

AIR POLLUTION CONTROL REGULATION NO. 37
RHODE ISLAND'S LOW EMISSION VEHICLE PROGRAM

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**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AIR RESOURCES
AIR POLLUTION CONTROL REGULATION NO. 37**

RHODE ISLAND'S LOW EMISSIONS VEHICLE PROGRAM

37. Low Emissions Vehicles

37.1 Definitions

As used in these regulations, the following terms shall, where the context permits, be construed as follows:

37.1.1 "Air contaminant 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 California health & safety code sections 39500 et seq.

37.1.3 "California Standards" means those emission standards for motor vehicles and new motor vehicle engines that the state of California has adopted and for which it has received a waiver from the United States Environmental Protection Agency pursuant to the authority of 42 U.S.C.A. Section 7543 and which other states are permitted to adopt pursuant to 42 U.S.C.A. Section 7507.

37.1.4 "CCR" shall mean the California Code of Regulations

37.1.5 "Certification" means a finding by CARB that a motor vehicle, motor vehicle engine, or air contaminant 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 air contaminant emission control system for which a certification has been issued by CARB or the Department.

37.1.7 "Dealer" means every person actively engaged in the business of buying transferring, leasing, selling or exchanging motor vehicles and who has an established place of business.

37.1.8 "Department" means the Rhode Island Department of Environmental Management.

37.1.9 "Diesel cycle" means powered by an engine where the primary means of controlling power output is by limiting the amount of fuel that is injected into the combustion chambers of the engine.

37.1.10 "Emergency Vehicles" 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 emergency 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.

37.1.11 "Emission Control Labels" means those permanent stickers affixed to all 1999 and subsequent model year passenger cars and light duty trucks, certified for sale in California, in accordance with Title 13 CCR 1965 as is or as amended, and incorporated herein by reference, and "California Motor Vehicle Emission Control Label Specifications" as is or as amended.

37.1.12 "Emissions-related part" means any automotive part, which affects any regulated emissions from a motor vehicle which is subject to California or federal emission standards. This includes, at a minimum, those parts specified in the "Emissions-Related Parts List," adopted by CARB on November 4, 1977, as is or as amended.

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

37.1.14 "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection.

37.1.15 "Evaporative emissions" means vaporized fuel being emitted into the atmosphere from the fuel system of a motor vehicle.

37.1.16 "Executive order" means a document issued by CARB certifying that a specified engine family or model year vehicle has met all applicable Title 13 CCR requirements for certification and sale in California.

37.1.17 "Fleet-wide average" means a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from all vehicles subject to this regulation, sold in Rhode Island in any model year, based on the calculation in Title 13 CCR 1960.1 (g)(2), as is or as amended, and incorporated herein by reference.

37.1.18 "Light-duty truck" means any motor vehicle, rated at 6000 pounds gross vehicle weight or less, and a loaded vehicle weight of 5750 pounds 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.

37.1.19 "Light duty vehicle" means light duty trucks and passenger cars.

37.1.20 "Low emissions vehicle" or "LEV" means a motor vehicle which has been certified by CARB.

37.1.21 "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.

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

37.1.23 "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.

37.1.24 "Motor vehicle pollution control system" means the combination of emission-related parts which controls air pollutant emissions from a motor vehicle or motor vehicle engine.

37.1.25 "National LEV" means a voluntary nationwide program that would achieve emission reductions from new motor vehicles.

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

37.1.27 "Northeast States" means Maine, New Hampshire, Vermont, Massachusetts, New York, Connecticut, Rhode Island, and New Jersey.

37.1.28 "OTC-LEV Program" means a LEV program as set forth in 40 CFR 51.120(c).

37.1.29 "Ozone Transport Region or OTR means the ozone transport region established pursuant to 42 U.S.C. 7511c(a), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Pennsylvania, Vermont, the Consolidated Metropolitan Statistical Area that includes northern portions of Virginia and the District of Columbia.

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

37.1.31 "Person" means an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation), partnership, association, syndicate, municipality, municipal or state agency, fire district, club, non-profit agency or any subdivision, commission, department, bureau, agency or department of state or federal government (including quasi-governmental corporation) or of any interstate body.

37.1.32 "Recall" means:

1. A manufacturer's issuing of notices directly to consumers that vehicles in their possession or control should be corrected;
2. A manufacturer's efforts to actively locate and correct vehicles in the possession or control of consumers.

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

37.1.34 "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.

37.1.35 "Used vehicle" means any passenger car or light duty truck with more than 7,500 miles on its odometer.

37.2 Applicability

37.2.1 The Department hereby adopts the all sections of the California Low Emission Vehicle program with exception of Title 13 CCR 1960.1(g)2, the zero emissions vehicle sales mandate and Title 13, CCR, Sections 2220-2224, after-market parts.

37.2.2 This regulation shall apply to all 1999 model year and subsequent model year passenger cars and light duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, or registered in the State of Rhode Island.

37.2.3 Notwithstanding sections 37.2.1 and 37.2.2, for the duration of Rhode Island's participation in National LEV, manufacturers may comply with National LEV or, equally stringent mandatory federal standards in lieu of compliance with the program described by sections 37.2.1 and 37.2.2 or any other program including any mandates for sales of zero emissions vehicles adopted by Rhode Island pursuant to authority provided in section 177 of the CAA, applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR, and medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900.

The State of Rhode Island's participation in the National LEV extends until model year 2006, except as provided in 40 CFR 86.1707. If, no later than December 15, 2000, the U.S. EPA does not adopt standards at least as stringent as the National LEV standards provided in 40 CFR part 86 subpart R that apply to new motor vehicles in model years 2004, 2005 or 2006, Rhode Island's participation in National LEV Program extends only until model year 2004, except as expressly provided in 40 CFR 86.1707.

37.2.4 If a covered manufacturer, as defined at 40 CFR 86.1702, opts out of the National LEV program pursuant to the EPA National LEV regulations at 40 CFR 86.1707, the transition from the requirements imposed by the National LEV program to the requirements imposed by sections 37.2.1 and 37.2.2 of these regulations, or any other program adopted pursuant to the authority provided in section 177 of the CAA, applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR, and/or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 1, Section 1900 and 1960.1, will proceed in accordance with EPA National LEV regulations at 40 CFR 86.1707.

37.2.5 The Department shall apply technical guidance issued by CARB relative to the implementation of Title 13 CCR, including but not limited to Manufacturers Advisory Correspondences and Mail Outs to all vehicles subject to this regulation.

37.3 Emissions Requirements and Prohibitions

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 received a CARB Executive Order for all applicable requirements of Title 13 CCR 1960.1, 1960.1.5, 1960.4, 1960.5, 1964, 1968.1, 1976, 2047, and 2290 as is or as amended 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 37.3.3.

37.3.2 Effective model year 1999, compliance with the Fleet-wide Average Non-Methane Organic Gas Exhaust Emission Requirement in Rhode Island, as set forth at Title 13 CCR 1960.1 (g)(2) as is or as amended, shall be demonstrated for each motor vehicle manufacturer according to the procedures in Title 13 CCR 1960.1 (g)(2) as is or as amended, 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. The Department shall provide that 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 1960.1 (g)(2) as is or as amended.

37.3.3 No motor vehicle dealer shall sell, offer for sale or lease, or deliver any new or used vehicle subject to this Section unless said vehicle conforms to the standards below:

- (a) Ignition timing set to manufacturer's specifications with an allowable tolerance of +/- three (3) degrees.
- (b) Idle speed is set to manufacturer's specifications with an allowable tolerance of +/- 100 rpm;
- (c) All required exhaust and evaporative emission controls, including without limitation EGR valves, are operating properly;
- (d) All vacuum hoses and electrical wiring for emission controls are correctly routed; and
- (e) Idle mixture is set to manufacturer's specifications or according to manufacturer's recommended service procedures.

37.3.4 Exemptions

- (a) Motor vehicles 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, shall not be subject to the requirements of sections 37.3.1-3.
- (b) Motor vehicles 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, shall not be subject to the requirements of sections 37.3.1-4.

37.3.5 No person shall register or attempt to register in the State of Rhode Island any new vehicle subject to section 37.3 unless said vehicle possesses one of the following:

- (a) A valid Emission Control Label pursuant to the requirements of Title 13 CCR 1965, as is or as amended, and incorporated herein by reference; or
- (b) A LEV Waiver which may be granted by the Rhode Island Division of Motor Vehicles prior to submitting a vehicle's registration application exempting the vehicle from the requirements of section 37.3, only in the following circumstances:
 - 1. vehicle purchased by nonresident prior to establishing residency in the State of Rhode Island; or
 - 2. vehicle transfer by inheritance, or by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction; or
 - 3. vehicle acquired by a resident of the State 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.

37.3.6 Anti-tampering provisions.

- (a) No person shall disconnect, modify, or alter any emission-related part, 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 and required to be equipped with an emission control device meeting the standards of this regulation, or subject to the motor vehicle pollution control device requirements pursuant to the Clean Air Act, 42 U.S.C. Section 7401 et seq., inclusive, and the standards and requirements promulgated thereunder, unless the motor vehicle is equipped with the required motor vehicle pollution control device which is correctly installed and in operating condition.

37.4 Vehicle Testing

37.4.1 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 motor vehicle emission requirements of Title 13 CCR 1960.1, as determined by testing conducted in accordance with the testing procedures incorporated in said Section of Title 13.

(b) For the purposes of compliance with section 37.4.1(a), New Vehicle Certification Testing determinations and findings made by CARB shall be applicable.

37.4.2 Assembly Line Testing.

(a) All manufacturers of new vehicles subject to this regulation, certified for sale in California and sold or leased in the State of Rhode Island, shall conduct Inspection Testing and Quality Audit Testing in accordance with Title 13 CCR 2061, 2106 and 2107 as is or as amended, and incorporated herein by reference.

(b) For the purposes of compliance with section, 37.4.2(a) Inspection Testing and Quality Audit Testing determinations and findings made by CARB shall be applicable.

(b) In the event that a vehicle manufacturing facility which 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 2061, 2106, 2107, and 2150, as is or as amended, 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 2061 of a statistically

significant sample may substitute for the 100% testing rate in Title 13 CCR 2061, with the written consent of the Department.

37.4.3 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 motor vehicle emission requirements of Title 13 CCR 1960.1, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR 2101 - 2110, 2150, and 2151, as is or as amended, and incorporated herein by reference.

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

37.4.4 In-Use Vehicle Enforcement Testing

(a) For purposes of detection and repair of vehicles subject to this regulation in the State of Rhode Island failing to meet the motor vehicle emission requirements of Title 13 CCR 1960.1, the Department may conduct, after consultation with CARB, In-Use Vehicle Enforcement Testing in accordance with the protocol and testing procedures in Title 13 CCR 2136-2137, 2140, 2138, and 2139 as is or as amended, and incorporated herein by reference.

(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 applicable.

37.4.5 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 after consultation with CARB.

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

37.5 Warranty

37.5.1 Vehicle Manufacturer Obligations

(a) All manufacturers of new vehicles which 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 - 2038, 2040, and 2041, as is or as amended, and incorporated herein by reference.

(c) All manufacturers shall submit to the Department 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 2141 - 2149, as is or as amended, and incorporated herein by reference.

37.5.2 Vehicle Owner Obligations.

(a) The owner of any vehicle warranted pursuant to Title 13 CCR 2035 through 2041, as is or as amended and incorporated herein by reference, shall ensure all scheduled maintenance specified in the written instructions furnished to the owner is performed in a timely manner. Such maintenance may be performed by the owner, at a service establishment of the owner's choosing, or by a person or persons of the owner's choosing.

(b) Except as specified in sections 37.5.2(b) 1 and 2, failure of the vehicle or engine owner to ensure the performance of such scheduled maintenance or to keep maintenance records shall not be grounds for disallowing a warranty claim.

1. The repair or replacement of any "warranted part" otherwise eligible for warranty coverage under section 37.5.2 (a) and (b), shall be excluded from such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part, and,

2. The repair of a "warranted part" otherwise eligible for warranty coverage under section 37.5.2 (a) and (b), shall be excluded from such warranty coverage if such repair consists solely of adjustments to the idle air/fuel mixture ratio, curb or high idle speed, ignition timing, valve lash, injection timing for diesel-powered vehicles, or any combination thereof.

37.6 Reporting Requirements

37.6.1 For the purposes of determining compliance with the requirements of this regulation, commencing with the 1999 model year, each manufacturer shall submit annually, to the Department, within 60 days subsequent to the end of each model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year, in the State.

37.6.2 For the purposes of determining compliance with the requirements of section 37.3.2, each manufacturer shall submit annually to the Department, within 60 days subsequent to the end of each model year, a report, prepared according to the procedures in Title 13, CCR Section 1960.1 (g)(2) as is or as amended, calculating compliance with the Fleet-wide Non-Methane Organic Gas Exhaust Emission Average.

37.6.3 All motor vehicle manufacturers offering vehicles for sale or lease in the State of Rhode Island shall submit to the Department test results or reports obtained and prepared in compliance with sections 37.4.2 and 37.5.1(b).

37.6.4 All reference documents pertaining to this regulation, including but not limited to testing procedures, test result reporting, and guidance documents may be reviewed at the Department of Environmental Management, Division of Air Resources until such time as the State of Rhode Island, in conjunction with other Northeast states, which have adopted and are implementing the California low emission vehicles program under the authority of 42 U.S.C. Section 7507, establish a regional repository for such reference documents in accordance with section 37.7.

37.6.5 For the purposes of determining if vehicles qualify for exemption under section 37.3.3, the Department may require any motor vehicle manufacturer or dealer of vehicles subject to this regulation to submit any documentation the Department deems necessary to the effective administration and enforcement of this regulation.

37.7 Regional Emissions Testing Facility and Document Repository

37.7.1 For the purposes of emissions testing in compliance with sections 37.4.3-5, and record keeping, the State of Rhode Island may, in conjunction with other Northeast states, which have adopted and are implementing the California low emission vehicles program under the authority of 42 U.S.C Section 7507, enter into an agreement to establish a regional emissions testing facility and document repository.

37.7.2 Until such time as the State of Rhode Island enters into an agreement pursuant to section 37.7.1, for the purposes of compliance and enforcement in the State of Rhode Island, determinations and findings of CARB pursuant to sections

37.4.3-5 shall be applicable, in addition to the determinations and findings obtained through any agreement under section 37.7.1.

37.7.3 Should the Department determine that such testing is necessary or desirable, the Department reserves the right to conduct, after consultation with CARB, vehicle testing pursuant to sections 37.4.3-5.

37.8 Enforcement

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

(a) Inspections by the Department or its agents, pursuant to section 37.8.1 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 emission related part 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, as is or as amended, and incorporated herein by reference, applicable to the appropriate model year vehicle, may be used by the Department to verify compliance with section 37.3.3.

37.8.2 Any order or enforcement action taken by CARB, to correct noncompliance with any Section of Title 13, which results in the recall of any vehicle pursuant to Title 13 CCR 2109-2135, as is or as amended, and incorporated herein by reference, shall be applicable 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.

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.

37.8.5 The Department shall enforce the requirements of this regulation in accordance with Title 13 CCR, as is or as amended and applicable federal and Rhode Island law, as is or as amended.

37.9 Severability

Each subsection of this regulation shall be deemed severable, and in the event that any subsection of this regulation is held invalid, the remainder shall continue in full force and effect.