accordance with Title 13 CCR, and applicable federal and Rhode Island law.

37.9 General Provisions

37.9.1 Purpose

The purpose of this regulation is to specify the requirements for Rhode Island's Low-Emission Vehicle Program.

37.9.2 Authority

These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35

37.9.3 Application

The terms and provisions of this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

37.9.4 Severability

If any provision of this regulation or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulation shall not be affected thereby.

37.9.5 Effective Date

The foregoing regulation, "Rhode Island's Low-Emission Vehicle Program", as amended, after due notice, is hereby adopted and filed with the Secretary of State this 21st day of December, 2012 to become effective on filing, in accordance with the provisions of Chapters 23-23, 42-35, 42-17.1, 42-17.6, of the General Laws of Rhode Island of 1956, as amended.

Janet Coit, Director
Department of Environmental Management

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