

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/07/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/1/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

26 11 34 02

3. Name of Promulgating Authority

Department of the Environment

4. Name of Regulations Coordinator

Tiachia K Soto

Telephone Number

410-537-4219

Mailing Address

1800 Washington Blvd.

City State Zip Code

Baltimore MD 21230

Email

tiachia.soto@maryland.gov

5. Name of Person to Call About this Document

Marcia Ways

Telephone No.

410-537-3286

Email Address

marcia.ways@maryland.gov

6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: August 15, 2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Roberta James, Assistant Attorney General, (telephone #410-537-3748) on September 19, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Robert M. Summers, Ph.D

Title

Secretary of the Environment

Telephone No.

410-537-3084

Date

October 1, 2014

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

26.11.34 Low Emissions Vehicle Program

Authority: Authority: Environment Article, §§1-404, 2-102, 2-103, 2-301, 2-1102, and 2-1103, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of the Environment proposes to amend Regulation .02 under COMAR 26.11.34 Low Emissions Vehicle Program.

Statement of Purpose

The purpose of this action is to amend regulation .02 under COMAR 26.11.34 to update the Incorporation by Reference documents to reflect the changes made to the California regulations since their last update.

These amendments will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Maryland's State Implementation Plan (SIP).

Background

Vehicles sold in the United States must be certified under one of two certification programs: the federal program (Tier 2) or the California program (the Clean Car Program). Section 177 of the Clean Air Act Amendments of 1990 provides states the ability to adopt the California program in lieu of the federal program as long as the adopted state program is identical to the California program and the state allows two model years lead time from adoption to implementation.

The Maryland Clean Cars Act of 2007 required the Maryland Department of the Environment (MDE) to adopt regulations implementing the California Clean Car Program (also referred to as the California Low Emissions Vehicle Program (Cal LEV) in Maryland. Maryland's implementing regulations adopted, through incorporation by reference, the applicable California regulations. The Cal LEV program is a dynamic, changing program in which many of the relevant California regulations are continuously updated. To retain California's standards, Maryland must remain consistent with their regulations, hence when California updates its regulations, Maryland must reflect these changes by amending our regulations.

The proposed changes are in effect in California as well as some of the other states that have adopted the Cal LEV program. The only regulatory change in this proposed action

is to the ZEV portion of the regulation. It will have minimal, if any, impact on the cost or implementation of the program in Maryland. Reference updates to the incorporated by reference documents have also been included.

Sources Affected and Location

These amendments apply to automobile manufacturers that produce new motor vehicles for sale in Maryland. All vehicle types that have a gross vehicle weight rating of less than 14,000 pounds are affected.

Requirements

These amendments update Maryland's program requirements to be consistent with California's program requirements. This action is necessary since many of the California regulations that are incorporated into the Maryland regulation have been updated. These individual regulatory changes can be grouped into 3 areas:

- Adjustments to the optional Section 177 state compliance path (OCP).
- Maintain a minimum ZEV credit requirement for manufacturers for each model year.
- Amend the fast refueling definition for determining ZEV types.

These changes are described in greater detail in the Technical Support Document for this action. The biggest change that will affect Maryland is the elimination of certain credits from being used to meet the OCP requirements. Manufacturers will only be allowed to meet the requirements from credits generated by vehicles actually placed in the state, which was the original intent of the OCP as negotiated with the manufacturers.

Expected Emissions Reductions

The changes to the ZEV portion of the regulation may have a small positive impact on the benefits, as it is designed to ensure more ZEVs are actually delivered to the Section 177 States in order to comply with the OCP. The emissions impact is expected to be minimal though, as the manufacturer fleet average emission requirement remains the same.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

Minimal additional burden or cost is expected as a result of these amendments. The changes to the OCP, and maintaining a minimum ZEV credit requirement will require manufacturers to introduce more actual ZEVs to Maryland and the other Section 177

states. However, provisions to allow pooling across states and from the east and west regions from different model years will give manufacturers greater flexibility to meet the regulatory requirements in a way that is best for their business situation.

These amendments will have no economic impact on the Department. They also will have no impact on the Motor Vehicle Administration’s registration, data management, and dealer oversight activities related to this program.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-) Magnitude	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
(1) Cost to Consumers	(+)	Minimal
(2) Health/Environmental Benefits	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. These amendments should have no impact on Maryland dealers. The increase in ZEVs that will result from this amendment will be minimal, and enable the dealers to provide consumers with more of the most advanced and fuel efficient technology vehicles available.

F(1). The economic impact to Maryland consumers is minimal as there are no significant changes to the vehicle requirements.

F(2). Indirectly, the implementation of this program will benefit the public by helping to improve Maryland’s air quality and will result in fewer negative health effects on the general public from air pollution.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to , , , , or call , or email to , or fax to . Comments will be accepted through . A public hearing will be held, The Department of the Environment will hold a public hearing on the proposed action on January 7, 2015 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Mr. Randy Mosier, Chief of the Regulation Division, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or email to randy.mosier@maryland.gov. Comments must be received not later than January 7, 2015, or be submitted at the hearing. For more information, call Randy Mosier at (410) 537-4488.

Copies of the proposed action and supporting documents are available for review at the following locations:

- The Department of the Environment's website at:
<http://www.mde.state.md.us/programs/regulations/air/Pages/reqcomments.aspx>
- The Air and Radiation Management Administration; and
- Regional offices of the Department in Cumberland and Salisbury.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964.

TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 15

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are necessary to implement these amendments because they are of a general administrative nature and are necessary for Maryland to retain its Clean Car Program. The Maryland Clean Cars Act of 2007 required MDE to adopt regulations implementing the Cal LEV program. MDE's implementing regulations adopted, through incorporation by reference, the applicable California regulations. The Cal LEV

program is a dynamic, changing program in which many of the relevant California regulations are routinely reviewed and updated. To continue to implement California's standards, Maryland must remain consistent with their regulations, hence when California updates its regulations, Maryland must reflect these changes by amending our regulations, primarily COMAR 26.11.34.02.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

MDE expects these amendments will have little economic impact on small businesses. The ZEV regulation impacts large automobile manufacturers only, and the changes proposed will not greatly alter the number of ZEVs a manufacturer will need to produce for Maryland.

G. Small Business Worksheet:

Attached Document:

Incorporation by Reference
APPROVAL FORM

Date: September 18, 2014
COMAR: 26.11.34.02

Carolyn Jones
Maryland Department of the Environment
ARMA
1800 Washington Boulevard
Baltimore, MD 21230

Dear Carolyn:

The document entitled California Code of Regulations (CCR), Title 13 Motor Vehicles, Division 3 Air Resources Board, Chapters 1, 2, 3, and 4.4, is approved for incorporation by reference.

Please note the following special instructions: Insert document into an ACCO-Press binder and affix standard label to upper left outside cover.

Attach a copy of this approval form when submitting an emergency or proposed regulation to the AELR Committee and when submitting a proposed regulation to DSD for publication in the Maryland Register. If submitting through ELF, include as part of the attachment.

Any future changes to the incorporated documents do not automatically become part of the regulation. If there are subsequent changes to the incorporated documents, and the agency wishes those changes to become a part of its regulations, the agency must amend the regulation incorporating the documents.

Please call us if you have any questions.

Sincerely,
Gail S. Klakring
Senior Editor

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 34 Low Emissions Vehicle Program

Authority: Environment Article, §§1-404, 2-102, 2-103, 2-301, 2-1102, and 2-1103, Annotated Code of Maryland

.02 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1)–(8) (text unchanged)

(9) Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, §1962.1 Zero-Emission Vehicle Standards for 2009 through 2017 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, as effective [December 31, 2012] *July 10, 2014*.

(10) Title 13, California Code of Regulations (CCR), Division 3, Chapter 1, Article 2, §1962.2 Zero-Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, as effective [December 31, 2012] *July 10, 2014*.

(11)–(33) (text unchanged)

(34) Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.1, §2111 Applicability, as effective [August 16, 2009] *December 8, 2010*.

(35)–(45) (text unchanged)

(46) Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.2, §2122 General Provisions, as effective [January 4, 2008] *December 8, 2010*.

(47)–(59) (text unchanged)

(60) Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.3, §2136 General Provisions, as effective [January 4, 2008] *December 8, 2010*.

(61)–(64) (text unchanged)

(65) Title 13, California Code of Regulations (CCR), Division 3, Chapter 2, Article 2.4, §2141 General Provisions, as effective [January 4, 2008] *December 8, 2010*.

(66)–(78) (text unchanged)

(79) Title 13, California Code of Regulations (CCR), Division 3, Chapter 4.4, §2235 Requirements, as effective August [7] 8, 2012.

Robert M. Summers, Ph.D.
Secretary of the Environment