

## Final Proposed Filing - Coversheet

### Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

/s/ Julia S. Moore

, on 06/03/2024

(signature)

(date)

Printed Name and Title:

Julia S. Moore, Secretary

Vermont Agency of Natural Resources

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:  
**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE  
23P 043

3. ADOPTING AGENCY:  
Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Deirdra Ritzer

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Dr, Davis 4, Montpelier,  
VT 05620

Telephone: 802-233-8052 Fax:

E-Mail: deirdra.ritzer@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dec.vermont.gov/air-quality/laws>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Rachel Stevens

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Dr, Davis 2, Montpelier,  
VT 05620

Telephone: 802-636-7236 Fax:

E-Mail: rachel.stevens@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

10 V.S.A. §§ 554, 558, 567.

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

10 V.S.A. Sections 554, 558, and 567 of the Vermont Air Pollution Control Laws allow the ANR Secretary to set emission control requirements on sources of air contaminants in Vermont and specifically to control such emissions from motor vehicles through the prescription of requirements for the use of equipment that will reduce or eliminate emissions.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

ANR proposes to amend its existing Low Emission Vehicle and Zero Emission Vehicle Rules, which incorporate by reference a suite of motor vehicle emission standards from California including the "Heavy-Duty Engine and Vehicle Omnibus" or "HD Omnibus" regulation. The HD Omnibus regulation sets standards for emissions of nitrogen oxides (NOx) and particulate matter (PM) from on-road heavy-duty engines used in vehicles delivered for sale in Vermont, which help protect public health and air quality. In this rulemaking, ANR proposes to amend the current HD Omnibus regulation to (1) clarify the existing transit bus exemption, (2) adjust the vehicle model year in which vehicle manufacturers can begin earning early compliance credits, and (3) add the

legacy engine provisions that will provide engine manufacturers greater compliance flexibility for vehicle model year 2026, while maintaining the originally projected emissions reductions and public health benefits under the HD Omnibus regulation.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Under the federal Clean Air Act (CAA), California is the only state authorized to establish its own, stricter, automobile emissions standards, but the CAA allows other states to adopt emission standards that are identical to California's. Vermont first adopted California's standards in 1996 and periodically adopts amendments to maintain consistency with the California standards and the CAA's "identity" requirement. ANR's three proposed amendments to the HD Omnibus regulation ensure compliance with the CAA's identity requirement while maintaining the emissions reduction and public health benefits of the original HD Omnibus regulation.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The decision by the Agency to amend the HD Omnibus regulation is rationally connected to the fact that the proposed amendments will maintain the originally projected emissions reductions and public health benefits while ensuring Vermont's rule is identical to California's rule, which is legally required by the CAA.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Vehicle manufacturers and fleet owners

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

There is no economic impact because these amendments do not change emissions standards vehicle manufacturers are already required to comply with under the HD Omnibus. The proposed amendment regarding legacy engine provisions has an estimated \$0 net impact over the lifetime of the regulation between 2026 and 2035. Legacy engine provisions provide compliance flexibility for vehicle manufacturers that gives the option to certify a limited number of 2026 model year (MY) heavy-duty diesel engines to the current exhaust emission

standards in lieu of meeting the HD Omnibus standards (hereinafter, legacy engines), provided they offset any resulting excess emissions. Manufacturers are estimated to have technology costs savings from producing legacy engines in 2026 MY alternatively to HD Omnibus-compliant engines. In turn, manufacturers must offset those increased emissions; the cost to offset these emissions is estimated to be equal to the technology cost savings. See attached Technical Support Document.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 12/8/2023

Time: 01:00 PM

Street Address: Agency of Natural Resources, One National Life Drive, Montpelier, VT in the Catamount Room (Davis Building, Second Floor, Room N215)

Zip Code: 05602

URL for Virtual: Microsoft Teams,

Meeting ID: 257 296 065 335 Passcode: 2TAnfi

Call in (audio only): 802-828-7667, 944713572#

Phone Conference ID: 944 713 572#

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/15/2023

**KEYWORDS** (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Air pollution

Motor vehicle emissions

Air quality

## Adopting Page

### Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

DEC Rules, Chapter 40, Low Emission Vehicle and Zero Emission Rules, eff. Dec. 16, 2022 (CVR 12-030-040), Adopted Rule Number 22-034.



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** October 9, 2023, virtually via Microsoft Teams  
**Members Present:** Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque  
**Members Absent:** John Kessler and Brendan Atwood  
**Minutes By:** Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order.
- Review and approval of [minutes](#) from the September 11, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: The following emergency rules were supported by ICAR Chair Brown:
  - 'Emergency Administrative Rules for Notaries Public and Remote Notarization' by the Office of Professional Regulation, on 09/19/23
    - OPR seeks to renew the emergency rules to ensure notaries can provide remote notary public services while the permanent rules go through the APA rulemaking process. More permanent rules to implement Act 171 are drafted.
      - These Emergency Rules allow an individual to satisfy the "personal appearance" requirement for the performance of notarial acts by appearing before a notary public through a secure communication link using specific protocols and standards.
  - 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures' by the VT Public Utility Commission, on 09/25/23
    - Risk of exposure for members of the public and state agency staff to the COVID-19 virus established as a global pandemic by the World Health Organization as of March 11, 2020.
      - This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.
- No public comments.
- Presentation of Proposed Rules on pages 3-12 to follow:



1. Residential Care Home and Assisted Living Residence Licensing Regulations, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, page 3
  2. Independent School Program Approval Rules, State Board of Education, page 4
  3. Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources, page 5
  4. Investigation and Remediation of Contaminated Properties Rule (IRule), Agency of Natural Resources, page 6
  5. Children's Personal Care Services, Agency of Human Services, Department of Health, page 7
  6. Rules of the Board of Medical Practice, Agency of Human Services, Department of Health, page 8
  7. Crisis Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 9
  8. Seasonal Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 10
  9. Rule Governing the Prescribing of Opioids for Pain, Agency of Human Services, Department of Health, page 11
  10. Council Rules, Vermont Criminal Justice Council, page 12
- No other business
  - Next scheduled meeting is November 13, 2023 at 2:00 p.m.
  - 3:54 p.m. meeting adjourned.

**Proposed Rule: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources**

**Presented By: Deirdra Ritzer and Rachel Stevens**

Motion made to accept the rule by Mike Obuchowski, seconded by Nicole Dubuque, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Proposed Filing – Coversheet, #9: Clarify terms per California’s language.
2. Public Input Maximization Plan, #4: Include interested stakeholders that previously commented on the rule.

## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

#### 1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Vehicle manufacturers and fleet owners

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

The proposed amendments will have no impact on schools.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

The proposed amendments will have no impact on schools, and so no alternatives need be considered.

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

The proposed amendments do not impose any requirements on small businesses, and there is an estimated \$0 net impact on the cost to purchase and operate legacy engines for fleet owners. Legacy engines are more appealing to fleet owners due to the cost savings from the reduced diesel exhaust fluid (DEF) consumption; therefore, fleet owners may be incentivized to purchase legacy engines at a premium. It is expected that market forces may cause a fleet to be willing to purchase legacy engines at a premium price estimated to be equal to the DEF cost savings per legacy engines. For this reason, there is estimated to be a \$0 net impact on the cost to purchase and operate legacy engines for fleet owners.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

The proposed amendments do not impose any requirements on small businesses, including fleet owners.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The proposed amendments do not impose any requirements on small businesses and will have an estimated \$0 net economic impact, and so no alternatives need be considered. Failure to adopt the proposed amendments could have a negative economic impact on vehicle manufacturers who may need the compliance flexibility

to comply with the HD Omnibus regulation. Additionally, failure to adopt the proposed amendments could impact engine availability for some categories of trucks based on manufacturer product plans for 2026, which could have a negative economic impact on fleet owners.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This analysis is sufficient because it explains that the proposed amendments only affect vehicle manufacturers, do not impose an economic impact on schools, and has an estimated \$0 net economic impact on small businesses, such as fleet owners.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

#### 1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impacts on greenhouse gas emissions are expected. The proposed amendment to allow for earlier compliance credit generation may incentivize vehicle manufacturers to produce and certify heavy-duty zero-emission vehicles (ZEV) to generate NOx credits under the HD Omnibus regulation earlier than would be required by the Advanced Clean Trucks (ACT) regulation. Please note that the ACT regulation is not being amended.

#### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY*

*ETC.):*

The amendments have no impact on water.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

The amendments have no impact on land.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*  
The amendments have no impact on recreation.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
Because no impacts on greenhouse gas emissions are expected, there is no impact to the climate in the state.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

The existing HD Omnibus regulation adopted in 2022 will improve air quality by reducing air pollution emissions from heavy-duty vehicles and engines. The proposed amendments will be emissions-neutral because any emissions from additional legacy engines must be offset to maintain the emissions reductions projected for the existing HD Omnibus regulation.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This analysis is sufficient because it explains that there are no environmental impacts expected because the proposed amendments do not change the existing emissions standards. The purpose of the proposed amendments is to maintain the air quality and public health benefits of the existing HD Omnibus regulation.

## Public Input Maximization Plan

### Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

ANR will notify the public and interested stakeholders of the proposed rule and public hearing in accordance with the Vermont APA.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Vermont Agency of Transportation

Northeast States for Coordinated Air Use Management

California Air Resources Board

Truck and engine manufacturers

Transportation for Vermonters coalition

Vermont Truck & Bus Association

Other interested stakeholders that previously commented on the rule



## Scientific Information Statement

**THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.**

**PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

The Agency's proposed amendments and technical support document reference CARB's existing rule record for the HD Omnibus regulation and the record for the proposed rule amendments regarding legacy provisions, including "statement of reasons" which provide the explanation and technical basis for the proposed amendments. The Agency's technical support document for the proposed amendments also references the supplemental and technical information submitted for the HD Omnibus regulation adopted in 2022.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

Please see attached Technical Support Document for formal citations of materials incorporated by reference.

**5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:**

To obtain copies of source documents, the public may access the information electronically using the hyperlinks provided above or in the footnotes of the Technical Support Document, or send an email to [deirdra.ritzer@vermont.gov](mailto:deirdra.ritzer@vermont.gov).

## Incorporation by Reference

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

#### 1. TITLE OF RULE FILING:

**Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Materials incorporated by reference include all sections of the California Code of Regulations (CCR) that implement California's HD Omnibus regulation. In 2022, Vermont adopted California's HD Omnibus regulation in Chapter 40: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, and the specific sections of the CCR that are incorporated by reference are listed in the tables within Chapter 40-201.

#### 4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

Please see attached Technical Support Document for formal citations of materials incorporated by reference.

#### 5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

To obtain copies of materials, the public may access the information electronically using the hyperlinks provided above or in the footnotes of the technical support document, or send an email to [deirdra.ritzer@vermont.gov](mailto:deirdra.ritzer@vermont.gov).

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

N/A

Run Spell Check

Technical Support Document  
Vermont Agency of Natural Resources  
Final Proposed Amendments to Vermont Low Emission Vehicle and Zero  
Emission Vehicle Rules

This document includes summaries, technical support, and supplemental information for the final amendments to the Agency of Natural Resources' Low and Zero Emission Vehicle Rules, which incorporate by reference a suite of motor vehicle emission standards from California, including the "Heavy-Duty Engine and Vehicle Omnibus" or "HD Omnibus" regulation. The HD Omnibus regulation sets standards for emissions of the air pollutants nitrogen oxides (NOx) and particulate matter (PM) from on-road heavy-duty engines used in vehicles delivered for sale in Vermont, which help protect public health and air quality. In this rulemaking, ANR proposes to amend current rules to (1) clarify the existing transit bus exemption from the HD Omnibus regulation, (2) adjust the vehicle model year in which vehicle manufacturers can begin earning early compliance credits under the HD Omnibus regulation, and (3) add the legacy engine provisions that will provide engine manufacturers greater compliance flexibility for model year 2026, while maintaining the originally projected emissions reductions and public health benefits under the HD Omnibus regulation.

ANR has authority to adopt and amend these regulations pursuant to Section 177 of the Clean Air Act (CAA) and 10 V.S.A. §§ 554, 558, and 567 of the Vermont Air Pollution Control Laws, which allow the ANR Secretary to set emission control requirements on sources of air contaminants in Vermont and specifically to control such emissions from motor vehicles through the prescription of requirements for the use of equipment that will reduce or eliminate emissions.

## Background

Mobile sources, primarily motor vehicles, are a significant source of several air pollutants including air toxics, the ozone precursors (volatile organic compounds and NOx), and carbon monoxide. NOx are a group of highly reactive compounds that pose direct human health impacts, such as irritation of the respiratory tract, and the worsening or triggering of asthma.<sup>1</sup> These gases are also precursor pollutants that undergo complex chemical reactions in the atmosphere to form other air pollutants of concern, such as PM2.5 and ground-level ozone (also known as smog). Breathing air with elevated concentrations of ozone is especially harmful to children, the elderly, and people of all ages who have asthma and other respiratory impairments. Breathing ozone can trigger a variety of health issues ranging from coughing to chest pain, to reduced lung function or damage.<sup>2</sup> NOx also contributes to the formation of acid rain<sup>3</sup> and visibility impairment (haze)<sup>4</sup> in Vermont.

PM2.5 is emitted directly from vehicle exhaust and formed through secondary reactions with NOx and other pollutants in the atmosphere. PM2.5 can be inhaled deeply into the lungs and transferred into the

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<sup>1</sup> EPA – Basic Information about NO2 webpage: <https://www.epa.gov/no2-pollution/basic-information-about-no2>

<sup>2</sup> EPA – Health Effects of Ozone Pollution webpage: <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution>

<sup>3</sup> EPA – Acid Rain webpage: <https://www.epa.gov/acidrain>

<sup>4</sup> EPA – Visibility and Regional Haze website: <https://www.epa.gov/visibility>

bloodstream resulting in significant health problems, such as reduced lung function, worsened asthma, non-fatal heart attacks, and premature death in individuals with heart or lung disease.<sup>5</sup>

In 1967, the federal Clean Air Act (CAA) established the framework for controlling mobile source (i.e., cars, trucks, buses, and other vehicles) emissions in the United States. Although most states were preempted by Section 209 of the CAA from adopting state vehicle emissions standards, California was granted a special exemption to the federal preemption due to the state's long-standing mobile sources program and unique air quality problems.<sup>6</sup> This exemption gave California the authority to set its own vehicle emission standards if such standards are at least as protective as the federal standards. The California Air Resources Board (CARB) develops and adopts specific rules and regulations needed to achieve healthful air quality and address climate change. The relevant CARB regulations are found in Title 13 (Motor Vehicles) and Title 17 (Public Health) of the California Code of Regulations (CCR).<sup>7</sup>

A subsequent amendment to the CAA added Section 177 that allows other states to adopt the California standards if they are "identical to the California standards" and California receives a waiver of preemption from implementing the federal motor vehicle standards from the U.S. Environmental Protection Agency (EPA).<sup>8</sup> States may adopt California's standards prior to EPA granting a waiver to California under Clean Air Act Section 209(b).

Pursuant to Section 177, Vermont has the authority to regulate emissions from motor vehicles so long as those regulations are identical to California's. Over the past two decades, Vermont has adopted many of California's regulatory programs for light-, medium- and heavy-duty vehicles, including the Low Emission Vehicle (LEV) program beginning with model year 2000 and Zero Emission Vehicle (ZEV) program for model year 2004 and beyond which were later combined into the Advanced Clean Cars (ACC) program for model years 2015 through 2025. Additionally, in 2022 Vermont adopted California's ACC II, Advanced Clean Trucks (ACT), HD Omnibus, and the Phase 2 Greenhouse Gas regulations all beginning in model year 2026. The adopted requirements include a LEV program which focuses on the emissions of criteria air pollutants and greenhouse gases, and a ZEV program which requires auto manufacturers to deliver a certain percentage of battery electric, hydrogen fuel cell, and/or plug-in hybrid vehicles to Vermont.

In addition to California, Vermont and 16 other states have adopted California motor vehicle emissions standards. Combined, these states represent approximately 36%-40% of U.S. new light-duty vehicle sales.<sup>9</sup> As of May 2023, eight states have adopted HD Omnibus and several others have proposed adopting.

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<sup>5</sup> EPA – Health and Environmental Effects of Particulate Matter (PM): <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>.

<sup>6</sup> 42 U.S.C. §7543.

<sup>7</sup> California Code of Regulations, Title 13, Motor Vehicles, [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I4CE8D9D05A1E11EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I4CE8D9D05A1E11EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)); California Code of Regulations, Title 17, Public Health, [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I94E0B3505A2011EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I94E0B3505A2011EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

<sup>8</sup> 42 U.S.C. § 7507.

<sup>9</sup> California Air Resources Board – States that have Adopted California's Vehicle Standards under Section 177 of the Federal Clean Air Act: [https://ww2.arb.ca.gov/sites/default/files/2022-05/%C2%A7177\\_states\\_05132022\\_NADA\\_sales\\_r2\\_ac.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-05/%C2%A7177_states_05132022_NADA_sales_r2_ac.pdf).

# Heavy-Duty Engine and Vehicle Omnibus Rule

## Background

Adopted in Vermont in 2022, the Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments (HD Omnibus) require NO<sub>x</sub> emissions reductions from new on road heavy-duty engines and vehicles and ensure emission reductions are maintained as those engines and vehicles are operated.<sup>10</sup> The HD Omnibus regulation includes exhaust emission standards for NO<sub>x</sub> and particulate matter (PM) that apply to heavy-duty Otto-cycle and diesel engines intended for use in vehicle service classes with gross vehicle weight ratings (GVWR) greater than 10,000 pounds. The HD Omnibus regulation is legally and substantively complimentary to the compliance and goals of the other LEV and ZEV rules (Advanced Clean Trucks and Phase 2 greenhouse gas regulations) previously adopted in Vermont.

The HD Omnibus regulation requires NO<sub>x</sub> emission reductions starting in model year 2026, and a 90% reduction for model year 2027 engines. The HD Omnibus includes an emissions averaging, banking, and trading program that allow manufacturers that elect to produce and certify heavy-duty ZEVs to generate NO<sub>x</sub> credits, to incentivize the sales of heavy-duty ZEVs earlier than would be required by the ACT Regulation.

To legally sell new engines, manufacturers must certify that their engines will comply with applicable emission standards throughout a specified period called the regulatory useful life. This ensures that manufacturers consider deterioration in emissions performance in the initial design of the engine. Manufacturers demonstrate that the emissions from engines meet emission standards at the time of certification using a durability demonstration program (DDP) which simulates heavy-duty engine and emission-related control component aging throughout the applicable useful life period.

To help ensure that emission controls are sufficiently durable to control emissions over applicable useful life periods, and well-maintained and repaired when needed, the HD Omnibus Rule lengthens the criteria pollutant emissions warranty and useful life period requirements for heavy-duty vehicles and engines. For components that fail under warranty, manufacturers may be required to report certain data to CARB and Vermont. If failure rates are high enough, manufacturers are required to conduct corrective actions such as recalling faulty components.

When ANR adopted the HD Omnibus regulation in 2022, the Northeast States for Coordinated Air Use Management (NESCAUM) assisted Vermont in calculating the estimated economic value of the health benefits associated with the adoption of the HD Omnibus regulation using U.S. EPA's CO-Benefits Risk Assessment Health Impacts Screening and Mapping Tool (COBRA).<sup>11</sup> Utilizing the COBRA model is generally consistent with EPA practice for estimating avoided health impacts and monetized benefits. The COBRA model estimates impacts to air pollution concentrations, which are translated into health outcomes. Table 1 shows the estimated total avoided costs from avoided premature deaths, hospitalizations for cardiovascular and respiratory illnesses, and emergency room visits due to the reductions in criteria

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<sup>10</sup> See, CARB, Title 13, Final Regulation Order for HD Omnibus, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hdomnibuslownox/froa-1.pdf>; see also CARB, Title 17, Final Regulation Order for HD Omnibus, <https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/froa-2.pdf>.

<sup>11</sup> U.S. EPA, COBRA model, <https://www.epa.gov/cobra>.

pollutant emissions associated with the adopted HD Omnibus regulation for 2025 through 2050 in Vermont, relative to the baseline.

Table 1: 2025-2050 Statewide estimated Cumulative Health Impacts from HD Omnibus Regulation, in US dollars. Total costs avoided are due to criteria pollutant emission reductions.

Adopted Regulation	Valuation	Years	Total Cumulative Costs Avoided
HD Omnibus Regulation	\$2018 (millions)	2025-2050	\$4.1-\$9.2M

Notes on COBRA modeling:

1. COBRA version 4.1.
2. Emissions baseline year, Phase II Source-Receptor (S-R) Matrix and adjustment factors, and incidence and health effect functions for 2028.
3. Vermont population projection for 2025-2050 utilized the 2017 U.S. Census Bureau National Population Projections as a baseline, which was adjusted at the state and county levels using the COBRA population inventory database.
4. Valuation functions were projected for 2025-2050 using a linear model based on the COBRA valuation inventory database.
5. Discount rate of 3%.

Previously, Vermont partnered with NESCAUM and the International Council on Clean Transportation (ICCT) who commissioned Sonoma Technology, Inc. (STI) to estimate the cumulative avoided NOx emissions beginning in 2026 from the HD Omnibus regulation as shown in Table 2<sup>12</sup>, below.

Table 21: Avoided Cumulative Emissions of NOx and PM from HD Omnibus Regulation

Avoided Cumulative Medium- and Heavy-Duty Emissions, 2020-2050	
Adopted HD Omnibus Regulation	NOx (short tons)
	3,960

## Proposed Amendments

The proposed amendments to the HD Omnibus Rule include the following changes summarized below:

- Clarify existing transit bus exemption language,
- Adjust the vehicle model year by which manufacturers can begin accruing early compliance credits, and
- Add the legacy engine provisions that will provide engine manufacturers greater compliance flexibility for model year 2026, while maintaining the originally projected emissions reductions.

### Clarifying the Transit Bus Exemption

The HD Omnibus regulation previously adopted in Vermont included an exemption of transit buses by incorporating by reference the transit bus exemption provided by CARB within the CA regulation. Transit buses are currently exempt because of significant availability concerns with CARB compliant diesel transit

<sup>12</sup> The ICCT and STI - Benefits of adopting California medium- and heavy-duty vehicle regulations, <https://theicct.org/benefits-ca-multi-state-reg-data/>.



bus engines. Specifically, ANR intended to adopt this exemption from Vermont's HD Omnibus Rule, Vermont Chapter 40-106(a)(12), by incorporating by reference Title 13 of the California Code of Regulations §1956.8(a)(2)(F) which allows for diesel-fueled transit buses and engines to be exempt if certain conditions are met. However, the intended exemption is problematic as written because it relies on conditions specific to other California regulations not adopted in Vermont. Therefore, Vermont's HD Omnibus does not clearly exempt diesel-fueled transit buses and engines as intended.

The proposed amendment clarifies the existing language exempting diesel-fueled transit buses and engines from the regulation by adding this vehicle type to the exemption list in Chapter 40-103(d) and ensures compliance with the CAA's identity requirement. Because this proposed amendment does not change the California NOx emissions standards vehicle manufacturers are already required to comply with, there are no economic or environmental impacts.

For background, Vermont is implementing efforts to further transit bus electrification. VTrans has developed a Zero-Emission Transition Plan<sup>13</sup>, which transitions the state's fleet of approximately 400 transit vehicles to zero-emission propulsion over the next few decades. Specifically, VTrans' plans call for 100 percent of the fleet to be powered by renewable energy by 2050. VTrans has applied for multiple Low and No Emissions Bus and Bus Facility Grants from the Federal Transportation Agency (FTA) and has been previously awarded \$12.5 million to for nine new electric transit buses to operate in Vermont.

DEC has supported this transition from diesel to electric transit buses. Recently, DEC has partnered with VTrans to continue electrifying Vermont's transit bus fleet and provide support for the latest "Low No" grant application in spring of 2023. With support from the Volkswagen (VW) settlement and FTA funds, 17 diesel transit buses will be replaced with electric buses over the next two years. Also, DEC oversaw the Vermont Electric Bus Pilot, which as administered by VEIC on behalf of the State and has funded the replacement of six diesel school buses at three schools and two diesel transit buses with electric buses. All electric buses were delivered and on the road in 2021/2022. Data collected on electric bus operation and performance to help inform future investments has been completed and a final report was issued in June 2023.<sup>14</sup>

#### Early Compliance Credits

Early compliance credits serve as one of many compliance flexibilities provided to manufacturers under the HD Omnibus regulation. When ANR adopted the HD Omnibus regulation in 2022, the period of early credit generation was based on the number of years California allowed when they first adopted. For example, California allowed for two years of early credit generation (model years 2022 and 2023) until the HD Omnibus emissions standards went into effect in California beginning in model year 2024. Vermont followed suit by also allowing for two years of early credit generation (model years 2024 and 2025) until the HD Omnibus emissions standards went into effect in Vermont beginning in model year 2026.

However, following Vermont's adoption of the HD Omnibus regulation, it became clear that all the other Section 177 states that have adopted the HD Omnibus regulation (CO, MA, NJ, NY, OR, and WA) explicitly

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<sup>13</sup> Vermont Agency of Transportation (VTrans) Zero-Emission Transition Plan ([https://vtrans.vermont.gov/sites/aot/files/publictransit/documents/VTrans%20Zero-Emission%20Transition%20Plan\\_Final01312022.pdf](https://vtrans.vermont.gov/sites/aot/files/publictransit/documents/VTrans%20Zero-Emission%20Transition%20Plan_Final01312022.pdf))

<sup>14</sup> Vermont Electric School and Transit Bus Pilot Program Report, June 23, 2023, [https://dec.vermont.gov/sites/dec/files/aqc/mobile-sources/documents/VEIC\\_Final\\_VT\\_Electric\\_Bus\\_Pilot\\_Report\\_and\\_Appendices.pdf](https://dec.vermont.gov/sites/dec/files/aqc/mobile-sources/documents/VEIC_Final_VT_Electric_Bus_Pilot_Report_and_Appendices.pdf).

allowed for early credit generation beginning in model year 2022. Additional states (CT and RI) have also indicated that their proposed HD Omnibus rules will allow for early credit accrual to begin with model year 2022. Although the reasoning behind ANR's initial decision to begin early credits in model year 2024 is sound, Vermont's rule is not aligned with other Section 177 states.

The proposed amendment includes changing the vehicle model year in which vehicle manufacturers can begin earning early compliance credits from 2024 to 2022 to align with California and other states that explicitly allow for early credit generation beginning in model year 2022 and ensures compliance with the CAA's identity requirement. Adjusting the model years for early compliance credits for the HD Omnibus regulation does not impact previous estimates of emissions reductions or public health benefits, because the modeling completed indirectly factored in early compliance credits based on California's approach. Because this proposed amendment does not change the California NOx emissions standards vehicle manufacturers are already required to comply with, there is no economic impact.

#### Legacy Engine Provisions

The main purpose of the proposed legacy engine provisions is to assure originally intended engine availability levels and associated emissions reductions and provide a smooth transition as manufacturers adjust to the new lower emission standards. As a result of a recently negotiated agreement, the Clean Truck Partnership<sup>15</sup>, between CARB and truck and engine manufacturers, California proposed to amend the legacy engine provisions in the HD Omnibus regulation to provide additional compliance flexibility to assist manufacturers to produce and certify greater number of 2026 model year legacy engines that meet today's federal standards. As California amends its rules, Vermont periodically adopts amendments to maintain consistency with the California standards and the CAA's identity requirement.

Specifically, the proposed legacy engine provisions provide manufacturers the option to certify 2026 model year heavy-duty diesel engines rated below 525 brake horsepower (bhp) to the current NOx and PM exhaust emission standards of 0.20 grams per brake horsepower-hour (g/bhp-hr) (hereinafter, legacy engines), provided they offset any resulting NOx or PM deficits with credits obtained from the HD zero-emission (HD-ZE) averaging set. If enough credits from the HD-ZE averaging set are not available, or such credits are not available below a specified cost threshold, a manufacturer may use credits from the same combustion engine averaging set.

If enough credits from the same combustion engine averaging set are not available, a manufacturer may carryover its NOx or PM deficit balance until the end of the 2026 model year but must then offset 1.25 times the amount of the deficit balance. Manufacturers that fail to offset their deficit balances by the end of the 2026 model year must provide documentation substantiating that they attempted to but were unable to purchase credits at a price below a specified threshold. Such manufacturers must also submit a plan demonstrating that any deficits will be offset in five years and that such reductions must benefit disadvantaged communities.

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<sup>15</sup> CARB and truck and engine manufacturers announce unprecedented partnership to meet clean air goals, CARB Press Release, July 6, 2023, <https://ww2.arb.ca.gov/news/carb-and-truck-and-engine-manufacturers-announce-unprecedented-partnership-meet-clean-air>

Furthermore, a manufacturer must certify one or more diesel engine families to the full Omnibus NOx standards specified in 13 CCR §1956.8(a)(2)(C)1 in the same year it is utilizing this option to certify legacy engines.

The proposed legacy engine provisions provide a legacy engine sales limit of 10 percent for model year 2026. If a manufacturer exceeds the legacy engine sales limit, deficits from the additional one percent sales volume above the limit would have to be offset at four times the deficit balance. Any legacy engine sales exceeding the production and sales limits including the additional one percent volume would be considered as non-compliant engine sales.

#### *Legacy Engine Provisions Costs and Benefits*

As determined by CARB, this amendment leads to a \$0 net impact over the lifetime of the regulation between 2026 and 2035. It is expected that market forces will control the costs to offset excess emissions and what fleet owners are willing to pay for a legacy heavy-duty diesel engine. It is unlikely that manufacturers would produce legacy engines if the cost of HD-ZE credits exceeded the incremental increase in cost to manufacture an Omnibus-compliant engine in 2026. Therefore, the cost to offset legacy engine emissions must be less than or equal to the technology costs savings from producing a legacy engine to make the legacy engine a viable option. For this reason, the market prices for a 2026 model year legacy engine versus an Omnibus-compliant engine of the same size are anticipated to be similar.<sup>16</sup>

Legacy engines are more appealing to fleet owners due to the cost savings from the reduced diesel exhaust fluid (DEF) consumption; therefore, fleet owners may be incentivized to purchase legacy engines at a premium. It is expected that market forces may cause a fleet to be willing to purchase legacy engines at a premium price estimated to be equal to the DEF cost savings per legacy engines. For this reason, there is estimated to be a \$0 net impact on the cost to purchase and operate legacy engines for fleets.<sup>17</sup>

The manufacturers, located outside of Vermont, are estimated to have technology costs savings from producing legacy engines in the 2026 model year in lieu of HD Omnibus-compliant engines. In turn, manufacturers must offset those increased emissions; CARB staff estimates the cost to offset these emissions is equal to the cost savings.<sup>18</sup>

The proposed legacy engine provisions require manufacturers to offset any excess NOx and/or PM emissions generated from legacy engine sales. As a result, the proposed amendments are emissions-neutral, that is they are not projected to provide any additional emission reductions beyond those projected in the existing HD Omnibus regulation, nor are they expected to result in any emissions increases. The emission benefits expected from the HD Omnibus regulation as initially adopted and described above would remain the same.<sup>19</sup>

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<sup>16</sup> CARB, HD Omnibus Proposed Amendments Initial Statement of Reasons, available at, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

### *Additional Modifications to Legacy Engine Provisions*

CARB proposed the initial legacy engine amendments to the HD Omnibus Rule on August 1, 2023 to incorporate the compliance flexibilities described above. Based on public comments received, California proposed additional modifications to the initially proposed amendments in December 2023 to clarify the intent of the legacy engine provisions, provide greater flexibility in tracking and reporting which products are sold, and to clarify the On-Board Diagnostic (OBD) System Requirements that apply to these engines. CARB confirmed that these modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis, and the additional modifications provide more flexibility in tracking compliance, which was requested by manufacturers during the public comment period. CARB's Proposed Amendments to the HD Omnibus are scheduled to be approved by May 31, 2024. Vermont ANR reviewed these additional modifications and confirmed that they should be incorporated into ANR's proposed amendments to HD Omnibus Rule because the modifications are necessary to maintain consistency with California's standards and "identity" as required by the Clean Air Act.

### *Scientific Information Statement Supplemental Information and Materials Incorporated by Reference*

- Chapter 40, Vermont Low Emission Vehicle and Zero Emission Vehicle Rules (eff. Dec. 16, 2022), available at, [https://dec.vermont.gov/sites/dec/files/aqc/mobile-sources/documents/Chapter\\_40\\_LEV\\_ZEV\\_rule\\_adopted\\_Linked.pdf](https://dec.vermont.gov/sites/dec/files/aqc/mobile-sources/documents/Chapter_40_LEV_ZEV_rule_adopted_Linked.pdf)
- Title 13, California Code of Regulations, available at, <https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>
- Title 17, California Code of Regulations, available at, <https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>
- CARB, Title 13, Final Regulation Order for HD Omnibus, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hdomnibuslownox/froa-1.pdf>
- CARB, Title 17, Final Regulation Order for HD Omnibus, <https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/froa-2.pdf>.
- CARB, HD Omnibus Rule Record (2021), available at, <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox>.
- CARB, HD Omnibus Final Statement of Reasons, available at, <https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/fsor.pdf>
- CARB, HD Omnibus Addendum to Final Statement of Reasons, available at, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hdomnibuslownox/fsoraddendum.pdf>.
- CARB, HD Omnibus Proposed Amendments Initial Statement of Reasons, available at, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf>.
- CARB, HD Omnibus Rule Amendment Record (2024), available at, <https://ww2.arb.ca.gov/rulemaking/2023/hdomnibus2023>.
- ANR, Supplemental Information for Vermont Low Emission Vehicle and Zero Emission Vehicle (2022), available at, [https://dec.vermont.gov/sites/dec/files/aqc/laws-regs/documents/ACCII-ACT-LowNOx-TSD\\_LCAR.pdf](https://dec.vermont.gov/sites/dec/files/aqc/laws-regs/documents/ACCII-ACT-LowNOx-TSD_LCAR.pdf).

## RESPONSIVENESS SUMMARY

### FINAL AMENDMENTS TO VERMONT'S LOW EMISSION VEHICLE AND ZERO EMISSION VEHICLE RULES

June 3, 2024

#### List of Commenters:

1. Brandon Buchanan, American Bus Association (ABA), Washington DC
2. Steve Henderson, Ford Motor Company, Dearborn MI

#### Summary of Comments and Responses:

Comment 1: Initially, ABA seeks clarification on the process enabling ANR to proceed with adopting the amended emissions regulations that are still being further amended. It is our understanding that CARB is still awaiting approval of its waiver request to the Environmental Protection Agency (EPA) for the Omnibus regulation per the Clean Air Act, and has requested additional time before the Agency acts on the waiver request. Further, as announced on June 28, 2023, CARB entered into an agreement with various heavy-duty on-highway engine manufacturers, committing to, among other things, amend its Omnibus regulation. CARB has since issued a notice soliciting comments and holding a public hearing on its proposed amendments to the Omnibus regulation. These additional amendments are still out for comment through December 21, 2023 and are not final. Based on these actions, it is premature for ANR to proceed any further toward adopting the Omnibus regulations (or their amendments) at this time. According to Section 177 of the Clean Air Act, which ANR cites as its authority to proceed with this action, for a state to adopt California's standard, EPA must first grant a waiver for the standard. For this reason, ABA believes ANR should suspend this proceeding, which will also provide the opportunity for ANR to gain a better understanding of the private bus and motorcoach industry, many of whom are coming from out of state and the effect the amended regulations would have on industry operations as well as their own enforcement initiatives.

Response 1: ANR has legal authority to adopt the rules pursuant to the Vermont Air Pollution Control Law, 10 V.S.A. §§ 554, 558, 567 and the federal Clean Air Act, 42 U.S.C. § 7507. The Vermont Air Pollution Control Law allows the ANR Secretary to set emission control requirements on sources of air contaminants in Vermont and specifically to control such emissions from motor vehicles through the prescription of requirements for the use of equipment that will reduce or eliminate emissions. The federal Clean Air Act allows states to adopt and enforce any model year standards relating to control of emissions from new motor vehicles and engines, so long as such standards are identical to California's standards, are adopted at least two years before commencement of the model year, and the adopting jurisdiction has a plan approved pursuant to Part D of the Act. States may adopt these rules prior to EPA granting a waiver to California under Clean

Air Act Section 209(b). Once EPA has granted a waiver to California, Section 177 states may enforce standards to control motor vehicle emissions using certification, inspection, registration, or some other approval process. In the past, Vermont has successfully conducted rulemaking processes parallel to that of the California Air Resources Board's (CARB) process, to ensure that adoption and implementation dates are the same or similar. Vermont can take the same approach in adopting the proposed amendments to HD Omnibus.

CARB proposed amendments to the HD Omnibus Rule on August 1, 2023 to incorporate additional compliance flexibilities to assist manufacturers to produce and certify a percentage of 2026 model year legacy engines that meet today's federal standards. Vermont proceeded to adopt these proposed amendments to maintain consistency with California's standards and the Clean Air Act's "identity" requirement. Based on public comment, California proposed additional modifications to the initially proposed amendments in December 2023 to clarify the intent of the legacy engine provisions, provide greater flexibility in tracking and reporting which products are sold, and to clarify the On-Board Diagnostic (OBD) System Requirements that apply to these engines. CARB confirmed that these modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis, and the additional modifications provide more flexibility in tracking compliance, which was requested by manufacturers during the public comment period. CARB's Proposed Amendments to the HD Omnibus are scheduled to be approved by May 31, 2024.

Vermont ANR reviewed these modifications and confirmed that they should be incorporated into ANR's proposed amendments to HD Omnibus because the modifications are necessary to maintain consistency with California's standards as required by the Clean Air Act, relate to the legacy engine provisions being adopted, and are responsive to public comments received during the public comment period. ANR has updated the Administrative Procedure Act (APA) Incorporation by Reference form and the Technical Support document to include California's final rulemaking package dated April 18, 2024.

Comment 2: As mentioned above, the engines subject to the emissions regulations are not only used in truck vehicles, but also in buses and motorcoaches as well. Because ANR only references trucks in the Economic Impact Analysis, we are concerned an important segment of Vermont's transportation network was not accounted for in the analysis. Further, diesel engines are not built as stand-alone products, they are components of vehicles that operate in commerce. The impact of the emissions regulations goes far beyond a one-time reporting requirement, and the expectation of only short-term cost increases to small businesses is no small factor. It is too narrow of a view to limit the regulatory impact analysis simply to an assessment of engine and vehicle manufacturing, when it is the operation of these engines that affect the environment. . . .

The entire purpose of the Emissions Regulations is to reduce harmful emissions; this cannot be done without considering the operating use of the engines by vehicle operators

and the benefits they might provide to the environment. In addition, long distance fleet operations and interstate truck and motorcoach operations were ignored in the ANR analysis. This analysis was heavily relied upon in justifying the need for Vermont to adopt California's emissions standards (and the pending amendments), and a full presentation of heavy-duty vehicle operations in the state was needed. When properly considered within a realistic context, accounting for both the manufacture and use of the engines for both trucks and motorcoaches, there will be a far greater regulatory impact than anticipated.

Response 2: The Agency adopted the HD Omnibus Rule in 2022. The scope of this rulemaking includes clarifying the existing transit bus exemption, increasing the model years in which manufacturers can accrue compliance credits, and adding optional compliance flexibility to assure engine availability. These proposed amendments add clarity and do not change the emissions standards manufacturers are already required to comply with under the regulation; therefore, these amendments have no economic or environmental impacts.

The Agency did consider buses and motorcoaches when it adopted the HD Omnibus Rule in 2022 because California's economic analysis included all affected vehicles which the Agency incorporated by reference. As part of ANR's previous HD Omnibus rulemaking in 2022, the Agency did use an example summarizing estimated costs for a fleet that would buy 20 new medium heavy-duty diesel vehicles with 2024, 2027, and 2031 model year engines. See *Supplemental Information for Vermont Low Emission Vehicle and Zero Emission Vehicle* (2022), available at, [https://dec.vermont.gov/sites/dec/files/aqc/lawsregs/documents/ACCII-ACT-LowNOx-TSD\\_LCAR.pdf](https://dec.vermont.gov/sites/dec/files/aqc/lawsregs/documents/ACCII-ACT-LowNOx-TSD_LCAR.pdf).

Further, consideration of long-term costs on manufacturers and costs passed to vehicle buyers, such as a lifetime analysis including initial purchase price increase, lifetime Diesel Exhaust Fluid (DEF) consumption, lifetime savings from warranty and Emissions Warranty Information and Reporting amendments, net lifetime cost impact, and percent increase in lifetime cost from the assumed purchase price were part of California's analyses and included in the Agency's previous rulemaking in 2022. Additionally, as part of the previous rulemaking in 2022, the Agency provided the estimated economic value of the health benefits to Vermonters, and estimated reduction of tons of nitrogen oxides (NOx) and particulate matter (PM) associated with the adoption of HD Omnibus in Vermont. The reduction in emissions of NOx and PM are of particular importance in Vermont. Volatile organic compounds (VOCs) and NOx, which combine to form ground level ozone that triggers asthma attacks, damages lung tissue, and damages forests and crops. Fine PM, which causes respiratory and cardiovascular damage, and leads to haze that limits visibility. Diseases aggravated by air pollution include chronic sinusitis, bronchitis, asthma, and allergies. Studies show that air pollution poses significant risk of pulmonary problems in developing fetuses, young children, and older individuals, and damages the immune system in healthy adults. Reductions in these air pollutants are

expected to occur from the previous adoption of the HD Omnibus regulation in 2022 and will therefore have a positive impact on air quality and public health in Vermont. The purpose of the current proposed amendments is to maintain the air quality and public health benefits of the existing HD Omnibus Rule. No changes were made in response to this comment.

Comment 3: In addition, it is not so simple of task to reconfigure the entire motorcoach sales network and pre-determine which states vehicles will be set up to operate in advance of their sale. And to then have an entirely different motorcoach sales network in states that are following the EPA's heavy duty engine emissions rules, where vehicles are available on a first come, first served basis. . . . While Vermont is home to a limited number of motorcoach operations who will all be affected by the adoption of these rules, there are many more who pass through the state and bring visitors to major tourist destinations like Montpelier or Burlington, and to visit maple farms or see fall foliage. These businesses are entirely dependent on the OEMs complying with the Emissions Regulations. If, for example, the OEMs cannot produce engines or vehicles in compliance with the Emissions Regulations by the deadline or they can do so only at an excessive cost, small business operators will be in jeopardy and not just the ones in Vermont. For these reasons, ANR should revise its analysis to fully capture the reach of these regulations, and comply with the other provisions of the Act, such as identifying alternative compliance methods or consider an exemption. A suspension of this proceeding would enable ANR to undertake this effort.

Response 3: The commenter notes that there are a limited number of motorcoach operations in Vermont, that there are many motorcoach operations outside of Vermont bringing tourists to visit our state, and that all these businesses will be in jeopardy if OEMs cannot produce HD Omnibus compliant engines. The Agency disagrees with this statement because the HD Omnibus Rule already adopted in Vermont applies to heavy-duty engines used in vehicles delivered for sale in Vermont, and does not cover out of state engines or vehicles that may travel into or through Vermont.

While the HD Omnibus Rule does include an explicit exemption for transit buses, this particular exemption does not apply to motorcoaches. See *Vermont Low Emission Vehicle and Zero Emission Vehicle Rules*, Chapter 40-106(a)(12) (incorporating by reference Title 13 of the California Code of Regulations §1956.8(a)(2)(F)). There are, however, many compliance flexibility options already available to manufacturers (e.g., allowed accrual of early compliance credits, averaging/banking/trading of credits, use of Heavy-Duty Zero-Emission Powertrain credits, use of legacy engines, etc.). The exemption process described in 13 CCR 1956.8(f) is likely to provide an option for motorcoach manufacturers to sell some vehicles with US EPA-certified engines in lieu of engines meeting the HD Omnibus Rule. Therefore, the Agency believes that market demand can be met if manufacturers take advantage of the existing flexibilities in the HD Omnibus Rule.

No changes were made in response to this comment.



Comment 4: First, it is our understanding the engine OEMs have given notice to CARB and motorcoach vehicle manufacturers of their technological inability to comply with CARB's Omnibus regulation, which led to the Agreement and CARB's proceeding to amend the Omnibus regulation. Although the Agreement appears to address some of the technical issues limiting the OEM's abilities for the out years, MY 2027 and beyond, it does not address short-term challenges, e.g., MY 2024-2026 (and 2025-2026 in the case of Vermont). The engine OEMs have informed the motorcoach vehicle manufacturers they are incapable of meeting the CARB goals, and there will be little to no supply of compliant engines available for new motorcoach vehicles in the upcoming years before re-alignment with the EPA regulations. Motorcoach vehicle manufacturers, in turn, are currently contacting their customers informing them of this impending crisis. Faced with possible new-vehicle shortages, motorcoach operators are weighing plans to retain equipment that would otherwise be replaced for longer, delaying transition to lower emitting equipment and reducing their operational footprint in some states.

Emissions goals should be reasonable, considering what is technologically and economically feasible. Engine OEMs and motorcoach vehicle manufacturers need additional time and/or flexibility to meet the stringent emissions standards established by CARB in the Omnibus regulation. In fact, this fact is what led to the negotiation between CARB and the heavy-duty on-highway manufacturers, resulting in the Agreement and CARB's proceeding to amend its Omnibus rule. These negotiations did not include representation from the bus and motorcoach industry, and challenges persist for motorcoach vehicle manufacturers, and in turn motorcoach owners, in meeting CARB standards. The changes CARB is making to its Omnibus rule bring the regulation closer to alignment with the EPA's 2022 Heavy-Duty Engine and Vehicle Standards NOx rule adopted in 2022 (NOx rule), which is helpful, but still insufficient. The EPA NOx rule meets the need for emissions reduction in a reasonable manner, considering technological and economic feasibility as well as a responsible motorcoach-specific engine derate schedule. Vermont should suspend this proceeding, and instead remain compliant with EPA's NOx rule, which engine and motorcoach vehicle manufacturers have been working toward for years.

Response 4: CARB first began conducting public workshops and collaboration with stakeholders on the HD Omnibus Rule in 2016, releasing a white paper to inform affected stakeholders in 2019, and eventually adopting the regulation in 2020. The Agency believes that sufficient lead time has been provided to manufacturers. Vermont has previously adopted the HD Omnibus Rule beginning with model year 2026, which does not include 2024-2025 model years, and the purpose of the current proposed amendments is to add optional compliance flexibilities for manufacturers to ensure greater engine availability for the 2026 model year. The HD Omnibus Rule provides manufacturers flexibility in their compliance plans and the proposed amendments include expanding the model years in which manufacturers can earn, bank, and trade early compliance credits, which can be utilized by a manufacturer to comply with the regulation in later model years. Other compliance flexibilities include the currently proposed legacy

engine provisions, credit-multipliers, as well as Heavy-Duty Zero-Emission Powertrain credits that be generated and used through the 2026 model year. Further, as described in Response 1 above, Vermont is incorporating the modifications to the initial proposed amendments adopted by CARB to clarify the compliance flexibilities available for model year 2026 and provide additional flexibility for tracking compliance.

Comment 5: Further, motorcoach vehicle manufacturers are unable to assure motorcoach operators of their ability to meet the targets beyond MY 2026/27 or secure credits for legacy engine sales under the Omnibus rule, even with its amendments. There remains a great deal of on-going confusion both within CARB and among the engine and bus manufacturers, on how the credit program is supposed to work. Specific credit options are still under development by CARB.

The motorcoach industry is very supportive of the advancements underway in terms of addressing climate change, and believes ZEVs are part of this advancement. However, fundamental issues must be resolved before ZEVs can become a viable option for the motorcoach industry, and these issues need to be resolved before setting target deadlines for compliance. Also, CARB needs to provide more explicit guidance on the credit options it proposed and finalize these options, for itself and the other state agencies adopting CARB's regulations. There continue to be a number of workshops to craft legacy engine credit development programs and there is a lack of clarity on the transparency of the legacy engine credit calculation and assignment processes.

Response 5: CARB and Section 177 States are working together with truck and bus manufacturers to provide standard reporting templates and other resources. The additional modifications proposed by CARB aim to decrease confusion and complexity by providing additional clarity and flexibility to manufacturers in tracking and reporting. As described above, the proposed amendments include expanding the model years in which manufacturers can earn, bank, and trade early compliance credits, which can be utilized by a manufacturer to comply with the regulation in later model years. For 2027 and later model years, amendments to the HD Omnibus regulation will be made to align with the US Environmental Protection Agency's (US EPA) Clean Trucks Plan (CTP) Oxides of Nitrogen (NOx) Final Rule, essentially resulting in one national standard beginning with model year 2027. No changes were made in response to this comment.

Comment 6: California has a lengthy history of incentivizing and supporting the transition to zero-emission vehicles. The State supports a variety of state-funded programs for different vehicle sectors, to utilize for fleet transition as well as to advance infrastructure development. Vermont has not yet taken these same steps or established programs to assist motorcoach or truck operators in making a transition in step with the proposed schedule in the regulations currently under review.

Response 6: The EPA awards grants under the Diesel Emissions Reduction Act (DERA) to assist States in their efforts to develop diesel emissions reduction programs. Since 2008, the [Vermont Diesel Emissions Reduction Program](#) has been providing financial

assistance awards for technical assistance and incentive funding for projects that reduce diesel emissions from engines, vehicles, and equipment in Vermont with the goals of reducing public exposure to emissions from diesel-powered engines and the associated risks to public health and the environment. Heavy-duty vehicle electrification projects, including motorcoaches, are eligible for this funding. The Vermont Department of Environmental Conservation (DEC) solicits applications annually from potential project partners for projects that achieve significant reductions in diesel emissions from diesel powered engines, vehicles and equipment operating in Vermont.

Additionally, Vermont has awarded approximately \$9 million in [Volkswagen Environmental Mitigation Trust funds](#) to municipalities and businesses to purchase heavy-duty electric buses and trucks and their associated charging infrastructure. Another solicitation for truck and bus electrification applications is anticipated later this year with approximately \$5 million in VW Trust funds available.

Recently, Vermont has applied to US EPA's Climate Pollution Reduction Grant program seeking additional funds to help supplement the State's truck and bus electrification efforts. No changes were made in response to this comment.

Comment 7: Ford Motor Company (Ford) is committed to reducing emissions and considers Vermont and other states as important partners in this goal. Due to long planning lead times and high development costs in the automotive industry, it is important to Ford that regulations be aligned as much as possible to eliminate unnecessary and wasteful churn in development and complexity in certification and in manufacturing. Further, states that adopt California's new vehicle standards must implement those in the same way as California and otherwise maintain identicality.

To this end, Ford supports the proposed amendments to Vermont's adoption of California's Heavy-Duty Engine and Vehicle Omnibus (HD Omnibus) regulation, particularly because this would allow manufacturers to earn and bank credits beginning with the 2022 model year. This will more closely align Vermont's HD Omnibus regulation to that of California and other states that have adopted HD Omnibus, and we believe it will contribute positively to the regulation's success, allowing recognition of emissions savings over the full life of the program.

Response 7: ANR acknowledges this comment and agrees that identicality is important. No changes were made in response to this comment.



December 15, 2023

The Honorable Julia S. Moore  
Secretary  
Vermont Agency of Natural Resources  
1 National Life Dr.  
Montpelier, VT 05620

RE: Proposed Amendments to 10 VSA Sections 554, 558, 567 of the Regulations of Vermont State Agencies

Dear Secretary Moore:

On behalf of the American Bus Association (ABA), we submit comments in response to the Vermont Agency of Natural Resources (ANR) Notice of Intent to Amend Chapter 40, Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, which were effective December 16, 2022 (Notice). The stated purpose of ANR's action is to adopt the newly amended California Low NOx 'Omnibus' (Omnibus) regulations, promulgated by the California Air Resource Board (CARB). Before proceeding with the adoption of these regulations, ABA believes there are a number of outstanding issues ANR should clarify, particularly in seeking to adopt regulations that are not yet final.

The ABA is a non-profit industry national trade association representing private bus and motorcoach operators, manufacturers, and suppliers, in addition to tour/travel entities, destination marketing organizations and convention and visitors' bureaus. Our members provide critical transportation services supporting employment, education, recreation, emergency response and defense activities within the state of Connecticut and throughout the country. The bus industry is also the leading public transportation mode serving the needs of rural and underprivileged communities in a safe and economical manner. Private bus operators are key partners with the other modal operations, including public transits, Amtrak and airlines, ensuring a robust national transportation network is accessible to all.

Bus operations, by design, are one of the most environmentally friendly forms of transportation. A motorcoach vehicle can take up to 35 personal vehicles off the road, providing both congestion relief and emissions reduction. Also, with the advent of cleaner burning fuels and advancement in emissions technology through the years, bus operations have increasingly become more

efficient and effective in reducing the industry's carbon footprint.<sup>1</sup> As an industry, bus operators are proud of these efforts and eager to pursue continued advancements in the race to address climate change, including the pursuit of zero-emission vehicles (ZEVs). However, it is crucial to the survival of the industry that this pursuit be reasonable, and account for both the historical benefits buses have made toward emissions reductions as well as the technological and economic feasibility of making the transition to ZEVs. As an industry, we are concerned that, due to our size, bus operations and fleets are often overlooked or inappropriately aggregated with other types of motor carriers when it comes to improving the environmental or congestion impacts of heavy-duty diesel vehicles. Motorcoaches use the exact same engines as large trucks, although we provide a very positive environmental impact. Yet often the focus (and outreach) of these initiatives has generally been targeted toward freight-carrying vehicles or trucks and has not taken into account the benefits bus fleets contribute to the climate change fight, or the unique challenges the long-distance bus industry faces to achieve a ZEV transition without considerable investment in infrastructure. Additionally, incentives are needed to provide support from states and local governments to the small family-owned businesses that make up 90% of the motorcoach industry. These important political entities don't often realize that the motorcoach operations they most need to support are ones who are domiciled hundreds, if not thousands of miles away, but have a substantial impact on their economy as well as the environment.

With these considerations in mind, we offer the following comments:

### **Procedural Concerns**

Initially, ABA seeks clarification on the process enabling ANR to proceed with adopting the amended emissions regulations that are still being further amended. It is our understanding that CARB is still awaiting approval of its waiver request to the Environmental Protection Agency (EPA) for the Omnibus regulation per the Clean Air Act, and has requested additional time before the Agency acts on the waiver request.<sup>2</sup> Further, as announced on June 28, 2023, CARB entered into an agreement<sup>3</sup> with various heavy-duty on-highway engine manufacturers, committing to, among other things, amend its Omnibus regulation. CARB has since issued a notice soliciting comments and holding a public hearing on its proposed amendments to the Omnibus regulation.<sup>4</sup> These additional amendments are still out for comment through December 21<sup>5</sup> and are not final. Based on these actions, it is premature for ANR to proceed any further toward adopting the Omnibus regulations (or their amendments) at this time. According to Section 177 of the Clean Air Act, which ANR cites as its authority to proceed with this action,

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<sup>1</sup> Updated Comparison of Energy Use and CO<sub>2</sub> Emissions from Different Transportation Modes, <https://www.buses.org/assets/images/uploads/general/2019%20UPDATE%20Comparative%20Fuel%20CO2%20FIN AL-July%202019.pdf>

<sup>2</sup> [Environmental Protection Agency Summary, California Waiver Requests for Heavy-Duty Vehicle Emission Regulations](#), April 6, 2023.

<sup>3</sup> [CARB-Heavy-Duty On Highway Manufacturers Agreement](#), July 7, 2023.

<sup>4</sup> [Notice of Public Comment Period on Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation](#), Aug. 1, 2023.

<sup>5</sup> [Notice of Public Availability of Modified Text Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation](#), December 6, 2023.

for a state to adopt California's standard, EPA must first grant a waiver for the standard.<sup>6</sup> For this reason, ABA believes ANR should suspend this proceeding, which will also provide the opportunity for ANR to gain a better understanding of the private bus and motorcoach industry, many of whom are coming from out of state and the effect the amended regulations would have on industry operations as well as their own enforcement initiatives.

The engines subject to the emissions regulations are not only used in truck vehicles, but also in buses and motorcoaches as well. Because ANR only references trucks in the Economic Impact Analysis, we are concerned an important segment of Vermont's transportation network was not accounted for in the analysis. Further, diesel engines are not built as stand-alone products, they are components of vehicles that operate in commerce. The impact of the emissions regulations goes far beyond a one-time reporting requirement, and the expectation of only short-term cost increases to small businesses is no small factor. It is too narrow of a view to limit the regulatory impact analysis simply to an assessment of engine and vehicle manufacturing, when it is the operation of these engines that affect the environment. In addition, it is not so simple of task to reconfigure the entire motorcoach sales network and pre-determine which states vehicles will be set up to operate in advance of their sale. And to then have an entirely different motorcoach sales network in states that are following the EPA's heavy duty engine emissions rules, where vehicles are available on a first come, first served basis. The entire purpose of the Emissions Regulations is to reduce harmful emissions; this cannot be done without considering the operating use of the engines by vehicle operators and the benefits they might provide to the environment. In addition, long distance fleet operations and interstate truck and motorcoach operations were ignored in the ANR analysis. This analysis was heavily relied upon in justifying the need for Vermont to adopt California's emissions standards (and the pending amendments), and a full presentation of heavy-duty vehicle operations in the state was needed. When properly considered within a realistic context, accounting for both the manufacture *and use* of the engines for both trucks and motorcoaches, there will be a far greater regulatory impact than anticipated. While Vermont is home to a limited number of motorcoach operations who will all be affected by the adoption of these rules, there are many more whom pass through the state and bring visitors to major tourist destinations like Montpelier or Burlington, and to visit maple farms or see fall foliage. These businesses are entirely dependent on the OEMs complying with the Emissions Regulations. If, for example, the OEMs cannot produce engines or vehicles in compliance with the Emissions Regulations by the deadline or they can do so only at an excessive cost, small business operators will be in jeopardy and not just the ones in Vermont. For these reasons, ANR should revise its analysis to fully capture the reach of these regulations, and comply with the other provisions of the Act, such as identifying alternative compliance methods or consider an exemption. A suspension of this proceeding would enable ANR to undertake this effort.

### **Substantive Concerns**

In addition to the procedural concerns yet related to the fact that operating businesses rely on the engines subject to these regulations, ABA has several concerns with the Emissions Regulations.

First, it is our understanding the engine OEMs have given notice to CARB and motorcoach vehicle manufacturers of their technological inability to comply with CARB's Omnibus

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<sup>6</sup> [Clean Air Act, Section 177 \(42 USC 7507\)](#).

regulation, which led to the Agreement and CARB's proceeding to amend the Omnibus regulation. Although the Agreement appears to address some of the technical issues limiting the OEM's abilities for the out years, MY 2027 and beyond, it does not address short-term challenges, e.g., MY 2024-2026 (and 2025-2026 in the case of Vermont). The engine OEMs have informed the motorcoach vehicle manufacturers they are incapable of meeting the CARB goals, and there will be little to no supply of compliant engines available for new motorcoach vehicles in the upcoming years before re-alignment with the EPA regulations. Motorcoach vehicle manufacturers, in turn, are currently contacting their customers informing them of this impending crisis. Faced with possible new-vehicle shortages, motorcoach operators are weighing plans to retain equipment that would otherwise be replaced for longer, delaying transition to lower emitting equipment and reducing their operational footprint in some states.

Emissions goals should be reasonable, considering what is technologically and economically feasible. Engine OEMs and motorcoach vehicle manufacturers need additional time and/or flexibility to meet the stringent emissions standards established by CARB in the Omnibus regulation. In fact, this fact is what led to the negotiation between CARB and the heavy-duty on-highway manufacturers, resulting in the Agreement and CARB's proceeding to amend its Omnibus rule. These negotiations did not include representation from the bus and motorcoach industry, and challenges persist for motorcoach vehicle manufacturers, and in turn motorcoach owners, in meeting CARB standards. The changes CARB is making to its Omnibus rule bring the regulation closer to alignment with the EPA's 2022 Heavy-Duty Engine and Vehicle Standards NOx rule adopted in 2022 (NOx rule),<sup>7</sup> which is helpful, but they do not go far enough, which is why they required additional amendment. The EPA NOx rule meets the need for emissions reduction in a reasonable manner, considering technological and economic feasibility as well as a responsible motorcoach-specific engine derate schedule. Vermont should suspend this proceeding, and instead remain compliant with EPA's NOx rule, which engine and motorcoach vehicle manufacturers have been working toward for years.

Further, prior to MY 2026/2027, motorcoach vehicle manufacturers are unable to assure motorcoach operators of their ability to produce ZEVs, to meet the longer-term sales deadlines established by the Advance Clean Trucks regulations or secure credits for legacy engine sales under this Omnibus initiative. The motorcoach industry is very supportive of the advancements underway in terms of addressing climate change, and believes ZEVs are part of this advancement. However, fundamental issues must be resolved before ZEVs can become a viable option for the motorcoach industry, and these issues need to be resolved before setting target deadlines for compliance. In addition, there is still significant confusion and work to be done to develop the credit calculation system for CARB and other state agencies adopting CARB's regulations. There continue to be a number of workshops to craft legacy engine credit development programs and there is a lack of clarity on the transparency of the legacy engine credit calculation and assignment processes.

California has a lengthy history of incentivizing and supporting the transition to zero-emission vehicles. The State supports a variety of state-funded programs for different vehicle sectors, to utilize for fleet transition as well as to advance infrastructure development. Vermont has not yet

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<sup>7</sup> [Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards](#), Jan. 24, 2023, Fed. Reg. Vol. 88, p. 4296.

taken these same steps or established programs to assist motorcoach or truck operators in making a transition in step with the proposed schedule in the regulations currently under review.

### Conclusion

It is premature for Vermont to consider adopting the CARB Omnibus regulations and their amendments. Procedurally, the Omnibus regulation is not final, and ANR needs to broaden its analysis of the impact of the Emissions Regulations on small businesses. More practically, the Emissions Regulations are too stringent and, according to engine OEMs, the technology does not yet exist to comply with the regulations. The legacy engine credit programs that are being relied upon to help bridge the gap and provide additional flexibility are still being developed and are unrefined. Vermont should suspend this proceeding, and instead remain aligned with the EPA NOx rule.

ABA supports the goal of emissions reduction within the transportation sector. Bus operations, by design, are one of the most environmentally sensitive forms of transportation. A motorcoach vehicle can take up to 50 personal vehicles off the road, providing both congestion relief and emissions reduction. ABA looks forward to seeing the industry continue to advance toward ZEVs in a responsible manner, but it must be done in a reasonable and economically feasible manner to be successful. Thank you for providing the opportunity to submit comments on this important issue. We look forward to working closely with you in the future and are happy to answer any questions should you have any. Please feel free to contact ABA's Suzanne Rohde at (202) 218-7224 or [srohde@buses.org](mailto:srohde@buses.org) with any inquiries.

Respectfully Submitted,



Brandon Buchanan  
Director of Regulatory Affairs





**Steve Henderson**  
Vehicle Regulatory Strategy & Planning  
shenders@ford.com  
(313) 378-0083

Ford Motor Company  
One American Road  
Dearborn, MI 48126

*Via email*

December 14, 2023

Vermont Agency of Natural Resources  
Department of Environmental Conservation  
Air Quality and Climate Division  
anr.declevezev@vermont.gov

Subject: Ford Comments on Proposed Amendments to the Low Emission Vehicle and Zero Emission Vehicle Rules

Ford Motor Company (Ford) is committed to reducing emissions and considers Vermont and other states as important partners in this goal. Due to long planning lead times and high development costs in the automotive industry, it is important to Ford that regulations be aligned as much as possible to eliminate unnecessary and wasteful churn in development and complexity in certification and in manufacturing. Further, states that adopt California's new vehicle standards must implement those in the same way as California and otherwise maintain identicality.

To this end, Ford supports the proposed amendments to Vermont's adoption of California's Heavy-Duty Engine and Vehicle Omnibus (HD Omnibus) regulation, particularly because this would allow manufacturers to earn and bank credits beginning with the 2022 model year. This will more closely align Vermont's HD Omnibus regulation to that of California and other states that have adopted HD Omnibus, and we believe it will contribute positively to the regulation's success, allowing recognition of emissions savings over the full life of the program.

If you have any questions, please contact Luke Spinolo, Vehicle Regulatory Strategy & Planning (pspinolo@ford.com). We appreciate the opportunity to comment as well as the Agency's time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Steve Henderson".

Steve Henderson



STATE OF VERMONT

*Agency of Natural Resources*

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**Chapter 40: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

Effective Date: **[DATE]**



Air Quality and Climate Division  
Department of Environmental Conservation  
1 National Life Drive – Davis 4  
Montpelier, VT 05620-3704  
Tele: (802) 828-1288

#### 40-101 DEFINITIONS

The terms defined in this Chapter shall apply to this Chapter only, and for purposes of this Chapter shall supersede definitions contained in any other regulation. The definitions contained in *Air Pollution Control Regulations* Section 5-101 shall govern in the absence of a superseding definition in this section.

- (a) “*California-certified*” means approved by *CARB* for sale in California.
- (b) “*CARB*” means the California Air Resources Board.
- (c) “*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*.
- (d) “*Emergency Vehicle*” means any authorized *vehicle* publicly owned and operated that is used by a peace officer, used for fighting fires or responding to emergency fire calls, used by emergency medical technicians or paramedics, used for towing or servicing other *vehicles*, or used for repairing damaged lighting or electrical equipment.
- (e) “*Emission Control Label*” means a paper, plastic, metal or other permanent material, welded, riveted or otherwise permanently attached to an area within the engine compartment (if any), or to the engine, in such a way that it will be visible to the average *person* after installation of the engine in *new vehicles* certified for sale in California, in accordance with Title 13, California Code of Regulations.
- (f) “*Environmental Performance Label*” means a paper or plastic decal securely affixed by the manufacturer to a window of all passenger cars, light-duty trucks, and medium-duty passenger vehicles which discloses the global warming and smog score for the vehicle in accordance with Title 13, California Code of Regulations.
- (g) “*Fleet Average Emission*” means a vehicle manufacturer’s average vehicle emissions of all greenhouse gases, non-methane organic gases (NMOG), or NMOG plus oxides of nitrogen (NOx), as applicable, from all *new vehicles* delivered for sale or lease in Vermont in any *model-year*.
- (h) “*Greenhouse gas*” means the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.
- (i) “*GHG Credit*” means *greenhouse gas credit*.
- (j) “*Gross Vehicle Weight Rating*” or “*GVWR*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (k) “*Heavy-duty Vehicle*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (l) “*Heavy-duty Engine*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (m) “*Light-duty Truck*” is as defined in Title 13, California Code of Regulations Section 1900.
- (n) “*Manufacturer*” means any independent low volume, small, intermediate or large volume *vehicle* manufacturer as defined in Title 13, California Code of Regulations Section 1900.
- (o) “*Medium-duty Engine*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (p) “*Medium-duty passenger vehicle*” is as defined in Title 13, California Code of Regulations Section 1900.

- (q) “*Medium-duty Vehicle*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (r) “*Model Year*” means the 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, except for a vehicle or engine subject to Title 17, California Code of Regulations Section 95662(a)(16).
- (s) “*New Vehicle*” means any *vehicle* with 7,500 miles or fewer on its odometer.
- (t) “*Near-zero-emission vehicle*” or “*NZEV*” means one of the following: (A) An on-road plug-in hybrid electric vehicle which has the same definition as that in 40 CFR section 86.1803-01, amended on July 1, 2011, incorporated by reference herein, that achieves all-electric range as defined in Title 13, California Code of Regulations Section 1963(c)(1); or (B) An on-road hybrid electric vehicle that has the capability to charge the battery from an off-vehicle conductive or inductive electric source and achieves all-electric range as defined in Title 13, California Code of Regulations Section 1963(c)(1).
- (u) “*NMOG Credit*” means non-methane organic gas credit.
- (v) “*NMOG + NOx Credit*” means non-methane organic gas plus oxides of nitrogen credit.
- (w) “*Passenger Car*” is as defined in Title 13, California Code of Regulations Section 1900.
- (x) “*Qualifying Community-based Clean Mobility Program*” means a program determined by the Vermont Air Pollution Control Officer to qualify as a community-based clean mobility program pursuant to guidance issued by the Vermont Department of Environmental Conservation. The Vermont Air Pollution Control Officer must determine that a program qualifies as a community-based clean mobility program before a manufacturer may earn vehicle value pursuant to the requirements of Title 13, California Code of Regulations Section 1962.4.
- (y) “*Recall*” means:
  - (1) The issuing of notices directly to consumers that *vehicles* in their possession or control should be corrected, and/or
  - (2) Efforts to actively locate and correct *vehicles* in the possession or control of consumers.
- (z) “*Smog Index Label*” means a decal securely affixed by the *manufacturer* to a window of all *passenger cars* and *light-duty trucks* which discloses the smog index for the vehicle in accordance with Title 13, California Code of Regulations Section 1965.
- (aa) “*Trailer*” is as defined in Title 17, California Code of Regulations Section 95662.
- (bb) “*VECs*” means *vehicle* equivalent credits.
- (cc) “*Vehicle*” or “*motor vehicle*” means any passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, or heavy-duty vehicle, as appropriate.
- (dd) “*Zero-emission Vehicle*” or “*ZEV*” means a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas, excluding emissions from air conditioning systems, under any possible operational modes or conditions.
- (ee) “*ZEV Credit*” or “*ZEV value*” means a unit, expressed numerically, generated in accordance with Title 13 California Code Regulations, Sections 1962.2, 1962.4, and 1963.2.

#### 40-102 INCORPORATION BY REFERENCE

- (a) This Chapter incorporates by reference certain sections of Titles 13 and 17, California Code of Regulations. Section 201 of this Chapter lists the sections of Titles 13 and 17, California Code of Regulations incorporated by reference. The sections of Titles 13 and 17, California Code of Regulations incorporated by reference in this Chapter are the version of the section adopted as of the incorporation by reference date in Section 201, herein.
- (b) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate or alternatively defined in this Chapter, “California” shall mean “Vermont”. For example, “delivered for sale in California” and “placed in service” are interpreted, except for determinations of whether a manufacturer is a large, medium, small, independent low volume, or low volume manufacturer, as referring to *vehicles* in “Vermont”.

#### 40-103 NEW VEHICLE EMISSION REQUIREMENTS

- (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 *new vehicle* that is a 2000 or subsequent *model-year passenger car* or *light-duty truck* or a 2004 or subsequent *model-year medium-duty vehicle* in Vermont unless the *vehicle* is *California-certified* and complies with the following criteria:
  - (1) The exhaust emissions standards, as applicable, in Title 13, California Code of Regulations, including:
    - (A) The Low Emission Vehicle Program, Sections 1900, 1956.8, 1960.1, 1961, 1961.2, and 1961.4;
    - (B) The Greenhouse Gas Emission Standards Program, Sections 1961.1 and 1961.3; and
    - (C) The Zero Emission Vehicle Program, Sections 1962, 1962.1, 1962.2, 1962.4, 1962.5, and 1962.6.
  - (2) The *emission control label* requirements, the *smog index label* or the *environmental performance label* requirements for 2002 through 2009 *model-year vehicles*, and the *environmental performance label* requirements for 2010 and subsequent *model year vehicles* in accordance with Title 13, California Code of Regulations Section 1965, except as otherwise provided by 10 V.S.A. §579(d).
  - (3) The evaporative emissions standards in Title 13, California Code of Regulations Sections 1976.
  - (4) The refueling emissions standards in Title 13, California Code of Regulations Section 1978.
  - (5) The malfunction and diagnostic system requirements in Title 13, California Code of Regulations Sections 1968.1 and 1968.2.
  - (6) The assembly-line testing procedure requirements in Title 13, California Code of Regulations Section 2062.
  - (7) The specifications for fill pipes and openings of *motor vehicle* fuel tanks in Title 13, California Code of Regulations Section 2235.
- (b) Effective for model year 2026 and subsequent *model years*, any *manufacturer* that certifies on-road *vehicles* over 8,500 pounds *GVWR* for sale or lease in Vermont must comply with:
  - (1) The Advanced Clean Trucks rule as incorporated by reference in Section 201 and in Title 13, California Code of Regulations Sections 1963 through 1963.5.
- (c) 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 *new vehicle* that is a 2026 or subsequent *model-year*

*medium- and heavy-duty engine or vehicle, or trailer* in Vermont unless the *vehicle* is *California-certified* and complies with the following:

- (1) All applicable emissions standards, testing procedures, warranty, reporting, recall and other applicable requirements of the Heavy-Duty Engine and Vehicle Omnibus Regulation as incorporated by reference in Section 201 of this Chapter and specified in Titles 13 and 17, California Code of Regulations; and
  - (2) All applicable emission standards, testing procedures, warranty, reporting, recall and other applicable requirements of the California Greenhouse Gas Emissions Standards for Medium- And Heavy-Duty Engines, Vehicles, and Trailers (Phase 2) as incorporated by reference in Section 201 of this Chapter and specified in Titles 13 and 17, California Code of Regulations.
- (d) Subsections 40-103(a-~~c~~) shall not apply to a *new vehicle*:
- (1) Defined as an emergency *vehicle*;
  - (2) For the purposes of Advanced Clean Trucks only, a *vehicle* defined as an “excluded bus” pursuant to Title 13, California Code of Regulations Section 1963(c)(11);
  - (3) For the purposes of the Heavy-Duty Engine and Vehicle Omnibus Regulation only, diesel fueled engines used exclusively in motor buses as referenced by Title 13, California Code of Regulations Section 1956.8(a)(2)(F), for which there is no CARB certification;
  - (24) With a right-hand drive configuration that is not available in a California-certified model, purchased by a rural route postal carrier and used primarily for work;
  - (35) Designed exclusively for off-highway use; or
  - (46) Certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a *vehicle* rental agency in Vermont and is next rented with a final destination outside of Vermont.
- (e) Subsections 40-103(a-c) shall not apply to *new vehicles* in the following transactions:
- (1) A transfer by court decree;
  - (2) A transfer by inheritance;
  - (3) A purchase by a nonresident prior to establishing residency in Vermont; or
  - (4) A sale for the purpose of being wrecked or dismantled.

#### **40-104 WARRANTY**

- (a) For *California-certified vehicles* delivered for sale or lease in Vermont, each *manufacturer* shall provide a warranty for the ultimate purchaser and each subsequent purchaser that complies with the applicable warranty requirements of Title 13, California Code of Regulations Sections 1962.8, 2035 through 2038, 2040 and 2046.
- (b) Each *manufacturer* shall include the emission control system warranty statement required by Title 13, California Code of Regulations Sections 2039, modified by some means (e.g. printed within the text or a sticker) to clearly inform Vermont owners of *California-certified vehicles* that the California Warranty applies to the *vehicle*. This statement shall provide a telephone number appropriate for Vermont.

#### 40-105 RECALL

For all *California-certified vehicles* registered in Vermont, each *manufacturer* shall undertake an action equivalent to that which is required by any order or enforcement action taken by *CARB*, or any voluntary or influenced emission related *recall* initiated by any *manufacturer* pursuant to Title 13, California Code of Regulations Sections 1962.7, 2101 through 2120, 2122 through 2133, 2135 through 2149, 2167, and 2168 unless within 30 days of *CARB* approval of said *recall*, the *manufacturer* demonstrates to the *Agency* that such *recall* is not applicable to *vehicles* registered in Vermont. Each *manufacturer* must send to owners of Vermont registered *California-certified vehicles* the same notice that is used for California owners required by Title 13, California Code of Regulations Sections 2118 or 2127, except that it should contain a telephone number appropriate for Vermont.

#### 40-106 MANUFACTURER FLEET REQUIREMENTS

- (a) Each *manufacturer* shall meet the following fleet requirements for the *new vehicles* delivered for sale or lease, or for the purposes of Advanced Clean Trucks sold to the ultimate purchaser, in Vermont.
- (1) Effective for the 2004 through 2014 *model-years*, each *manufacturer* shall comply with the *fleet average* NMOG emission requirements (or NMOG + NO<sub>x</sub> for 2014 model year only) and LEV II phase-in requirements for passenger cars and light-duty trucks and, for 2000 and subsequent model-years, may earn and bank *NMOG credits*, both in accordance with Title 13, California Code of Regulations Section 1961, except *NMOG credits* earned prior to model-year 2004 shall be treated as though they were earned in model-year 2004.
  - (2) Effective for the 2004 through 2014 *model-years*, each *manufacturer* shall comply with the LEV II *medium-duty vehicle* phase-in requirements and, for 2004 through 2014 model-years, may earn and bank VECs, both in accordance with Title 13, California Code of Regulations Section 1961, except VECs earned prior to model-year 2007 shall be treated as though they were earned in model-year 2007. Starting with model-year 2007 through model year 2014, all medium-duty vehicles are subject to the LEV II standards in accordance with Title 13, California Code of Regulations Section 1961.
  - (3) Effective for the 2015 through 2025 *model-year* passenger cars and light-duty trucks, and 2015 through 2028 model-year medium-duty vehicles, each *manufacturer* shall comply with the *fleet average* NMOG + NO<sub>x</sub> emission requirements and the LEV III phase-in requirements, and may earn and bank NMOG + NO<sub>x</sub> credits or VECs as applicable, all in accordance with Title 13, California Code of Regulations Section 1961.2.
  - (4) Effective for the 2026 and subsequent model-years, each manufacturer shall comply with the fleet average NMOG + NO<sub>x</sub> emission requirements and the LEV IV phase-in requirements for passenger cars, light-duty trucks, and medium duty vehicles, and may earn and bank NMOG + NO<sub>x</sub> credits or VECs as applicable, in accordance with Title 13, California Code of Regulations Section 1961.4.
  - (5) Effective for the 2007 through 2008 model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirement and, starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Sections 1962.
  - (6) Effective for the 2009 through 2017 *model years*, each *manufacturer* shall comply with the Zero Emission Vehicle sales requirement and, and starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Section 1962.1.
  - (7) Effective for 2018 through 2025 model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirement and, and starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Section 1962.2.
  - (8) Effective for 2026 and subsequent model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirements and, starting with 2024 model year vehicles, may earn and bank ZEV value, both in accordance with Title 13, California Code of Regulations Section 1962.4.

- (9) Effective for the 2009 through 2016 model-years, each manufacturer shall comply with the fleet average emission greenhouse gas requirements for passenger cars, light-duty trucks, and medium-duty passenger *vehicles*, and for 2000 and subsequent model-years may earn and bank GHG credits, in accordance with Title 13, California Code of Regulations Section 1961.1.
- (10) Effective for the 2017 and subsequent model years, each manufacturer shall comply with the fleet average emission greenhouse gas requirements for passenger cars, light-duty trucks, and medium-duty passenger *vehicles*, and may earn and bank GHG credits, in accordance with Title 13, California Code of Regulations Section 1961.3.
- (11) Effective for the 2026 and subsequent *model years*, each manufacturer shall comply with the Advanced Clean Trucks sales requirement for medium and heavy-duty vehicles as applicable, and for 2023 and subsequent model years may earn, bank, and trade ZEV and NZEV credits both in accordance with Title 13, California Code of Regulations Sections 1963 through 1963.5.
- (12) Effective for the 2026 and subsequent model years, each manufacturer shall comply with the Heavy-Duty Engine and Vehicle Omnibus Regulation emissions standards for applicable medium- and heavy-duty engines and vehicles, and for ~~2024~~2022 and subsequent model years may earn, bank, and trade credits in accordance with Title 13, California Code of Regulations Sections 1956.8.
- (13) Effective for the 2026 and subsequent model years, each manufacturer shall comply with the Phase 2 greenhouse gas emissions standards for applicable medium and heavy-duty vehicles, and trailers, and for 2024 and subsequent model years may earn, bank and trade credits, in accordance with Title 17, California Code of Regulations Sections 95660 through 95664.

#### **40-107 MANUFACTURER REPORTING REQUIREMENTS**

(a) Delivery Reporting.

Each *manufacturer* shall submit annually, to the *Agency*, by March 1 following the end of each *model-year*, a report, itemized by test group and emission standard, documenting total *new vehicles* delivered for sale or lease in Vermont, as applicable.

(b) Fleet Reporting.

- (1) Each *manufacturer* shall submit annually to the *Agency*, by no later than May 1 following the end of each *model-year*, a report, itemized by test group and emission standard, that demonstrates that the *manufacturer* has met the fleet requirements of subsection 40-106(a) in Vermont.
- (2) If a *manufacturer* wants to bank *VECs* or GHG, NMOG, NMOG + NO<sub>x</sub>, ZEV, or NZEV *credit* or *value*, the *manufacturer* shall submit annually, by no later than May 1 following the end of the *model-year*, a report which demonstrates that such *manufacturer* has earned *VECs* or GHG, NMOG, ZEV, or NZEV *credits* or *values* in Vermont. Credits or value are to be calculated in the same manner as required by CARB.

(c) Recall Reporting.

- (1) For information and not for approval by Vermont, each *manufacturer* shall submit, within 30 days of *CARB* approval, a copy of any *CARB* approved voluntary, influenced or ordered *recall* plan specified by Title 13, California Code of Regulations Sections 1962.7, 2114, 2125, and 2169 supplemented with the number of affected *vehicles* registered in Vermont.
- (2) For information and not for approval by Vermont, each *manufacturer* shall, upon request, submit *recall* campaign progress reports for *vehicles* registered in Vermont, within the timelines of, and containing the information required by, Title 13, California Code of Regulations Sections 1962.7,



2119, 2133, and 2169.7. Reports need not be submitted to the *Agency* if the equivalent reports have been waived by *CARB*.

(d) Documentation.

*A manufacturer, a dealer or a transporter of new vehicles* shall, upon request, provide to the Agency of Natural Resources or the Agency of Transportation any documentation, including but not limited to Vehicle Identification Numbers, which either Agency determines to be necessary for the effective administration and enforcement of this Chapter.

(e) Reports and other information required by this subsection must be submitted to:

Director, Air Quality and Climate Division  
Davis 4  
One National Life Drive  
Montpelier, VT 05620-3802.

**40-108 INSPECTIONS**

(a) The Secretary of the Agency of Natural Resources or the Secretary of the Agency of Transportation or their designees may conduct inspections of any new and used *vehicles* and any related documentation for the purpose of determining compliance with the requirements of this Chapter.

- (1) Inspections may be conducted on any conveyance used to transport *new vehicles* or on any premises owned or controlled by any *dealer or manufacturer*.
- (2) Inspections may extend to all emission-related parts and may require the on-premises operation and testing of an engine or *vehicle*.
- (3) Inspections may include functional tests and other tests as necessary to verify compliance with this Chapter.

(b) Upon request, during an inspection, such *dealer or manufacturer* must make available to either Agency any related records, including records documenting *vehicle* origin, certification, delivery, or sales and records of *emission* related part repairs performed under warranty.

**40-109 SEVERABILITY**

Each provision of this Chapter is severable, and in the event that any provision of this Chapter is held to be invalid, the remainder of the Chapter shall continue in full force and effect.

**40-201 PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS INCORPORATED BY REFERENCE**

Incorporation by reference date: ~~December 16, 2022~~[DATE].

Title 13 CCR	Title
Chapter 1	Motor <i>Vehicle</i> Pollution Control Devices.
Article 1	General Provisions.
1900	Definitions.
1903	Plans Submitted.
1904	Applicability to Vehicles Powered by Fuels Other Than Gasoline or Diesel.

Title 13 CCR	Title
Article 2	Approval of Motor <i>Vehicle Pollution Control Devices (New Vehicles)</i> .
1956.8	Exhaust <i>Emissions</i> Standards and Test Procedures - 1985 and Subsequent Model Heavy-Duty Engines and <i>Vehicles</i> , 2021 and Subsequent Zero-Emission Powertrains, and 2022 and Subsequent Model Heavy-Duty Hybrid Powertrains.
1960.1	Exhaust <i>Emissions</i> Standards and Test Procedures - 1981 and through 2006 Model <i>Passenger Cars</i> , Light-Duty and <i>Medium-Duty Vehicles</i> .
1960.5	Certification of 1983 and Subsequent Model-Year Federally-Certified Light-Duty Motor Vehicles for Sale in California.
1961	Exhaust Emission Standards and Test Procedures – 2004 through 2019 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 through 2016 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.2	Exhaust Emission Standards and Test Procedures - 2015 through 2025 Model Passenger Cars and Light-Duty Trucks, and 2015 through 2028 Model Year Medium-Duty Vehicles.
1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.4	Exhaust Emission Standards and Test Procedures - 2026 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles
1962	Zero-Emission <i>Vehicle</i> Standards for 2005 and through 2008 Model Year <i>Passenger Cars</i> , <i>Light-Duty Trucks</i> , and <i>Medium-Duty Vehicles</i> .
1962.1	Zero-Emission Vehicle Standards for 2009 through 2017 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1962.2	Zero-Emission Vehicle Standards for 2018 through 2025 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1962.3	Electric Vehicle Charging Requirements.
1962.4	Zero-Emission Vehicle Requirements for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
1962.5	Data Standardization Requirements for 2026 and Subsequent Model Year Light-Duty Zero Emission Vehicles and Plug-in Hybrid Electric Vehicles
1962.6	Battery Labeling Requirements
1962.7	In-Use Compliance, Corrective Action and Recall Protocols for Zero Emission for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
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
1963	Advanced Clean Trucks Purpose, Applicability, Definitions, and General Requirements

<b>Title 13 CCR</b>	<b>Title</b>
1963.1	Advanced Clean Trucks Deficits
1963.2	Advanced Clean Trucks Credit Generation, Banking, and Trading
1963.3	Advanced Clean Trucks Compliance Determination
1963.4	Advanced Clean Trucks Reporting and Recordkeeping
1963.5(a)(1)-(3)	Advanced Clean Trucks Enforcement
1964	Special Test Procedures for Certification and Compliance – New Modifier Certified Motor Vehicles.
1965	Emission Control, Smog Index, and Environmental Performance Labels — 1979 and Subsequent <i>Model-Year Motor Vehicles</i> .
1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model-Year <i>Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</i> and Engines.
1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model-Year <i>Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</i> and Engines.
1969	Motor Vehicle Service Information - 1994 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Engines and Vehicles</i> , and 2007 and Subsequent Model <i>Heavy-Duty Engines</i> .
1971.1	On-Board Diagnostic System Requirements - 2010 and Subsequent Model-Year Heavy-Duty Engines
1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative <i>Emissions</i> .
1978	Standards and Test Procedures for <i>Vehicle Refueling Emissions</i> .
Article 6	<i>Emission Control System Warranty</i> .
2035	Purpose, Applicability, and Definitions.
2036	Defects Warranty Requirements for 1979 Through 1989 Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</i> ; 1979 and Subsequent Model Motorcycles and Heavy-Duty <i>Vehicles</i> ; and Motor Vehicle Engines Used in Such <i>Vehicles</i> , and 2020 and Subsequent Model Year Trailers.
2037	Defects Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles</i> .
2038	Performance Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles</i> .
2039	<i>Emissions Control System Warranty Statement</i> .
2040	<i>Vehicle Owner Obligations</i> .
2041	Mediation; Finding of Warrantable Condition.
2046	Defective Catalyst.
<u>Article 7</u>	<u>Procedures for Certifying Used Modifier-Certified Motor Vehicles and Licensing Requirements for Vehicle Emission Test Laboratories</u>

Title 13 CCR	Title
2047	Certification Procedures for Used Modifier-Certified Motor Vehicles.
Chapter 2	Enforcement of <i>Vehicle</i> Emission Standards and Surveillance Testing.
Article 1	Assembly-Line Testing.
2062	Assembly-Line Test Procedures - 1998 and Subsequent <i>Model-years</i> .
Article 1.5	Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles
2065	Applicability of Chapter 2 to 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles
Article 2	Enforcement of New and In-Use <i>Vehicle</i> Standards.
2101	Compliance Testing and Inspection - New <i>Vehicle</i> Selection, Evaluation and Enforcement Action.
2109	New <i>Vehicle Recall</i> Provisions.
2110	Remedial Action for Assembly-Line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 <i>Model-year</i> .
Article 2.1	Procedures for In-Use <i>Vehicle</i> Voluntary and Influenced <i>Recalls</i> .
2111	Applicability.
2112	Definitions.
	Appendix A to Article 2.1.
2113	Initiation and Approval of Voluntary and Influenced Emission-Related <i>Recalls</i> .
2114	Voluntary and Influenced <i>Recall</i> Plans.
2115	Eligibility for Repair.
2116	Repair Label.
2117	Proof of Correction Certificate.
2118	Notification.
2119	Recordkeeping and Reporting Requirements
2120	Other Requirements Not Waived.
2121	Penalties.
Article 2.2	Procedures for In-Use Vehicle Ordered <i>Recalls</i> .
2122	General Provisions.
2123	Initiation and Notification of Ordered Emission-Related <i>Recalls</i> .
2124	Availability of Public Hearing.
2125	Ordered <i>Recall</i> Plan.
2126	Approval and Implementation of <i>Recall</i> Plan.

<b>Title 13 CCR</b>	<b>Title</b>
2127	Notification of Owners.
2128	Repair Label.
2129	Proof of Correction Certificate.
2130	Capture Rates and Alternative Measures.
2131	Preliminary Tests.
2132	Communication with Repair Personnel.
2133	Recordkeeping and Reporting Requirements.
2134	Penalties.
2135	Extension of Time.
Article 2.3	In-Use <i>Vehicle</i> Enforcement Test Procedures.
2136	General Provisions.
2137	<i>Vehicle</i> , Engine, and Trailer Selection.
2138	Restorative Maintenance.
2139	Testing.
2140	Notification and Use of Test Results.
Article 2.4	Procedures for Reporting Failures of Emission-Related Components.
2141	General Provisions.
2142	Alternative Procedures
2143	Failure Levels Triggering <i>Recall</i> and corrective action.
2144	<i>Emission Warranty</i> Information Report.
2145	Field Information Report.
2146	<i>Emissions</i> Information Report.
2147	Demonstration of Compliance with <i>Emission</i> Standards.
2148	Evaluation of Need for <i>Recall</i> .
2149	Notification of Subsequent Action.
Article 5	Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action
2166	General Provisions
2167	Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors.
2168	Required Corrective Action and Recall for Emission-Related Component Failures
2169	Required Recall or Corrective Action Plan.
2169.1	Approval and Implementation of Corrective Action Plan.
2169.2	Notification of Owners.
2169.3	Repair Label.
2169.4	Proof of Correction Certificate.

<b>Title 13 CCR</b>	<b>Title</b>
2169.5	Preliminary Tests.
2169.6	Communication with Repair Personnel.
2169.7	Recordkeeping and Reporting Requirements.
2169.8	Extension of Time.
Chapter 4	Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Fuel Additives.
Article 2	Aftermarket Parts.
2222	Add-On Parts and Modified Parts.
Chapter 4.4	Specifications for Fill Pipes and Openings of Motor <i>Vehicle</i> Fuel Tanks.
2235	Requirements.

<b>Title 17 CCR</b>	<b>Title</b>
Chapter 1	Air Resources Board
Subchapter 10	Climate Change
Article 4	Regulations to Achieve Greenhouse Gas Emission Reductions
Sub-article 12	Greenhouse Gas Emission Requirements for New 2014 and Subsequent Model Heavy-Duty Vehicles
95660	Purpose
95661	Applicability
95662	Definitions
95663	Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles.

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STATE OF VERMONT

*Agency of Natural Resources*

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**Chapter 40: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules**

Effective Date: [DATE]



VERMONT

Air Quality and Climate Division  
Department of Environmental Conservation  
1 National Life Drive – Davis 4  
Montpelier, VT 05620-3704  
Tele: (802) 828-1288

#### 40-101 DEFINITIONS

The terms defined in this Chapter shall apply to this Chapter only, and for purposes of this Chapter shall supersede definitions contained in any other regulation. The definitions contained in *Air Pollution Control Regulations* Section 5-101 shall govern in the absence of a superseding definition in this section.

- (a) “*California-certified*” means approved by *CARB* for sale in California.
- (b) “*CARB*” means the California Air Resources Board.
- (c) “*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*.
- (d) “*Emergency Vehicle*” means any authorized *vehicle* publicly owned and operated that is used by a peace officer, used for fighting fires or responding to emergency fire calls, used by emergency medical technicians or paramedics, used for towing or servicing other *vehicles*, or used for repairing damaged lighting or electrical equipment.
- (e) “*Emission Control Label*” means a paper, plastic, metal or other permanent material, welded, riveted or otherwise permanently attached to an area within the engine compartment (if any), or to the engine, in such a way that it will be visible to the average *person* after installation of the engine in new *vehicles* certified for sale in California, in accordance with Title 13, California Code of Regulations.
- (f) “*Environmental Performance Label*” means a paper or plastic decal securely affixed by the manufacturer to a window of all passenger cars, light-duty trucks, and medium-duty passenger vehicles which discloses the global warming and smog score for the vehicle in accordance with Title 13, California Code of Regulations.
- (g) “*Fleet Average Emission*” means a vehicle manufacturer’s average vehicle emissions of all greenhouse gases, non-methane organic gases (NMOG), or NMOG plus oxides of nitrogen (NOx), as applicable, from all new *vehicles* delivered for sale or lease in Vermont in any *model-year*.
- (h) “*Greenhouse gas*” means the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.
- (i) “*GHG Credit*” means *greenhouse gas* credit.
- (j) “*Gross Vehicle Weight Rating*” or “*GVWR*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (k) “*Heavy-duty Vehicle*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (l) “*Heavy-duty Engine*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (m) “*Light-duty Truck*” is as defined in Title 13, California Code of Regulations Section 1900.
- (n) “*Manufacturer*” means any independent low volume, small, intermediate or large volume *vehicle* manufacturer as defined in Title 13, California Code of Regulations Section 1900.
- (o) “*Medium-duty Engine*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (p) “*Medium-duty passenger vehicle*” is as defined in Title 13, California Code of Regulations Section 1900.



- (q) “*Medium-duty Vehicle*” is as defined in Title 13, California Code of Regulations Section 1900 or Title 17, California Code of Regulations Section 95662, as applicable.
- (r) “*Model Year*” means the 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, except for a vehicle or engine subject to Title 17, California Code of Regulations Section 95662(a)(16).
- (s) “*New Vehicle*” means any *vehicle* with 7,500 miles or fewer on its odometer.
- (t) “*Near-zero-emission vehicle*” or “*NZEV*” means one of the following: (A) An on-road plug-in hybrid electric vehicle which has the same definition as that in 40 CFR section 86.1803-01, amended on July 1, 2011, incorporated by reference herein, that achieves all-electric range as defined in Title 13, California Code of Regulations Section 1963(c)(1); or (B) An on-road hybrid electric vehicle that has the capability to charge the battery from an off-vehicle conductive or inductive electric source and achieves all-electric range as defined in Title 13, California Code of Regulations Section 1963(c)(1).
- (u) “*NMOG Credit*” means non-methane organic gas credit.
- (v) “*NMOG + NOx Credit*” means non-methane organic gas plus oxides of nitrogen credit.
- (w) “*Passenger Car*” is as defined in Title 13, California Code of Regulations Section 1900.
- (x) “*Qualifying Community-based Clean Mobility Program*” means a program determined by the Vermont Air Pollution Control Officer to qualify as a community-based clean mobility program pursuant to guidance issued by the Vermont Department of Environmental Conservation. The Vermont Air Pollution Control Officer must determine that a program qualifies as a community-based clean mobility program before a manufacturer may earn vehicle value pursuant to the requirements of Title 13, California Code of Regulations Section 1962.4.
- (y) “*Recall*” means:
  - (1) The issuing of notices directly to consumers that *vehicles* in their possession or control should be corrected, and/or
  - (2) Efforts to actively locate and correct *vehicles* in the possession or control of consumers.
- (z) “*Smog Index Label*” means a decal securely affixed by the *manufacturer* to a window of all *passenger cars* and *light-duty trucks* which discloses the smog index for the vehicle in accordance with Title 13, California Code of Regulations Section 1965.
- (aa) “*Trailer*” is as defined in Title 17, California Code of Regulations Section 95662.
- (bb) “*VECs*” means *vehicle* equivalent credits.
- (cc) “*Vehicle*” or “*motor vehicle*” means any passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, or heavy-duty vehicle, as appropriate.
- (dd) “*Zero-emission Vehicle*” or “*ZEV*” means a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas, excluding emissions from air conditioning systems, under any possible operational modes or conditions.
- (ee) “*ZEV Credit*” or “*ZEV value*” means a unit, expressed numerically, generated in accordance with Title 13 California Code Regulations, Sections 1962.2, 1962.4, and 1963.2.

#### 40-102 INCORPORATION BY REFERENCE

- (a) This Chapter incorporates by reference certain sections of Titles 13 and 17, California Code of Regulations. Section 201 of this Chapter lists the sections of Titles 13 and 17, California Code of Regulations incorporated by reference. The sections of Titles 13 and 17, California Code of Regulations incorporated by reference in this Chapter are the version of the section adopted as of the incorporation by reference date in Section 201, herein.
- (b) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate or alternatively defined in this Chapter, “California” shall mean “Vermont”. For example, “delivered for sale in California” and “placed in service” are interpreted, except for determinations of whether a manufacturer is a large, medium, small, independent low volume, or low volume manufacturer, as referring to *vehicles* in “Vermont”.

#### 40-103 NEW VEHICLE EMISSION REQUIREMENTS

- (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 *new vehicle* that is a 2000 or subsequent *model-year passenger car* or *light-duty truck* or a 2004 or subsequent *model-year medium-duty vehicle* in Vermont unless the *vehicle* is *California-certified* and complies with the following criteria:
  - (1) The exhaust emissions standards, as applicable, in Title 13, California Code of Regulations, including:
    - (A) The Low Emission Vehicle Program, Sections 1900, 1956.8, 1960.1, 1961, 1961.2, and 1961.4;
    - (B) The Greenhouse Gas Emission Standards Program, Sections 1961.1 and 1961.3; and
    - (C) The Zero Emission Vehicle Program, Sections 1962, 1962.1, 1962.2, 1962.4, 1962.5, and 1962.6.
  - (2) The *emission control label* requirements, the *smog index label* or the *environmental performance label* requirements for 2002 through 2009 *model-year vehicles*, and the *environmental performance label* requirements for 2010 and subsequent *model year vehicles* in accordance with Title 13, California Code of Regulations Section 1965, except as otherwise provided by 10 V.S.A. §579(d).
  - (3) The evaporative emissions standards in Title 13, California Code of Regulations Sections 1976.
  - (4) The refueling emissions standards in Title 13, California Code of Regulations Section 1978.
  - (5) The malfunction and diagnostic system requirements in Title 13, California Code of Regulations Sections 1968.1 and 1968.2.
  - (6) The assembly-line testing procedure requirements in Title 13, California Code of Regulations Section 2062.
  - (7) The specifications for fill pipes and openings of *motor vehicle* fuel tanks in Title 13, California Code of Regulations Section 2235.
- (b) Effective for model year 2026 and subsequent *model years*, any *manufacturer* that certifies on-road *vehicles* over 8,500 pounds *GVWR* for sale or lease in Vermont must comply with:
  - (1) The Advanced Clean Trucks rule as incorporated by reference in Section 201 and in Title 13, California Code of Regulations Sections 1963 through 1963.5.
- (c) 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 *new vehicle* that is a 2026 or subsequent *model-year*

*medium- and heavy-duty engine or vehicle, or trailer* in Vermont unless the *vehicle* is *California-certified* and complies with the following:

- (1) All applicable emissions standards, testing procedures, warranty, reporting, recall and other applicable requirements of the Heavy-Duty Engine and Vehicle Omnibus Regulation as incorporated by reference in Section 201 of this Chapter and specified in Titles 13 and 17, California Code of Regulations; and
  - (2) All applicable emission standards, testing procedures, warranty, reporting, recall and other applicable requirements of the California Greenhouse Gas Emissions Standards for Medium- And Heavy-Duty Engines, Vehicles, and Trailers (Phase 2) as incorporated by reference in Section 201 of this Chapter and specified in Titles 13 and 17, California Code of Regulations.
- (d) Subsections 40-103(a-c) shall not apply to a *new vehicle*:
- (1) Defined as an emergency *vehicle*;
  - (2) For the purposes of Advanced Clean Trucks only, a *vehicle* defined as an “excluded bus” pursuant to Title 13, California Code of Regulations Section 1963(c)(11);
  - (3) For the purposes of the Heavy-Duty Engine and Vehicle Omnibus Regulation only, diesel fueled engines used exclusively in motor buses as referenced by Title 13, California Code of Regulations Section 1956.8(a)(2)(F), for which there is no *CARB* certification;
  - (4) With a right-hand drive configuration that is not available in a California-certified model, purchased by a rural route postal carrier and used primarily for work;
  - (5) Designed exclusively for off-highway use; or
  - (6) Certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a *vehicle* rental agency in Vermont and is next rented with a final destination outside of Vermont.
- (e) Subsections 40-103(a-c) shall not apply to *new vehicles* in the following transactions:
- (1) A transfer by court decree;
  - (2) A transfer by inheritance;
  - (3) A purchase by a nonresident prior to establishing residency in Vermont; or
  - (4) A sale for the purpose of being wrecked or dismantled.

#### **40-104 WARRANTY**

- (a) For *California-certified vehicles* delivered for sale or lease in Vermont, each *manufacturer* shall provide a warranty for the ultimate purchaser and each subsequent purchaser that complies with the applicable warranty requirements of Title 13, California Code of Regulations Sections 1962.8, 2035 through 2038, 2040 and 2046.
- (b) Each *manufacturer* shall include the emission control system warranty statement required by Title 13, California Code of Regulations Sections 2039, modified by some means (e.g. printed within the text or a sticker) to clearly inform Vermont owners of *California-certified vehicles* that the California Warranty applies to the *vehicle*. This statement shall provide a telephone number appropriate for Vermont.

#### 40-105 RECALL

For all *California-certified vehicles* registered in Vermont, each *manufacturer* shall undertake an action equivalent to that which is required by any order or enforcement action taken by *CARB*, or any voluntary or influenced emission related *recall* initiated by any *manufacturer* pursuant to Title 13, California Code of Regulations Sections 1962.7, 2101 through 2120, 2122 through 2133, 2135 through 2149, 2167, and 2168 unless within 30 days of *CARB* approval of said *recall*, the *manufacturer* demonstrates to the *Agency* that such *recall* is not applicable to *vehicles* registered in Vermont. Each *manufacturer* must send to owners of Vermont registered *California-certified vehicles* the same notice that is used for California owners required by Title 13, California Code of Regulations Sections 2118 or 2127, except that it should contain a telephone number appropriate for Vermont.

#### 40-106 MANUFACTURER FLEET REQUIREMENTS

- (a) Each *manufacturer* shall meet the following fleet requirements for the *new vehicles* delivered for sale or lease, or for the purposes of Advanced Clean Trucks sold to the ultimate purchaser, in Vermont.
- (1) Effective for the 2004 through 2014 *model-years*, each *manufacturer* shall comply with the *fleet average* NMOG emission requirements (or NMOG + NOx for 2014 model year only) and LEV II phase-in requirements for passenger cars and light-duty trucks and, for 2000 and subsequent model-years, may earn and bank *NMOG credits*, both in accordance with Title 13, California Code of Regulations Section 1961, except *NMOG credits* earned prior to model-year 2004 shall be treated as though they were earned in model-year 2004.
  - (2) Effective for the 2004 through 2014 *model-years*, each *manufacturer* shall comply with the LEV II *medium-duty vehicle* phase-in requirements and, for 2004 through 2014 model-years, may earn and bank VECs, both in accordance with Title 13, California Code of Regulations Section 1961, except VECs earned prior to model-year 2007 shall be treated as though they were earned in model-year 2007. Starting with model-year 2007 through model year 2014, all medium-duty vehicles are subject to the LEV II standards in accordance with Title 13, California Code of Regulations Section 1961.
  - (3) Effective for the 2015 through 2025 *model-year* passenger cars and light-duty trucks, and 2015 through 2028 model-year medium-duty vehicles, each *manufacturer* shall comply with the *fleet average* NMOG + NOx emission requirements and the LEV III phase-in requirements, and may earn and bank NMOG + NOx credits or VECs as applicable, all in accordance with Title 13, California Code of Regulations Section 1961.2.
  - (4) Effective for the 2026 and subsequent model-years, each manufacturer shall comply with the fleet average NMOG + NOx emission requirements and the LEV IV phase-in requirements for passenger cars, light-duty trucks, and medium duty vehicles, and may earn and bank NMOG + NOx credits or VECs as applicable, in accordance with Title 13, California Code of Regulations Section 1961.4.
  - (5) Effective for the 2007 through 2008 model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirement and, starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Sections 1962.
  - (6) Effective for the 2009 through 2017 *model years*, each *manufacturer* shall comply with the Zero Emission Vehicle sales requirement and, and starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Section 1962.1.
  - (7) Effective for 2018 through 2025 model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirement and, and starting with 2000 model year *vehicles*, may earn and bank ZEV credits, both in accordance with Title 13, California Code of Regulations Section 1962.2.
  - (8) Effective for 2026 and subsequent model years, each manufacturer shall comply with the Zero Emission Vehicle sales requirements and, starting with 2024 model year vehicles, may earn and bank ZEV value, both in accordance with Title 13, California Code of Regulations Section 1962.4.

- (9) Effective for the 2009 through 2016 model-years, each manufacturer shall comply with the fleet average emission greenhouse gas requirements for passenger cars, light-duty trucks, and medium-duty passenger *vehicles*, and for 2000 and subsequent model-years may earn and bank GHG credits, in accordance with Title 13, California Code of Regulations Section 1961.1.
- (10) Effective for the 2017 and subsequent model years, each manufacturer shall comply with the fleet average emission greenhouse gas requirements for passenger cars, light-duty trucks, and medium-duty passenger *vehicles*, and may earn and bank GHG credits, in accordance with Title 13, California Code of Regulations Section 1961.3.
- (11) Effective for the 2026 and subsequent *model years*, each manufacturer shall comply with the Advanced Clean Trucks sales requirement for medium and heavy-duty vehicles as applicable, and for 2023 and subsequent model years may earn, bank, and trade ZEV and NZEV credits both in accordance with Title 13, California Code of Regulations Sections 1963 through 1963.5.
- (12) Effective for the 2026 and subsequent model years, each manufacturer shall comply with the Heavy-Duty Engine and Vehicle Omnibus Regulation emissions standards for applicable medium- and heavy-duty engines and vehicles, and for 2022 and subsequent model years may earn, bank, and trade credits in accordance with Title 13, California Code of Regulations Sections 1956.8.
- (13) Effective for the 2026 and subsequent model years, each manufacturer shall comply with the Phase 2 greenhouse gas emissions standards for applicable medium and heavy-duty vehicles, and trailers, and for 2024 and subsequent model years may earn, bank and trade credits, in accordance with Title 17, California Code of Regulations Sections 95660 through 95664.

#### 40-107 MANUFACTURER REPORTING REQUIREMENTS

(a) Delivery Reporting.

Each *manufacturer* shall submit annually, to the *Agency*, by March 1 following the end of each *model-year*, a report, itemized by test group and emission standard, documenting total *new vehicles* delivered for sale or lease in Vermont, as applicable.

(b) Fleet Reporting.

- (1) Each *manufacturer* shall submit annually to the *Agency*, by no later than May 1 following the end of each *model-year*, a report, itemized by test group and emission standard, that demonstrates that the *manufacturer* has met the fleet requirements of subsection 40-106(a) in Vermont.
- (2) If a *manufacturer* wants to bank *VECs* or GHG, NMOG, NMOG + NO<sub>x</sub>, ZEV, or NZEV *credit* or *value*, the *manufacturer* shall submit annually, by no later than May 1 following the end of the *model-year*, a report which demonstrates that such *manufacturer* has earned *VECs* or GHG, NMOG, ZEV, or NZEV *credits* or *values* in Vermont. Credits or value are to be calculated in the same manner as required by CARB.

(c) Recall Reporting.

- (1) For information and not for approval by Vermont, each *manufacturer* shall submit, within 30 days of *CARB* approval, a copy of any *CARB* approved voluntary, influenced or ordered *recall* plan specified by Title 13, California Code of Regulations Sections 1962.7, 2114, 2125, and 2169 supplemented with the number of affected *vehicles* registered in Vermont.
- (2) For information and not for approval by Vermont, each *manufacturer* shall, upon request, submit *recall* campaign progress reports for *vehicles* registered in Vermont, within the timelines of, and containing the information required by, Title 13, California Code of Regulations Sections 1962.7,

2119, 2133, and 2169.7. Reports need not be submitted to the *Agency* if the equivalent reports have been waived by *CARB*.

(d) Documentation.

A *manufacturer*, a *dealer* or a transporter of *new vehicles* shall, upon request, provide to the Agency of Natural Resources or the Agency of Transportation any documentation, including but not limited to Vehicle Identification Numbers, which either Agency determines to be necessary for the effective administration and enforcement of this Chapter.

(e) Reports and other information required by this subsection must be submitted to:

Director, Air Quality and Climate Division  
Davis 4  
One National Life Drive  
Montpelier, VT 05620-3802.

**40-108 INSPECTIONS**

(a) The Secretary of the Agency of Natural Resources or the Secretary of the Agency of Transportation or their designees may conduct inspections of any new and used *vehicles* and any related documentation for the purpose of determining compliance with the requirements of this Chapter.

- (1) Inspections may be conducted on any conveyance used to transport *new vehicles* or on any premises owned or controlled by any *dealer or manufacturer*.
- (2) Inspections may extend to all emission-related parts and may require the on-premises operation and testing of an engine or *vehicle*.
- (3) Inspections may include functional tests and other tests as necessary to verify compliance with this Chapter.

(b) Upon request, during an inspection, such *dealer or manufacturer* must make available to either Agency any related records, including records documenting *vehicle* origin, certification, delivery, or sales and records of *emission* related part repairs performed under warranty.

**40-109 SEVERABILITY**

Each provision of this Chapter is severable, and in the event that any provision of this Chapter is held to be invalid, the remainder of the Chapter shall continue in full force and effect.

**40-201 PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS INCORPORATED BY REFERENCE**

Incorporation by reference date: [DATE].

Title 13 CCR	Title
Chapter 1	Motor <i>Vehicle</i> Pollution Control Devices.
Article 1	General Provisions.
1900	Definitions.
1903	Plans Submitted.
1904	Applicability to Vehicles Powered by Fuels Other Than Gasoline or Diesel.

Title 13 CCR	Title
Article 2	Approval of Motor <i>Vehicle Pollution Control Devices (New Vehicles)</i> .
1956.8	Exhaust <i>Emissions</i> Standards and Test Procedures - 1985 and Subsequent Model Heavy-Duty Engines and <i>Vehicles</i> , 2021 and Subsequent Zero-Emission Powertrains, and 2022 and Subsequent Model Heavy-Duty Hybrid Powertrains.
1960.1	Exhaust <i>Emissions</i> Standards and Test Procedures - 1981 and through 2006 Model <i>Passenger Cars</i> , Light-Duty and <i>Medium-Duty Vehicles</i> .
1960.5	Certification of 1983 and Subsequent Model-Year Federally-Certified Light-Duty Motor Vehicles for Sale in California.
1961	Exhaust Emission Standards and Test Procedures – 2004 through 2019 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 through 2016 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.2	Exhaust Emission Standards and Test Procedures - 2015 through 2025 Model Passenger Cars and Light-Duty Trucks, and 2015 through 2028 Model Year Medium-Duty Vehicles.
1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1961.4	Exhaust Emission Standards and Test Procedures - 2026 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles
1962	Zero-Emission <i>Vehicle</i> Standards for 2005 and through 2008 Model Year <i>Passenger Cars</i> , <i>Light-Duty Trucks</i> , and <i>Medium-Duty Vehicles</i> .
1962.1	Zero-Emission Vehicle Standards for 2009 through 2017 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1962.2	Zero-Emission Vehicle Standards for 2018 through 2025 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.
1962.3	Electric Vehicle Charging Requirements.
1962.4	Zero-Emission Vehicle Requirements for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
1962.5	Data Standardization Requirements for 2026 and Subsequent Model Year Light-Duty Zero Emission Vehicles and Plug-in Hybrid Electric Vehicles
1962.6	Battery Labeling Requirements
1962.7	In-Use Compliance, Corrective Action and Recall Protocols for Zero Emission for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks
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
1963	Advanced Clean Trucks Purpose, Applicability, Definitions, and General Requirements

Title 13 CCR	Title
1963.1	Advanced Clean Trucks Deficits
1963.2	Advanced Clean Trucks Credit Generation, Banking, and Trading
1963.3	Advanced Clean Trucks Compliance Determination
1963.4	Advanced Clean Trucks Reporting and Recordkeeping
1963.5(a)(1)-(3)	Advanced Clean Trucks Enforcement
1964	Special Test Procedures for Certification and Compliance – New Modifier Certified Motor Vehicles.
1965	Emission Control, Smog Index, and Environmental Performance Labels — 1979 and Subsequent <i>Model-Year Motor Vehicles</i> .
1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model-Year <i>Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</i> and Engines.
1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model-Year <i>Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</i> and Engines.
1969	Motor Vehicle Service Information - 1994 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Engines and Vehicles</i> , and 2007 and Subsequent Model <i>Heavy-Duty Engines</i> .
1971.1	On-Board Diagnostic System Requirements - 2010 and Subsequent Model-Year Heavy-Duty Engines
1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative <i>Emissions</i> .
1978	Standards and Test Procedures for <i>Vehicle Refueling Emissions</i> .
Article 6	<i>Emission Control System Warranty</i> .
2035	Purpose, Applicability, and Definitions.
2036	Defects Warranty Requirements for 1979 Through 1989 Model <i>Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</i> ; 1979 and Subsequent Model Motorcycles and Heavy-Duty <i>Vehicles</i> ; and Motor Vehicle Engines Used in Such <i>Vehicles</i> , and 2020 and Subsequent Model Year Trailers.
2037	Defects Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles</i> .
2038	Performance Warranty Requirements for 1990 and Subsequent Model <i>Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles</i> .
2039	<i>Emissions Control System Warranty Statement</i> .
2040	<i>Vehicle Owner Obligations</i> .
2041	Mediation; Finding of Warrantable Condition.
2046	Defective Catalyst.
Article 7	Procedures for Certifying Used Modifier-Certified Motor Vehicles and Licensing Requirements for Vehicle Emission Test Laboratories



Title 13 CCR	Title
2047	Certification Procedures for Used Modifier-Certified Motor Vehicles.
Chapter 2	Enforcement of <i>Vehicle</i> Emission Standards and Surveillance Testing.
Article 1	Assembly-Line Testing.
2062	Assembly-Line Test Procedures - 1998 and Subsequent <i>Model-years</i> .
Article 1.5	Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles
2065	Applicability of Chapter 2 to 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles
Article 2	Enforcement of New and In-Use <i>Vehicle</i> Standards.
2101	Compliance Testing and Inspection - New <i>Vehicle</i> Selection, Evaluation and Enforcement Action.
2109	New <i>Vehicle Recall</i> Provisions.
2110	Remedial Action for Assembly-Line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 <i>Model-year</i> .
Article 2.1	Procedures for In-Use <i>Vehicle</i> Voluntary and Influenced <i>Recalls</i> .
2111	Applicability.
2112	Definitions.
	Appendix A to Article 2.1.
2113	Initiation and Approval of Voluntary and Influenced Emission-Related <i>Recalls</i> .
2114	Voluntary and Influenced <i>Recall</i> Plans.
2115	Eligibility for Repair.
2116	Repair Label.
2117	Proof of Correction Certificate.
2118	Notification.
2119	Recordkeeping and Reporting Requirements
2120	Other Requirements Not Waived.
2121	Penalties.
Article 2.2	Procedures for In-Use <i>Vehicle</i> Ordered <i>Recalls</i> .
2122	General Provisions.
2123	Initiation and Notification of Ordered Emission-Related <i>Recalls</i> .
2124	Availability of Public Hearing.
2125	Ordered <i>Recall</i> Plan.
2126	Approval and Implementation of <i>Recall</i> Plan.

Title 13 CCR	Title
2127	Notification of Owners.
2128	Repair Label.
2129	Proof of Correction Certificate.
2130	Capture Rates and Alternative Measures.
2131	Preliminary Tests.
2132	Communication with Repair Personnel.
2133	Recordkeeping and Reporting Requirements.
2134	Penalties.
2135	Extension of Time.
Article 2.3	In-Use <i>Vehicle</i> Enforcement Test Procedures.
2136	General Provisions.
2137	<i>Vehicle</i> , Engine, and Trailer Selection.
2138	Restorative Maintenance.
2139	Testing.
2140	Notification and Use of Test Results.
Article 2.4	Procedures for Reporting Failures of Emission-Related Components.
2141	General Provisions.
2142	Alternative Procedures
2143	Failure Levels Triggering <i>Recall</i> and corrective action.
2144	<i>Emission Warranty</i> Information Report.
2145	Field Information Report.
2146	<i>Emissions</i> Information Report.
2147	Demonstration of Compliance with <i>Emission</i> Standards.
2148	Evaluation of Need for <i>Recall</i> .
2149	Notification of Subsequent Action.
Article 5	Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action
2166	General Provisions
2167	Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors.
2168	Required Corrective Action and Recall for Emission-Related Component Failures
2169	Required Recall or Corrective Action Plan.
2169.1	Approval and Implementation of Corrective Action Plan.
2169.2	Notification of Owners.
2169.3	Repair Label.
2169.4	Proof of Correction Certificate.

<b>Title 13 CCR</b>	<b>Title</b>
2169.5	Preliminary Tests.
2169.6	Communication with Repair Personnel.
2169.7	Recordkeeping and Reporting Requirements.
2169.8	Extension of Time.
Chapter 4	Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Fuel Additives.
Article 2	Aftermarket Parts.
2222	Add-On Parts and Modified Parts.
Chapter 4.4	Specifications for Fill Pipes and Openings of Motor <i>Vehicle</i> Fuel Tanks.
2235	Requirements.

<b>Title 17 CCR</b>	<b>Title</b>
Chapter 1	Air Resources Board
Subchapter 10	Climate Change
Article 4	Regulations to Achieve Greenhouse Gas Emission Reductions
Sub-article 12	Greenhouse Gas Emission Requirements for New 2014 and Subsequent Model Heavy-Duty Vehicles
95660	Purpose
95661	Applicability
95662	Definitions
95663	Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles.

VERMONT **GENERAL ASSEMBLY**

## The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

### **Title 10 : Conservation and Development**

#### **Chapter 023 : Air Pollution Control**

(Cite as: 10 V.S.A. § 554)

#### **§ 554. Powers**

In addition to any other powers conferred on him or her by law, the Secretary shall have power to:

- (1) Appoint and employ personnel and consultants as may be necessary for the administration of this chapter.
- (2) Adopt, amend, and repeal rules, implementing the provisions of this chapter.
- (3) Hold hearings related to any aspect of or matter in the administration of this chapter, and in connection therewith, subpoena witnesses and the production of evidence.
- (4) Issue orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.
- (5) Prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this State.
- (6) [Repealed.]
- (7) Encourage local units of government to handle air pollution problems within their respective jurisdiction, and by compact on a cooperative basis, and to provide technical and consultative assistance therefor.
- (8) Encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their causes, effects, prevention, abatement, and control.
- (9) Determine by appropriate means the degree of air contamination and air pollution in the State and the several parts thereof.

(10) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this State and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(11) Establish ambient air quality standards for the State as a whole or for any part thereof, based on nationally recognized criteria applicable to the State of Vermont.

(12) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(13) Advise, consult, contract, and cooperate with other agencies of the State, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(14) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of the device or system, or the air pollution problem that may be related to the source, device or system. Nothing in any consultation shall be construed to relieve a person from compliance with this chapter, rules in force pursuant thereto, or any other provision of law.

(15) Accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. The funds received by the Secretary pursuant to this section shall be deposited in the State Treasury to the account of the Secretary.

(16) Have access to records relating to emissions that cause or contribute to air contamination. (Added 1967, No. 310 (Adj. Sess.), § 4; amended 1971, No. 212 (Adj. Sess.), § 3; 1989, No. 98, § 4(b).)

VERMONT **GENERAL ASSEMBLY**

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### **Title 10 : Conservation and Development**

#### **Chapter 023 : Air Pollution Control**

(Cite as: 10 V.S.A. § 558)

#### **§ 558. Emission control requirements**

The Secretary may establish such emission control requirements, by rule, as in his or her judgment may be necessary to prevent, abate, or control air pollution. The requirements may be for the State as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this chapter, and in order to take necessary or desirable account of varying local conditions. (Added 1967, No. 310 (Adj. Sess.), § 8; amended 1971, No. 212 (Adj. Sess.), § 3.)

VERMONT **GENERAL ASSEMBLY**

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## **Title 10 : Conservation and Development**

### **Chapter 023 : Air Pollution Control**

(Cite as: 10 V.S.A. § 567)

#### **§ 567. Motor vehicle pollution**

(a) The Secretary in conjunction with the Department of Motor Vehicles may provide rules for the control of emissions from motor vehicles. Such rules may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of the equipment and the vehicles. Rules pursuant to this section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned and shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification, or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if the feature or equipment has been certified, approved, or otherwise authorized pursuant to federal law.

(b) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle, or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules pursuant to this chapter to be maintained in or on the vehicle. Any failure to maintain in good working order or removal, dismantling, or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle by the Department of Motor Vehicles. The vehicle shall not thereafter be eligible for registration until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced, or repaired and are in good working order.

(c) The Secretary shall consult with the Department of Motor Vehicles and furnish it with technical information, including testing techniques, standards, and instructions for emission control features and equipment.

(d) When rules have been issued requiring the maintenance of features or equipment

in or on motor vehicles for the purpose of controlling emissions therefrom, no motor vehicle shall be issued an inspection sticker unless all the required features or equipment have been inspected in accordance with the standards, testing techniques, and instructions furnished pursuant to subsection (b) hereof and has been found to meet those standards.

(e) The remedies and penalties provided here apply to violations of this section and provisions of section 568 of this title shall not apply.

(f) As used in this section, "motor vehicle" shall have the same meaning as defined in 23 V.S.A. § 4. (Added 1967, No. 310 (Adj. Sess.), § 16; amended 1971, No. 212 (Adj. Sess.), § 3.)





# Proposed Rules Postings

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### Deadline For Public Comment

Deadline: Dec 15, 2023

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

### Rule Details

Rule Number:	23P043
Title:	Vermont Low Emission Vehicle and Zero Emission Vehicle Rules.
Type:	Standard
Status:	Proposed
Agency:	Agency of Natural Resources
Legal Authority:	10 V.S.A. §§ 554, 558, and 567
Summary:	ANR proposes to amend its existing Low Emission Vehicle and Zero Emission Vehicle Rules, which incorporate by reference a suite of motor vehicle emission standards from California including the "Heavy-Duty Engine and Vehicle Omnibus" or "HD

Omnibus" regulation. The HD Omnibus regulation sets standards for emissions of nitrogen oxides (NOx) and particulate matter (PM) from on-road heavy-duty engines used in vehicles delivered for sale in Vermont, which help protect public health and air quality. In this rulemaking, ANR proposes to amend the current HD Omnibus regulation to (1) clarify the existing transit bus exemption, (2) adjust the vehicle model year in which vehicle manufacturers can begin earning early compliance credits, and (3) add the legacy engine provisions that will provide engine manufacturers greater compliance flexibility for vehicle model year 2026, while maintaining the originally projected emissions reductions and public health benefits under the HD Omnibus regulation.

**Persons Affected:**

Vehicle manufacturers and fleet owners

**Economic Impact:**

There is no economic impact because these amendments do not change emissions standards vehicle manufacturers are already required to comply with under the HD Omnibus. The proposed amendment regarding legacy engine provisions has an estimated \$0 net impact over the lifetime of the regulation between 2026 and 2035. Legacy engine provisions provide compliance flexibility for vehicle manufacturers that gives the option to certify a limited number of 2026 model year (MY) heavy-duty diesel engines to the current exhaust emission standards in lieu of meeting the HD Omnibus standards (hereinafter, legacy engines), provided they offset any resulting excess emissions. Manufacturers are estimated to have technology costs savings from producing legacy engines in 2026 MY alternatively to HD Omnibus-compliant engines. In turn, manufacturers must offset those increased emissions; the cost to offset these emissions is estimated to be equal to the technology cost savings. See attached Technical Support Document.

**Posting date:**

Nov 08,2023

## Hearing Information

### Information for Hearing # 1

**Hearing date:**

12-08-2023 1:00 PM [ADD TO YOUR CALENDAR](#)

**Location:**

Agency of Natural Resources, Catamount Room  
(Davis Building, 2nd Floor Room N215)

Address: One National Life Drive  
 City: Montpelier  
 State: VT  
 Zip: 05602  
 Hearing Notes:

### Information for Hearing # 2

Hearing date: 12-08-2023 1:00 PM [ADD TO YOUR CALENDAR](#)  
 Location: via MS Teams  
 Address: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>  
 City: Meeting ID: 257 296 065 335 Passcode: 2TAnfi Call in (audio only) 802-828-7667, 944713572# Phone Conference ID: 944 713 572#  
 State: VT  
 Zip: n/a  
 Hearing Notes: Hybrid option same time as in person hearing.

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON** - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary  
 Name: Deirdra Ritzer  
 Agency: Agency of Natural Resources  
 Address: 1 National Life Drive, Davis 4  
 City: Montpelier  
 State: VT  
 Zip: 05620  
 Telephone: 802-223-8052  
 Fax:  
 Email: [deirdra.ritzer@vermont.gov](mailto:deirdra.ritzer@vermont.gov)

[SEND A COMMENT](#)

Website Address: <https://dec.vermont.gov/air-quality/laws>

[VIEW WEBSITE](#)

### Information for Secondary Contact

**SECONDARY CONTACT PERSON** - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary  
Name: Rachel Stevens  
Agency: Agency of Natural Resources  
Address: 1 National Life Drive, Davis 2  
City: Montpelier  
State: VT  
Zip: 05620  
Telephone: 802-636-7236  
Fax:  
Email: rachel.stevens@vermont.gov

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## Keyword Information

Keywords:

Air pollution  
Motor vehicle emissions  
Air quality

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<b>TO:</b>	Seven Days Katie Hodges ( <a href="mailto:khodges@sevendaysvt.com">khodges@sevendaysvt.com</a> ) Legals	Tel: (802) 865-1020 x110.
	The Caledonian Record Julie Poutré ( <a href="mailto:adv@caledonian-record.com">adv@caledonian-record.com</a> )	Tel: 748-8121 FAX: 748-1613
	Times Argus / Rutland Herald Melody Hudson ( <a href="mailto:classified.ads@rutlandherald.com">classified.ads@rutlandherald.com</a> ) Elizabeth Marrier ( <a href="mailto:elizabeth.marrier@rutlandherald.com">elizabeth.marrier@rutlandherald.com</a> )	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
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	Newport Daily Express ( <a href="mailto:jlafoe@newportvermontdailyexpress.com">jlafoe@newportvermontdailyexpress.com</a> )	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
	News & Citizen ( <a href="mailto:mike@stowereporter.com">mike@stowereporter.com</a> ) Irene Nuzzo ( <a href="mailto:irene@newsandcitizen.com">irene@newsandcitizen.com</a> and <a href="mailto:ads@stowereporter.com">ads@stowereporter.com</a> removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173 Attn: Bryan
	St. Albans Messenger Legals ( <a href="mailto:legals@samessenger.com">legals@samessenger.com</a> ; <a href="mailto:cfoley@ourourkemediagroup.com">cfoley@ourourkemediagroup.com</a> )	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
	The Islander ( <a href="mailto:islander@vermontislander.com">islander@vermontislander.com</a> )	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer ( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )	Attn: Will Hunter

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**FROM:** APA Coordinator, VSARA

**Date of Fax:** June 11, 2024

**RE:** The "Proposed State Rules " ad copy to run on

**November 16, 2023**

**PAGES INCLUDING THIS COVER MEMO:**

**2**

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If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov), Thanks.

## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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Vermont Low Emission Vehicle and Zero Emission Vehicle Rules.

Vermont Proposed Rule: 23P043

AGENCY: Agency of Natural Resources

CONCISE SUMMARY: ANR proposes to amend its existing Low Emission Vehicle and Zero Emission Vehicle Rules, which incorporate by reference a suite of motor vehicle emission standards from California including the "Heavy-Duty Engine and Vehicle Omnibus" or "HD Omnibus" regulation. The HD Omnibus regulation sets standards for emissions of nitrogen oxides (NOx) and particulate matter (PM) from on-road heavy-duty engines used in vehicles delivered for sale in Vermont, which help protect public health and air quality. In this rulemaking, ANR proposes to amend the current HD Omnibus regulation to (1) clarify the existing transit bus exemption, (2) adjust the vehicle model year in which vehicle manufacturers can begin earning early compliance credits, and (3) add the legacy engine provisions that will provide engine manufacturers greater compliance flexibility for vehicle model year 2026, while maintaining the originally projected emissions reductions and public health benefits under the HD Omnibus regulation.

FOR FURTHER INFORMATION, CONTACT: Deirdra Ritzer, Agency of Natural Resources, 1 National Life Dr. Davis 4, Montpelier, VT 05620 Tel: 802-223-8052 Email: [deirdra.ritzer@vermont.gov](mailto:deirdra.ritzer@vermont.gov) URL: <https://dec.vermont.gov/air-quality/laws>.

FOR COPIES: Rachel Stevens, Agency of Natural Resources, 1 National Life Dr. Davis 2, Montpelier, VT 05620 Tel: 802-636-7236 Email: [rachel.stevens@vermont.gov](mailto:rachel.stevens@vermont.gov).

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Residential Care Home and Assisted Living Residence Licensing Regulations.

Vermont Proposed Rule: 23P044

AGENCY: Agency of Human Services, Department of Disabilities, Aging, and Independent Living (DAIL)

CONCISE SUMMARY: The Residential Care Home (RCH) and Assisted Living Residence (ALR) Regulations, last adopted in 2000 and 2003, respectively, were developed for residents who needed lower levels of assistance, who were simply unable to live independently. Since then, Vermonters, and people in general, have tended to stay in their homes longer and enter into residential care or assisted living with higher and more complex care needs. Ownership structures have also changed. In addition to a general shift in use of group care settings, the Choices for Care (CFC) and Enhanced Residential Care (ERC) programs have placed hundreds of nursing home level of care residents into these homes. The regulations did not provide the protections needed for a population that has increased and complex care needs, and they were not providing the guidance to the managers of these homes in how to provide safe care to residents, including those who need nursing home level of care.

FOR FURTHER INFORMATION, CONTACT: Pamela Cota, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, 280 State Drive, HC 2 South, Waterbury VT 05671 Tel: 802-241-0480 Email: [pamela.cota@vermont.gov](mailto:pamela.cota@vermont.gov) URL: <https://dail.vermont.gov>.

FOR COPIES: Stuart Schurr, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, 280 State Drive, HC 2 South, Waterbury VT 05671 Tel: 802-241-0353 Email: [stuart.schurr@vermont.gov](mailto:stuart.schurr@vermont.gov).

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Seasonal Fuel Assistance Rules.

Vermont Proposed Rule: 23P045

AGENCY: Agency of Human Services, Department for Children and Families

CONCISE SUMMARY: The amended rule reorganizes, renumbers, and replaces the existing rule. The amendment only addresses seasonal fuel assistance and removes sections relating to crisis fuel assistance, which will be addressed separately in a new rule. The amendment clarifies some existing practices and changes other practices to implement recent federal guidance and significant statutory changes that have occurred since the rule was last amended in 2009. Substantive changes include: new procedures for issuing one-time additional benefits during a heating season, removing certification requirement for suppliers of firewood and wood pellets, removing asset and resource requirements for applicants, new procedures for income calculation such as removing income deductions, new verification and residency requirements, and revised income-eligibility requirements. The amendment further clarifies the types of living arrangements and residential structures eligible for assistance.

FOR FURTHER INFORMATION, CONTACT: Richard Giddings, Agency of Human Services, Department for Children and Families, Economic Services Division 280 State Drive, HC 1 South Waterbury, VT 05671-1020 Tel: 802-786-5986 Email: [Richard.Giddings@vermont.gov](mailto:Richard.Giddings@vermont.gov) URL: <https://dcf.vermont.gov/esd/laws-rules/proposed>.

FOR COPIES: Philip Back, Agency of Human Services, Department for Children and Families, Economic Services Division 280 State Drive, HC 1 North Waterbury, VT 05671-1080 Tel: 802-798-9318 Email: [Philip.Back@vermont.gov](mailto:Philip.Back@vermont.gov).

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Crisis Fuel Assistance Rules.

Vermont Proposed Rule: 23P046

AGENCY: Agency of Human Services, Department for Children and Families

CONCISE SUMMARY: The amended rule reorganizes, renumbers, and replaces the existing rule. The amendment only addresses crisis fuel assistance and removes sections relating to seasonal fuel assistance, which will be addressed in a revised and separate rule. The amendment clarifies some existing practices and changes other practices to implement recent federal guidance and significant statutory changes that have occurred since the rule was last amended in 2009. Substantive changes include: new limits on the number of crisis benefits issued during a heating season, removing asset and resource requirements, new procedures for income calculation such as removing income deductions, new verification and residency requirements, and revised income-eligibility requirements. The amendment further clarifies the types of living arrangements and residential structures eligible for assistance.

FOR FURTHER INFORMATION, CONTACT: Richard Giddings, Agency of Human Services, Department for Children and Families, Economic Services Division 280 State Drive, HC 1 South Waterbury, VT 05671-1020 Tel: 802-786-5986 Email: [Richard.Giddings@vermont.gov](mailto:Richard.Giddings@vermont.gov) URL: <https://dcf.vermont.gov/esd/laws-rules/proposed>.

FOR COPIES: Philip Back, Agency of Human Services, Department for Children and Families, Economic Services Division 280 State Drive, HC 1 North Waterbury, VT 05671-1080 Tel: 802-798-9318 Email: [Philip.Back@vermont.gov](mailto:Philip.Back@vermont.gov).

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