

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

New Motor Vehicle Emissions Control Program

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 126 (relating to general provisions and standards; for mobile standards) to read as set forth in Annex A.

The proposed rulemaking establishes a new motor vehicle emissions control program designed to primarily reduce emissions of carbon monoxide (CO), oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) from new passenger cars and light duty trucks. These proposed amendments create the mechanism to meet the requirements of the State opt-in provisions of the National Low Emission Vehicle (NLEV) program. The proposed amendments also adopt and incorporate by reference certain requirements of the low-emissions vehicle program authorized under section 177 of the Clean Air Act 5 (42 U.S.C.A. § 7507) (CAA). The proposed amendment will allow automobile manufacturers to voluntarily comply with the NLEV program as an alternative to complying with the Clean Vehicles Program requirements.

This proposal was adopted by the Board at its meeting of September 16, 1997.

A. *Effective Date*

These proposed amendments will be effective immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Compliance and Enforcement, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-1663, or Joyce E. Epps, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800) 654-5988 (voice users). This proposal is available through the DEP Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of section 5(a)(1) of the Air Pollution Control Act (act) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The Board is also expressly authorized by section 5(a)(7) of the act to adopt regulations designed to reduce emissions from motor vehicles.

D. *Background and Purpose*

The most persistent air pollution problem in this Commonwealth is ground level ozone. Ozone causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. Scientific evidence indicates that high ambient levels of

ozone not only affect asthmatics and others with impaired respiratory systems, but also healthy adults and children, especially those who exercise or work outside. Exposure to ozone for several hours at relatively low concentrations has been found to significantly reduce lung function and induce respiratory inflammation in normal, healthy people during exercise. This decrease in lung function generally is accompanied by symptoms including chest pain, coughing, sneezing and pulmonary congestion.

In March 1996, the Commonwealth initiated a process by which two stakeholder groups, one in Southeastern and one in Southwestern Pennsylvania, would recommend strategies for ozone attainment and maintenance. The groups consisted of about 25 people representing a wide range of interests. Their recommendations presented to Governor Ridge in mid-January 1997 include strategies affecting industrial and area source emissions and highway vehicles.

Both stakeholder groups recognized the continuing importance in reducing emissions from automobiles in emission reduction strategies. The Southeast Ozone Stakeholders group recommended that the Commonwealth adopt a National low emission vehicle (NLEV) program because of its National focus and cost-effectiveness. The stakeholders also recommended that a State low emission vehicle (LEV) be implemented in the absence of NLEV. The Southwest Ozone Stakeholders did not consider a clean vehicle program because their mission was to achieve the ozone standard well before a program could be phased in. This group did, however, include a number of recommendations affecting highway emissions.

The Southeast Ozone Stakeholder group was provided estimates of emission reductions of Clean Vehicles Programs by its consultant, EH Pechan Associates, Inc. for strategies it was considering. Using data compiled for National regulatory analyses purposes, modeling demonstrated that NLEV could achieve emission reductions of 11.5 tons of VOCs and 13.5 tons of NO_x per day in the Philadelphia area by 2005, the year in which attainment of the ozone standard is required. NLEV provided the greatest reductions in Philadelphia of any single control measure.

Reductions would be realized across this Commonwealth, since highway emissions could decrease by as much as 40%. Nationwide, the NLEV program should achieve NO_x emission reductions of 400 tons/day in 2005 and 1,250 tons/day in 2015. Implementation of the National program would also result in nonmethane organic gas (similar to VOCs) emission reductions of 279 tons/day in 2005 and 778 tons/day in 2015. These reductions will help the Commonwealth meet the current ozone standard as well as the more stringent ozone standard recently promulgated by the United States Environmental Protection Agency (EPA).

This proposed rulemaking establishes an alternative low emissions vehicle program consistent with the requirements of section 177 of the CAA (Section 177) and will serve as the basic framework for the Commonwealth's program to control emissions from new motor vehicles. The proposed rule recognizes the voluntary National Low Emissions Vehicle (NLEV) program as an acceptable compliance alternative to the Clean Vehicles Program requirements established under this subchapter.

The CAA was amended in 1977 to allow states to adopt emission standards for motor vehicles. Section 177 of the

CAA authorizes states to adopt and enforce new motor vehicle or new motor vehicle engine standards for any model year if the standards are identical to the California standards and the state adopts the standards at least 2 years before the commencement of the model year. California's standards must also have been granted a waiver of the Act's prohibition against state emission standards. 42 U.S.C.A. § 7507.

Congress amended Section 177 in 1990 to prohibit states from taking any action that would have the effect of creating a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards or otherwise create a third vehicle. Shortly thereafter, many states began to consider clean vehicle or "low emission vehicle" programs as a control strategy to achieve and maintain the ozone standard.

Because of the uncertainties concerning the necessity and benefits of low emission vehicle (LEV) programs, Pennsylvania's General Assembly enacted legislation, Act 1992-166, creating a 13-member Low Emission Vehicle Commission (Commission). Act 1992-166 mandated that the Commission complete a study which addressed whether adoption of LEV would result in significant net air quality improvements; and whether adoption of LEV would result in a more cost-effective reduction in ozone precursors than other alternative control strategies. The Commission completed and submitted a LEV Study to the Governor and General Assembly on August 13, 1993. The Commission's findings indicated the "[i]mplementation of the mandatory and discretionary control strategies adopted by the Commonwealth for VOCs and NO_x will result in substantial reductions in these ozone precursors." The Commission also found that "these control strategies may result in attainment of the National Ambient Air Quality Standard for ozone throughout the Commonwealth." In addition, the "available data regarding the emissions reductions and cost-effectiveness of such reductions attributable to LEV" were inconclusive.

Based on its 1993 findings, the Commission recommended that the Commonwealth not adopt a California LEV Program before January 1, 1995. The study also recommended that the Department of Transportation and the Department of Environmental Protection (Department) prepare a report to the Senate Transportation Committee, the Senate Environmental Resources and Energy Committee, the House Transportation Committee and the House Conservation Committee containing information regarding the Commonwealth's attainment status for ozone prior to proposing a LEV program in this Commonwealth after January 1, 1995. The Commission also rejected the implementation of a regional (substate) LEV program vis-a-vis a Statewide LEV program because of concerns about administration and emission credits.

On February 10, 1994, the Ozone Transport Commission (OTC) petitioned the EPA to require states in the Northeast Ozone Transport Region (OTR) to adopt and implement low emission vehicle (LEV) programs. The OTC-LEV petition recommended that all new passenger cars and light-duty trucks, sold or offered for sale or lease in the OTR, be certified to California low emission vehicle standards beginning in the 1999 model year. The petition also recommended that auto manufacturers comply with the nonmethane organic gases (NMOG) fleet average requirement for the California LEV program and that the zero-emission vehicle (ZEV) production mandate be optional for OTR states and that no special fuels (for example, California reformulated fuels) be required.

Subsequently, the EPA approved the OTC recommendation and adopted the OTC-LEV rule. (60 F.R. 4712, January 24, 1995). The OTC-LEV rule included a SIP call which required states to submit SIP revisions to EPA by February 15, 1996 for the OTC-LEV program or an acceptable "LEV-equivalent program." The "LEV equivalent program" was defined as "an alternative voluntary nationwide program that would achieve emission reductions from new motor vehicles in the OTR equivalent to or greater than would be achieved by the OTC-LEV program and that would advance motor vehicle emission control technology."

This statement recognized that several years ago, the automakers, OTR states and the EPA had begun negotiations for a voluntary alternative LEV program described as the "49-State LEV Program" or National Low Emission Vehicle (NLEV) program. Under this alternative LEV program, automakers would voluntarily agree to manufacture LEVs for 49 states as an alternative to the California LEV program. Section 202(b)(1)(C) of the CAA precludes the EPA from mandating new exhaust emission standards before the 2004 model year. Therefore, states and the auto manufacturers must agree voluntarily to accept the NLEV program as an alternative to complying with Section 177 state low emission vehicle programs.

In its OTC-LEV rulemaking, the EPA described various reasons why a LEV-equivalent (NLEV) program offered significant advantages over the OTC-LEV program including, but not limited to the following: (1) the same or greater emission reductions for the OTR; (2) significant health and environmental benefits Nationwide; (3) if vehicles meet the same tailpipe standards in both California and the rest of the country, harmonizing California and Federal emission standards could streamline the process for certifying a vehicle for sale, and auto manufacturers testing and design costs could be reduced Nationwide. (60 F.R. 4713, January 24, 1995). The SIP call did not, however, include a zero-emission vehicle production mandate based on a determination by the EPA that section 177 of the CAA allows states to adopt California emission standards without adopting the ZEV production mandate. The EPA's approval of the OTC-LEV petition was based on a determination under sections 184(c) and 110(a)(2)(D) of the CAA that the LEV program was needed throughout the OTR to bring certain ozone nonattainment areas into attainment by the applicable attainment deadlines.

In October 1995, the EPA proposed a National Low Emission Vehicle (NLEV) program that would provide greater emission reductions than a regional LEV program. The NLEV proposal was endorsed by the OTC Memorandum of Understanding (MOU) concerning the "Implementation of the 49 State Low Emission Vehicle Program" (initialed by the OTC on August 21, 1996 and ratified on September 5, 1996).

Six states in the OTR have adopted California LEV or OTC-LEV programs and submitted SIP revisions to the EPA for approval. LEV programs are currently in effect in New York, Massachusetts and Connecticut which include a zero-emission vehicle mandate. The states of New Jersey, Rhode Island and Vermont submitted OTC-LEV programs to the EPA as "backstop" programs. Manufacturers would not have to comply with LEV programs in those states if the NLEV program comes into effect.

On March 11, 1997, the U.S. Circuit Court of Appeals (D.C. Circuit) vacated the OTC-LEV Rule and SIP call. (*Virginia v. EPA*, CADC, No 95-1163, March 11, 1997). The Court held that section 110 of the CAA does not

authorize the EPA to impose specific control measures on states. The Court also ruled that sections 177 and 202 of the CAA prevent the EPA from mandating that states adopt motor vehicle emission standards even if the standards are identical to the California emission standards prior to the 2004 model year. Although the EPA cannot mandate that states adopt LEV programs, the Court specifically held that states may adopt and implement LEV programs identical to the California program.

On June 6, 1997, the EPA promulgated the NLEV final rule establishing the basic framework for the voluntary program which allows auto manufacturers to comply with tailpipe standards modeled after the California program while providing less stringent fleet average NMOG standards and Federal implementation. The NLEV program allows manufacturers to certify light-duty vehicles and light-light duty trucks certified by the California Air Resources Board (CARB) to either of the following certification standards: Tier 1, transitional low emission vehicle (TLEV), low emission vehicle (LEV), ultra-low emission vehicle (ULEV) or zero-emission vehicle (ZEV). These certification categories contain tailpipe emission standards for CO, formaldehyde (HCHO), NO_x, NMOG and particulate matter (PM).

The NLEV program requirements will not become effective unless all of the auto manufacturers opt into the program. Once the program becomes effective, the auto manufacturers would have to comply with the tailpipe emission standards and annual fleet average NMOG value. Should NLEV come into effect, tailpipe emission standards and NMOG fleet averages would be those established by the EPA's final NLEV rule. (62 F.R. 31192, June 6, 1997).

This proposed rulemaking establishes a new motor vehicle emissions control program which includes a clean vehicles program that adopts and incorporates by reference the low emission vehicle program of California as a backstop to the NLEV program. This program would only be implemented if NLEV does not become effective if automakers opt out of the NLEV program and/or at the conclusion of the NLEV program. The Department proposes to incorporate by reference new emission standards for passenger cars and light-duty trucks that are identical to the low emission standards adopted by California except for the ZEV production mandate and the emissions control warranty systems statement provisions.

The Commonwealth's proposed new motor vehicle emissions control program does not mandate the sale or use of reformulated motor fuels which comply with the specifications for reformulated motor fuels mandated by the State of California. The Courts have held that a state's failure to adopt California fuel requirements does not violate the Section 177 requirement that state emission standards be "identical to the California standards for which a waiver has been granted." (42 U.S.C.A. § 7507). *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 171 F.3d 521 (2nd Cir. 1994); *American Automobile Manufacturers Association v. Greenbaum*, No. 93-10799-MA (D. Mass. October 27, 1993).

This proposed rulemaking will allow the Department to revise the Commonwealth's State Implementation Plan to identify the NLEV program as an alternative to complying with the low emission vehicle standards of California specified in the Clean Vehicles Program requirements. If the NLEV program comes into effect, the proposal allows auto manufacturers to meet NLEV requirements as a compliance alternative for the Clean Vehicles Program for

light-duty vehicles, light-duty trucks rated at 6,000 pounds or less GVW, and medium duty trucks rated from 6,001 to 14,000 pounds GVW (if designed to operate on gasoline). If a manufacturer elects NLEV as a compliance alternative, the manufacturer would be subject to the NLEV program requirements until the 2006 model year or until the first model year that manufacturers must meet a more stringent mandatory Federal exhaust emissions program for light duty vehicles and light-light duty trucks than is currently in place. If a manufacturer opts out of NLEV according to opt-out procedures in the NLEV regulation, the manufacturer would then be subject to the requirements of the Commonwealth's Section 177 program.

Following promulgation of the proposed new motor vehicles emissions control regulation, amendments to Chapters 121 and 126 will be submitted to the EPA as a revision to the State Implementation Plan. This regulation will also be submitted to the EPA as a substitute for the Clean Fuel Fleet program required under sections 182(c)(4) and 246 of the Federal CAA.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking. On July 19, 1997, the AQTAC recommended that the proposed rulemaking be submitted to the Board for consideration. As required under section 5(a)(7) of the Air Pollution Control Act, the Department also consulted with the Department of Transportation during the development of the proposed amendments.

E. Summary of Regulatory Requirements

This proposal establishes the requirements for the implementation of a new motor vehicles emissions control program. The proposal allows auto manufacturers to comply with the provisions of the NLEV program as an alternative to complying with more stringent low emission vehicle standards established by CARB. A summary of the proposed rulemaking follows:

Chapter 121. General Provisions

The proposed amendments to § 121.1 (relating to definitions) includes terms and phrases applicable to the Clean Vehicles Program. The proposed definitions include the following terms: "ATV—advanced technology vehicle," "CARB—California Air Resources Board," "Clean Vehicles Program," "dealer," "emission standard," "fleet average," "GVWR—gross vehicle weight rating," "motor vehicle manufacturer," "model year," "motor vehicle," "NLEV—National Low Emission Vehicle," "NLEV Program," "new motor vehicle or new light-duty vehicle," "offset vehicle," "passenger car," "ultimate purchaser" and "ZEV—zero-emission vehicle."

The proposed definition of the term "emergency vehicle" is consistent with the statutory definition of "emergency vehicle" codified at 75 Pa.C.S. § 102 (relating to definitions).

The proposed rulemaking also amends the existing definition of "light-duty truck" to include a meaning in the "light-duty truck" definition that is consistent with Title 13, CCR § 1900(b)(8). For purposes of the new motor vehicle emissions control program requirements, a "light-duty truck" is a motor vehicle rated at 6,000 pounds gross vehicle weight (GVW) or less and loaded vehicle weight of 5,750 pounds or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

*Chapter 126. Mobile Sources**Subchapter D. New Motor Vehicle Emissions Control Program*

Subchapter D contains provisions which establish a new motor vehicle emissions control program in this Commonwealth to reduce the emissions of NOx and VOCs, ozone precursors, from passenger cars and light-duty trucks under section 177 of the CAA. The proposal provides the regulatory framework to allow auto manufacturers to comply with the NLEV program requirements as a compliance alternative to complying with California's more stringent LEV standards and to meet the requirements of the State opt-in provisions of the NLEV program.

Section 126.401 (relating to purpose) establishes an alternative low emissions vehicle program consistent with the requirements of section 177 of the CAA (Section 177). The proposed rule recognizes the voluntary NLEV program as an acceptable compliance alternative to the Clean Vehicles Program established under this subchapter. It adopts and incorporates by reference certain provisions of the California Low Emission Vehicles Program which serve as the basic framework for the Commonwealth's Clean Vehicles Program.

Section 126.402 (relating to NLEV scope and applicability) allows motor vehicle manufacturers to comply with the NLEV program requirements as an alternative to complying with Section 177 program requirements of the Commonwealth's Clean Vehicles Program. If the NLEV program becomes effective, the NLEV program requirements would be applicable as a compliance alternative for light-duty vehicles and light-duty trucks rated at or less than 6,000 pounds GVW, and medium duty trucks from 6,001 to 14,000 pounds GVW. The use of the NLEV as a compliance alternative for the automobile manufacturers would be triggered by an EPA finding that the NLEV program is in effect. Once effective, the duration of the NLEV program would continue in effect until the model year 2006 or until the EPA Administrator required Federal exhaust emission standards for light-duty vehicles and light-light-duty trucks that would be at least as stringent as the NMOG, NOx and CO emission standards for the NLEV program, whichever occurs first.

If the NLEV program does not become effective, or automakers opt out of the NLEV program, manufacturers no longer participating in the NLEV program would then be subject to the Section 177 program requirements of this subchapter in accordance with NLEV transitional provisions which the EPA intends to propose in a supplemental rulemaking. The new motor vehicle emission control requirements of this subchapter would not apply for any model year, motor vehicle or motor vehicle engine for which the EPA adopts more stringent emission standards.

Section 126.411 (relating to general requirements) contains the provisions for the implementation of a low emissions vehicle program consistent with the requirements of section 177 of the CAA. As proposed, this section adopts and incorporates by reference certain emission standards that are applicable in California. The rule adopts and incorporates by reference Title 13 CCR, Chapter 1 (relating to motor vehicle pollution control devices) and Chapter 2 (relating to enforcement of vehicle emission standards and surveillance testing). This incorporation by reference includes exhaust emission standards for light-duty, transition low emission vehicles, low emission vehicles and ultra-low emission vehicles. How-

ever, the Commonwealth's Clean Vehicles Program does not adopt and incorporate the reformulated fuels component of the California low emissions vehicle program.

The proposed Clean Vehicles Program does not mandate the sale of zero-emission vehicles. Therefore, the proposed rule does not incorporate the zero-emissions sales mandate provision specified in Title 13, CCR § 1960.1(g)(2) (footnote 9) and will not require manufacturers complying with the Clean Vehicles Program to include a specified percentage of ZEVs in the manufacturers sales fleet of passenger cars and light-duty trucks beginning in the 2003 model year.

The rule does not adopt and incorporate the Emission Control Warranty Statement provisions in Title 13 CCR § 2039 which describes a California warranty statement that is included along with the manufacturer's new motor vehicle warranty. The California statement includes references to California's SmogCheck vehicle emission inspection program.

As proposed, § 126.412 (relating to emission requirements) prescribes that no person shall sell, import, deliver, purchase, lease, rent, acquire, receive or register a new motor vehicle subject to the clean vehicle program requirements in this Commonwealth that has not received a CARB Executive Order beginning in the 2001 model year. All new passenger cars and light-duty trucks in the model year 2001 and subsequent model years would have to meet the California low emission vehicle standards.

Proposed § 126.412(d) provides that new motor vehicles subject to the emission standards for the Clean Vehicles Program must possess a valid emissions control label which meets the requirements of Title 13 CCR § 1965.

Proposed § 126.413 (relating to exemptions) provides an exemption from the Clean Vehicles Program for the following types of new motor vehicles: emergency vehicles and light-duty vehicles transferred by a dealer to another dealer, transferred for use exclusively off-highway or transferred for registration out of State. The proposal also provides an exemption for vehicles granted a National security or testing exemption under section 203(b)(1) of the CAA and motor vehicles defined as military tactical vehicles or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703.

The proposal includes exemptions for light-duty vehicles held for daily lease or rental to the general public as well as light-duty vehicles engaged in interstate commerce which are principally operated outside this Commonwealth.

An exemption from the clean vehicle program requirements is provided for light-duty vehicles acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth; provided that such replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

The proposed rule also provides exemptions for light-duty vehicles transferred by inheritance or court decree and light-duty vehicles transferred after the date on which this subchapter becomes applicable if the vehicles were registered in this Commonwealth before the effective date of the Clean Vehicles Program.

The proposal exempts light-duty vehicles having a certificate of conformity issued under the Federal CAA

and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth. Upon registration of the vehicle in this Commonwealth, the registrant must provide satisfactory evidence to the Department of Transportation concerning the previous out-of-State residence and motor vehicle registration.

In order to obtain the exemptions authorized under § 126.413, the person seeking registration must provide satisfactory evidence that the exemption is applicable, as determined by the Department of Transportation.

Proposed § 126.421 (relating to new motor vehicle certification testing) provides that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Clean Vehicles Program requirements must be certified by auto manufacturers to meet the requirements of Title 13 CCR § 1960.1 as determined by testing in accordance with Title 13 CCR Chapter 2, §§ 2101—2110, 2150 and 2151, which are incorporated by reference in this section. New Vehicle Compliance Testing determinations and findings made by CARB shall apply to testing conducted under this section.

Proposed § 126.422 (relating to new motor vehicle compliance testing) requires that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR § 1960.1, as determined by New Vehicle Compliance Testing, conducted under Title 13 CCR §§ 2101—2110, 2150 and 2151, incorporated by reference.

Proposed § 126.423 (relating to assembly line testing) provides that each manufacturer of new motor vehicles subject to the requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct Inspection Testing and Quality Audit Testing under Title 13 CCR §§ 2061, 2106 and 2107, incorporated by reference. Inspection Testing and Quality Audit Testing determinations and findings made by CARB shall apply to assembly line testing conducted under this section.

Subsection (c) provides that if a motor vehicle manufacturing facility which manufactures vehicles certified by CARB, for sale in this Commonwealth, is not subject to the Inspection Testing and Quality Audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing under Title 13 CCR §§ 2061, 2106, 2107 and 2150, incorporated by reference. An auto manufacturer may, upon written request and demonstration of need, substitute functional testing. With the written consent of the Department, the testing of a statistically significant sample conducted under the procedures incorporated in Title 13 CCR § 2061 can be substituted for the 100% testing rate in Title 13 CCR § 2061.

Proposed § 126.424 (relating to in-use motor vehicle enforcement testing) allows the Department to conduct in-use vehicle enforcement testing under the protocol and testing procedures in Title 13 CCR §§ 2136-2140, incorporated by reference, after consulting with CARB if motor vehicles subject to the Clean Vehicles Program requirements fail to meet the motor vehicle emission requirements of Title 13 CCR § 1960.1. In-use vehicle enforcement testing determinations and findings made by CARB shall apply to testing conducted under this section.

Proposed § 126.425 (relating to in-use surveillance testing) provides that for purposes of testing and monitoring the overall effectiveness of Pennsylvania's Clean

Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB. The in-use surveillance testing determinations and findings made by CARB shall be applicable.

Proposed § 126.431 (relating to warranty and recall) specifies that a manufacturer of new motor vehicles, subject to the requirements of this subchapter, shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with all requirements of Title 13 CCR §§ 2035—2038, 2040 and 2041, as amended and incorporated by reference. Failure of Emission-Related Components reports as defined in Title 13 CCR § 2144 for vehicles subject to this subchapter must be submitted to the Department. The Emission Related Components reports must comply with the procedures in Title 13 CCR §§ 2141—2149 and are incorporated by reference.

Subsection (c) provides that any voluntary or influenced emission-related recall campaign initiated by any automobile manufacturer under Title 13, CCR §§ 2113—2121 shall extend to all new motor vehicles subject to this subchapter, sold, leased, offered for sale or lease or registered in this Commonwealth.

Proposed § 126.432 (relating to reporting requirements) specifies that for purposes of determining compliance with the requirements of the clean vehicle program, commencing with the 2001 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year, in this Commonwealth.

Subsection (b) requires each motor vehicle manufacturer to annually submit to the Department, no later than March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each engine family for this Commonwealth for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG Exhaust Emission Average, must be prepared according to the procedures in Title 13, CCR § 1960.1(g)(2).

Subsection (c) specifies that the fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth and California, respectively, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth and California in relation to total fleet sales in the respective states.

Proposed § 126.441 (relating to responsibilities of motor vehicle dealers) provides that dealers may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the standards and requirements contained in Title 13, CCR § 2151 and incorporates those provisions by reference.

F. *Benefits and Costs*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

Benefits

The new motor vehicle emissions control program will contribute to the attainment and maintenance of the ozone health standard in this Commonwealth due to emission reductions from the operation of lower-emitting

passenger cars and light-duty trucks. Modeling data from the Philadelphia area indicate that daily emissions of NOx and VOCs will be reduced by 13.5 and 11.5 tons, respectively, in 2005.

Implementation of the NLEV program as an alternative compliance strategy will result in significant environmental and health benefits. The NLEV program will not only reduce ozone pollution but will also reduce emissions of particulate matter, nonmethane organic gases (NMOG), benzene and formaldehyde. The EPA estimates that in the year 2005, the NLEV program will reduce benzene emissions by 7 tons per day and formaldehyde by 4 tons per day Nationwide. If implemented, the NLEV program should achieve NOx emission reductions of 400 tons/day in 2005 and 1,250 tons/day in 2015 on a Nationwide basis. Implementation of the National program would also result in NMOG emission reductions of 279 tons/day in 2005 and 778 tons/day in 2015.

Compliance Costs

Implementation of the NLEV program should result in a reduction in compliance costs for automakers. Manufacturers currently design, test and produce new motor vehicles meeting Federal or California emission standards. Implementation of the NLEV program would streamline the new car certification requirements thereby reducing testing costs. The proposed amendments should reduce compliance costs for auto manufacturers by eliminating duplicative reporting and recordkeeping requirements.

Consumers in this Commonwealth could be required to pay an additional \$76 to \$120 per vehicle for the cost of the required control technology. If the NLEV program is implemented as an alternative compliance strategy, the additional cost associated with the purchase of a vehicle subject to the NLEV program would be approximately \$76 which would be less than 0.5% of the price of a new car. The EPA believes that the incremental cost for LEVs available Nationwide will be less than \$76 due to factors such as continued advancement in automotive pollution control technology and the demonstrated rapid price decreases in successive model years for technology newly introduced by the auto industry. The incremental estimated costs per car for LEVs in California is approximately \$120. However, the EPA believes that LEV price estimates provided by CARB are usually higher than actual price differences.

Compliance Assistance Plan

Compliance assistance will be provided to affected parties, primarily automobile dealers, by distributing pamphlets and conducting public meetings and workshops to explain the proposed regulatory requirements. The Department will involve appropriate State trade organizations in the distribution of information to their membership. Information concerning the program will also be provided to affected consumers.

Paperwork Requirements

Automobile manufacturers will be required to submit paperwork demonstrating compliance with the emission standards and other requirements of Pennsylvania's Clean Vehicles Program. Motor vehicle dealers, leasing and rental agencies and registrants of new motor vehicles must demonstrate to the Department of Transportation's Bureau of Motor Vehicles that new vehicles subject to the proposed amendments meet the emission standards.

If the NLEV program comes into effect, auto manufacturers would under certain circumstances have to stream-

line reporting requirements. Reporting of separate NMOG fleet averages for each trading region may not be required. In addition, the manufacturers could use production data to demonstrate compliance instead of providing sales data. The EPA has estimated that the testing, recordkeeping and reporting requirements should be approximately 241 hours annually for each manufacturer. However, the time allocated to paperwork may vary depending on factors such as the number of engine families certified, production changes or emission defects, and the like.

G. Sunset Review

The proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the Proposed Rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulation.

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by February 12, 1998. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by February 12, 1998. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by February 12, 1998.

J. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held at 1 p.m. on the following dates and locations:

January 5, 1998, Department of Environmental Protection, 1st Floor Meeting Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

January 7, 1998, Department of Environmental Protection, Southeast Regional Office, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA

January 13, 1998, Department of Environmental Protection, Southwest Regional Office, 500 Waterfront Drive, Pittsburgh, PA

Persons wishing to present testimony at a hearing are requested to contact Kate Coleman at the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation in order to participate should contact Kate Coleman at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Chairperson

(Editor's Note: Proposals to amend § 121.1 remain outstanding at 27 Pa.B. 1822, 4325 and 4340 (April 12, 1997 and August 23, 1997).

Fiscal Note: 7-330. (1) General Fund, Motor License Fund, Game Fund, Fish Fund, Boat Fund and Purchasing Fund;

Table with 3 columns: Item description, NLEV Program, PCV Program. Rows include implementing year 1998-99, succeeding years 1999-00 through 2003-04, and fiscal years 1997-98, 1996-97, 1995-96.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

ATV—Advanced Technology Vehicle—A light-duty vehicle or light-duty truck as defined in 40 CFR 86.1702-97 (relating to definitions).

* * * * *

CARB—California Air Resources Board—The board established and empowered to regulate sources of air pollution in California, including motor vehicles, under California Health & Safety Code Sections 39500 et seq.

CARB Executive Order—A document issued by CARB certifying that a specified engine family or model year vehicle has met applicable Title 13 CCR requirements for certification and sale in California.

CCR—California Code of Regulations.

Clean Vehicles Program—A low emissions vehicle program established under section 177 of the CAA (42 U.S.C.A. § 7507) which implements the low emission standards for new motor vehicles and motor vehicle engines adopted by California under a waiver obtained from the Administrator of the EPA under section 209(b) of the CAA (42 U.S.C.A. § 7543(b)).

* * * * *

Dealer—A person who is engaged in the sale or distribution of new motor vehicles or new motor vehicles to the ultimate purchaser as defined in section 216(4) of the CAA (42 U.S.C.A. § 7550).

Debit—Fleet average NMOG debits as calculated from the amount that the manufacturer's applicable fleet average NMOG value is above the applicable fleet average NMOG standard, times the applicable production for a given model year.

* * * * *

Emergency vehicle—A fire, police or sheriff department vehicle, ambulance, blood-delivery vehicle, hazardous material response vehicle, armed forces emergency vehicle, one vehicle operated by a coroner or chief deputy coroner or deputy chief county medical examiner used for answering emergency calls. The term includes motor vehicles designated as emergency vehicles by the Pennsylvania State Police under 75 Pa.C.S. § 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), or a privately owned vehicle specified in 75 Pa.C.S. § 102 (relating to definitions) which is used in answering an emergency call by any of the following:

- (i) A police chief and assistant chief.
(ii) A fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief.
(iii) A fire police captain and fire police lieutenant.
(iv) An ambulance corps commander and assistant commander.
(v) A river rescue commander and assistant commander.
(vi) A county emergency management coordinator.
(vii) A fire marshal.
(viii) A rescue service chief and assistant chief.

Emission standard—Specified limitations on the discharge of air contaminants into the atmosphere.

* * * * *

Fleet average—For the purposes of motor vehicles subject to the Department's Clean Vehicle Program

requirements, a motor vehicle manufacturer's average vehicle emissions of all NMOG emissions from vehicles which are produced and delivered for sale in this Commonwealth in any model year.

* * * * *

GVWR—Gross Vehicle Weight Rating—The total motor vehicle weight, including load, as designated by the manufacturer of the vehicle.

* * * * *

LDT—Light duty truck—A motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation or major components of the vehicle, including, but not limited to chassis, frames, doors and engines. For purposes of Chapter 126, Subchapter D (relating to new motor vehicle emissions control program requirements, a light-duty truck is a motor vehicle, rated at 6,000 pounds gross vehicle weight or less which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

LDV—Light duty vehicles—A passenger car or light-duty truck.

* * * * *

Model year—The manufacturer's annual production period (as determined under 40 CFR 85.2304 (relating to definition of production period) which includes January 1 of the calendar year. If the manufacturer has no annual production period, the term means the calendar year.

* * * * *

Motor vehicle—A self-propelled vehicle designed for transporting persons or property on a street or highway.

Motor vehicle manufacturer—A person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines or importing these vehicles or engines for resale. The term includes a person who acts for and is under the control of any manufacturer in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines. The term does not include a dealer with respect to new motor vehicles or new motor vehicle engines received by the dealer in commerce.

* * * * *

NLEV—National Low Emission Vehicle.

NLEV Program—A voluntary low emission vehicle program specified in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) for light-duty vehicles and light-duty trucks.

NMOG—Non-methane organic gases.

* * * * *

New motor vehicle or new light-duty vehicle—A motor vehicle for which the equitable or legal title has never been transferred to the ultimate purchaser. For purposes of the Pennsylvania Clean Vehicles Program, the equitable or legal title to a

motor vehicle with an odometer reading of 7,500 miles or more shall be considered to be transferred to the ultimate purchaser. If the equitable or legal title to a motor vehicle with an odometer reading is less than 7,500 miles, the vehicle will not be considered to be transferred to the ultimate purchaser.

* * * * *

Offset vehicle—A light-duty vehicle which has been certified by California as set forth in CCR, Title 13, Chapter 1, Section 1960.

* * * * *

Passenger car—A motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.

* * * * *

Ultimate purchaser—With respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

* * * * *

ZEV—Zero-Emission Vehicle—A light-duty vehicle which is certified to produce zero emissions of any criteria pollutants under any possible operational modes and conditions. Incorporation of a fuel fired heater does not preclude a vehicle from being certified as a ZEV so long as the fuel fired heater cannot be operated at ambient temperatures above 40° F and the heater is demonstrated to have zero evaporative emissions under any operational modes and conditions.

CHAPTER 126. MOBILE SOURCES

(Editor's Note: Subchapter D is new and is printed in regular type to enhance readability.)

Subchapter D. NEW MOTOR VEHICLE EMISSIONS CONTROL PROGRAM

GENERAL PROVISIONS

- Sec. 126.401. Purpose
- 126.402. NLEV scope and applicability

PENNSYLVANIA CLEAN VEHICLES PROGRAM

- 126.411. General requirements
- 126.412. Emission requirements
- 126.413. Exemptions

APPLICABLE NEW MOTOR VEHICLE TESTING

- 126.421. New motor vehicle certification testing
- 126.422. New motor vehicle compliance testing
- 126.423. Assembly line testing
- 126.424. In-use motor vehicle enforcement testing
- 126.425. In-use surveillance testing

MOTOR VEHICLE MANUFACTURERS OBLIGATIONS

- 126.431. Warranty and recall
- 126.432. Reporting requirements

MOTOR VEHICLE DEALER RESPONSIBILITIES

- 126.441. Responsibilities of motor vehicle dealers

GENERAL PROVISIONS

§ 126.401. Purpose.

(a) This subchapter establishes a clean vehicles program under section 177 of the CAA (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone and other air pollutants from new motor vehicles.

(b) This subchapter allows motor vehicle manufacturers to comply with the voluntary NLEV program described in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), as a compliance alternative to the Pennsylvania Clean Vehicles Program requirements described in §§ 126.411—126.441.

(c) This subchapter recognizes the NLEV program as an acceptable alternative to the clean vehicles program established under section 177 of the CAA and creates the mechanism to meet the requirements of the state opt-in provisions of the NLEV program.

(d) The subchapter adopts and incorporates by reference certain provisions of the California Low Emission Vehicle Program.

(e) The subchapter also exempts certain new motor vehicles from the Pennsylvania Clean Vehicles Program.

§ 126.402. NLEV scope and applicability.

(a) Motor vehicle manufacturers may comply with the NLEV program requirements in 40 CFR Part 86 Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) as an alternative to complying with the Pennsylvania Clean Vehicles program requirements established in §§ 126.411—126.441. The calculation of the NLEV fleet average value shall exclude ATVs purchased by the Commonwealth.

(b) When a manufacturer chooses NLEV as an alternative to complying with the Pennsylvania Clean Vehicles Program, and if the NLEV program comes into effect, NLEV requirements apply as a compliance alternative for light-duty vehicles, light duty trucks rated at 6,000 pounds GVW or less, and medium duty trucks from 6,001 to 14,000 pounds GVW (if designed to operate on gasoline), until model year 2006 or the first model year for which a mandatory Federal exhaust emissions program for light-duty vehicles and light duty trucks is at least as stringent as the NLEV Program with respect to NMOG, NOx and CO emission standards determined by the Administrator of the EPA, whichever is earlier.

(c) For the purposes of this subchapter, the NLEV program has come into effect if EPA finds that the following conditions have been met and that finding is published in the *Federal Register*:

(1) Motor vehicle manufacturers listed in 40 CFR 86.1706-97(b) (relating to national LEV program in effect) have lawfully opted in to the NLEV program.

(2) No valid opt-out has become effective under 40 CFR 86.1705-97.

(d) If the NLEV program does not come into effect, the Pennsylvania Clean Vehicles Program applies to all new passenger cars, light-duty trucks and medium duty trucks (if designed to operate on gasoline) sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth for the 2001 model year and each model year thereafter.

(e) If NLEV is determined by rulemaking to no longer be in effect or an auto manufacturer exercises a valid opt-out from the NLEV program in accordance with 40 CFR 86.1705-97 (relating to general provisions; opt-in; opt-out), the manufacturer shall comply with the requirements in this subchapter. The transition from the NLEV program to the Pennsylvania Clean Vehicles Program will proceed in accordance with NLEV regulations promulgated under the CAA.

(f) This subchapter does not apply for any model year, motor vehicle, motor vehicle engine, or motor vehicle system for which EPA adopts Federal vehicle emission standards which are more stringent than the requirements of this subchapter.

PENNSYLVANIA CLEAN VEHICLES PROGRAM

§ 126.411. General requirements.

(a) If the NLEV program does not come into effect is no longer in effect, or an automobile manufacturer opts out of the NLEV program in accordance with the procedures in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), the provisions of the California Low Emission Vehicle Program, Title 13, CCR, Chapters 1 and 2, are adopted and incorporated herein by reference, and apply except for the following:

(1) The zero emissions vehicle sales mandate in Title 13 CCR Chapter 1, § 1960.1(g)(2) (footnote 9).

(2) The Emissions Control System Warranty Statement in Title 13 CCR Chapter 2, § 2039.

(b) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth for the 2001 model year and subsequent model years.

(c) This subchapter will be effective at least 2 model years before commencement of the Pennsylvania Clean Vehicles Program.

§ 126.412. Emission requirements.

(a) Effective model year 2001, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicle Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Effective model year 2001, compliance with the fleetwide average in Title 13 CCR Chapter 1, § 1960.1(g)(2), shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth. This requirement excludes the percentage requirement for zero emission vehicles included in footnote 9 of Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Credits and debits for calculating the fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(d) New motor vehicles subject to the emission standards of this subchapter shall possess a valid emissions control label which meets the requirements of Title 13 CCR Chapter 1, § 1965, incorporated herein by reference.

§ 126.413. Exemptions.

(a) The following new motor vehicles are exempt from the Pennsylvania Clean Vehicles Program requirements of this subchapter:

(1) Emergency vehicles.

(2) A light-duty vehicle transferred by a dealer to another dealer.

(3) A light-duty vehicle transferred for use exclusively off-highway.

(4) A light-duty vehicle transferred for registration out of state.

(5) A light-duty vehicle granted a National security or testing exemption under section 203(b)(1) of the CAA (42 U.S.C.A. § 7522(b)(1)).

(6) A light-duty vehicle held for daily lease or rental to the general public which is principally operated outside of this Commonwealth.

(7) A light-duty vehicle engaged in interstate commerce which is principally operated outside of this Commonwealth.

(8) A light-duty vehicle acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth if the replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(9) A light-duty vehicle transferred by inheritance or court decree.

(10) A light-duty vehicle defined as a military tactical vehicle or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to application of section 216(2)).

(11) A light-duty vehicle sold after ____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) if the vehicle was registered in this Commonwealth before ____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal).

(12) A light-duty vehicle having a certificate of conformity issued under the CAA and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth and upon registration of the vehicle provides satisfactory evidence to the Department of Transportation of the previous residence and registration.

(b) To register any exempted vehicle, the person seeking registration shall provide satisfactory evidence, as determined by the Department of Transportation, demonstrating that the exemption is applicable.

APPLICABLE MOTOR VEHICLE TESTING

§ 126.421. New motor vehicle certification testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1 as determined by testing in accordance with Title 13 CCR Chapter 2, §§ 2101-2110, 2150 and 2151, incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable.

§ 126.422. New motor vehicle compliance testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to Pennsylvania Clean Vehicles Program requirements of this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1, as

determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR Chapter 2, §§ 2101-2110, 2150 and 2151, and incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable.

§ 126.423. Assembly line testing.

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106, and 2107, incorporated herein by reference.

(b) For purposes of complying with subsection (a), inspection testing and quality audit testing determinations and findings made by CARB are applicable.

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106, 2107 and 2150, incorporated herein by reference. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR Chapter 2, § 2061 of a statistically significant sample may substitute for the 100% testing rate in Title 13 CCR Chapter 2, § 2061, with the written consent of the Department.

§ 126.424. In-use motor vehicle enforcement testing.

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR Chapter 1, § 1960.1, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR Chapter 2, §§ 2136-2140, incorporated herein by reference.

(b) For purposes of compliance with subsection (a), in-use vehicle enforcement testing determinations and findings made by CARB are applicable.

(c) The results of testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

§ 126.425. In-use surveillance testing.

(a) For purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB.

(b) For purposes of program planning, in-use surveillance testing determinations and findings made by CARB are applicable.

(c) The results of in-use surveillance testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

VEHICLE MANUFACTURERS' OBLIGATIONS**§ 126.431. Warranty and recall.**

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or lease or registered in this Commonwealth, shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with the requirements of Title 13 CCR Chapter 2, §§ 2035-2038, 2040, and 2041, incorporated herein by reference.

(b) Each motor vehicle manufacturer shall submit to the Department failure of emission-related components reports, as defined at Title 13 CCR Chapter 2, § 2144, for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 Chapter 2, CCR §§ 2141-2149, incorporated herein by reference.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any automobile manufacturer under Title 13 CCR Chapter 2, §§ 2113-2121 shall extend to all new motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

§ 126.432. Reporting requirements.

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2001 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed model year, a report of the fleet average

NMOG emissions of its total deliveries for sale of LDVs in each engine family for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth and California, respectively, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth and California in relation to total fleet sales in the respective states.

MOTOR VEHICLE DEALER RESPONSIBILITIES**§ 126.441. Responsibilities of motor vehicle dealers.**

(a) A dealer may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the following standards and requirements contained in Title 13 CCR Chapter 2, § 2151 and incorporated herein by reference:

(1) Ignition timing is set to manufacturer's specification with an allowable tolerance of ± 3 degrees.

(2) Idle speed is set to manufacturer's specification with an allowable tolerance of ± 100 revolutions per minute.

(3) Required exhaust and evaporative emission controls including exhaust gas recirculation (EGR) valves, are operating properly.

(4) Vacuum hoses and electrical wiring for emission controls are correctly routed.

(5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

[Pa.B. Doc. No. 97-1940. Filed for public inspection November 28, 1997, 9:00 a.m.]