

DRAFT PROPOSED RULEMAKING
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:

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CPVC welding adhesive or chlorinated polyvinyl chloride welding adhesive—An adhesive labeled for welding of CPVC plastic.

California ZEV credit system—An online database operated by CARB that is used by both of the following:

(i) A motor vehicle manufacturer to enter credits generated under California’s ZEV program based on the number and kind of vehicles delivered for sale in California and section 177 states.

(ii) A section 177 state to monitor state-specific ZEV credit submissions and balances.

Can coating—Exterior coating and interior spray coating in two-piece can lines; interior and exterior coating in sheet coating lines for three-piece cans; side-seam spray coating and interior spray coating in can-fabricating lines for three-piece cans; and sealing compound application and sheet coating in end coating lines.

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Creditable emissions decrease—Emission changes at an existing major facility as determined in accordance with § 127.203a(a)(3).

Criteria air pollutant—For purposes of Chapter 126, Subchapter D (relating to the Pennsylvania Clean Vehicles Program), a pollutant for which a NAAQS has been established by the EPA.

Critical use and line sealer maskant—

(i) A temporary coating applied to aerospace vehicles or components, not covered under other maskant categories, used to protect selected areas of aerospace parts from strong acid or alkaline solutions such as those used in anodizing, plating, chemical milling and processing of magnesium, titanium or high strength steel, high precision

aluminum chemical milling of deep cuts and aluminum chemical milling of complex shapes.

(ii) The term includes materials used for repairs or to bridge gaps left by scribing operations—that is, a line sealer.

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Dwell time—The period of time between when a parts basket is placed in the solvent vapor zone of a batch vapor or in-line vapor cleaning machine and when solvent dripping ceases.

EAC—Early Action Credit—For purposes of Chapter 126, Subchapter D, a ZEV credit generated by a motor vehicle manufacturer based on the delivery for sale of a ZEV in this Commonwealth in the model years specified in § 126.412a(b) (relating to zero emission vehicle requirements) prior to the first applicable model year subject to the ZEV provisions in § 126.412a.

ERC—Emission Reduction Credit—A permanent, enforceable, quantifiable and surplus emissions reduction which can be considered as a reduction for the purpose of offsetting emissions increases.

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Fleet average—For [the] purposes of a motor [vehicles] vehicle subject to [Pennsylvania’s] the Pennsylvania Clean Vehicles Program [requirements, a], one of the following:

(i) A motor vehicle manufacturer’s average vehicle emissions of [all NMOG emissions] NMOG+NOx from new vehicles which are produced and delivered for sale in this Commonwealth in [any] a model year.

(ii) A motor vehicle manufacturer’s average vehicle emissions of all GHG emissions from new vehicles which are produced and delivered for sale in this Commonwealth in a model year.

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Fugitive emissions—For purposes of Chapter 127 (relating to construction, modification, reactivation and operation of sources), those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

GHG—Greenhouse gas—For purposes of Chapter 126, Subchapter D, the term means the following gases: carbon dioxide, methane, nitrous oxide and hydrofluorocarbons.

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

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LDT—light-duty truck—

(i) For purposes of § 129.52 (relating to surface coating processes), a light-duty truck is 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.

(ii) For purposes of Chapter 126, Subchapter D [**(relating to the Pennsylvania Clean Vehicles Program)**], a light-duty truck is a motor vehicle rated at 8,500 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.

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NMOG—Nonmethane organic gases.

NMOG+NO_x—The sum of NMOG and NO_x measured in grams per mile.

NO_x affected source—A fossil fuel fired indirect heat exchange combustion unit with a maximum rated heat input capacity of 250 MMBtu/hour or more and all fossil fuel fired electric generating sources rated at 15 megawatts or greater or any other source that voluntarily opts to become a NO_x affected source.

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Potential to emit—The maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of the design if the limitation or the effect it would have on emissions is Federally enforceable or legally and practicably enforceable by an operating permit condition. The term does not include secondary emission from an offsite facility.

Precursor pollutant—For purposes of Chapter 126, Subchapter D, a pollutant that contributes to the formation of or is a component of a criteria air pollutant.

Premium interior wall paneling product—A product that has more stringent product performance requirements (namely, adhesion and hardness standards; and household stain, scrub and moisture resistance, while maintaining a relatively smooth appearance) compared to standard interior wall paneling.

* * * * *

Secondary emissions—

(i) Emissions which occur as a result of the construction or operation of a major facility or major modification of a major facility, but do not come from the major facility or major modification itself. The secondary emissions must be specific, well defined, quantifiable and impact the same general area as the facility or modification which causes the secondary emissions.

(ii) The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major facility or major modification.

(iii) The term does not include emissions which come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521—7589).

Section 177 state—For purposes of Chapter 126, Subchapter D, a state or other authorized entity that is administering the California ZEV motor vehicle emission standards and requirements under section 177 of the Clean Air Act.

Self-priming topcoat—A topcoat that is applied directly to an uncoated aerospace vehicle or component for purposes of corrosion prevention, environmental protection and functional fluid resistance. More than one layer of identical coating formulation may be applied to the vehicle or component. The coating is not subsequently topcoated with any other product formulation.

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TPY—Tons per year.

TZEV—Transitional Zero Emission Vehicle—A vehicle that is both of the following:

(i) Meets the criteria in Title 13 CCR, Division 3, Chapter 1, § 1962.2(c)(2).

(ii) Qualifies for an allowance in Title 13 CCR, Division 3, Chapter 1, § 1962.2(c)(3)(A) or (E).

Tank car—A rail car which is used for transporting liquids in bulk in an unpackaged form.

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York air basin—The political subdivisions in York County of Manchester Township, North York Borough, Spring Garden Township, Springettsbury Township, West Manchester Township, West York Borough and City of York.

ZEV—Zero Emission Vehicle—A vehicle that produces zero exhaust emissions of a criteria air pollutant, precursor pollutant or GHG under any possible operational mode or condition.

CHAPTER 126. STANDARDS FOR MOTOR FUELS

Subchapter D. PENNSYLVANIA CLEAN VEHICLES PROGRAM

LOW EMISSION AND ZERO EMISSION VEHICLES

§ 126.411. General requirements.

(a) 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, titled or registered in this Commonwealth starting with the 2008 model year and each model year thereafter.

(b) The provisions of the California Low Emission Vehicle Program, Title 13 CCR, Division 3, Chapters 1 and 2, are adopted and incorporated **[herein]** by reference^[,] **in this subchapter** and apply except for the **emissions control system warranty statement in Title 13 CCR, Division 3, Chapter 1, § 2039.** [following:

(1) **The zero emissions vehicle percentage requirement in Title 13 CCR, Division 3, Chapter 1, § 1962.**

(2) **The emissions control system warranty statement in Title 13 CCR, Division 3, Chapter 1, § 2039.]**

(c) As specified in subsection (d), the provisions of the California Zero Emission Vehicle Program, Title 13 CCR, Division 3, Chapter 1, § 1962.2, as adopted by CARB on January 27, 2012, and last amended by CARB on January 1, 2016, are adopted and incorporated by reference in this subchapter and apply in this Commonwealth.

(d) Adoption and incorporation of the provisions specified in subsection (c) will occur on either _____ (Editor's Note: The blank refers to the effective date of this rulemaking, when published as a final-form rulemaking.) or on the date of the restoration of the California waiver by the EPA under section 209(b) of the Clean Air Act (42 U.S.C.A. § 7543(b)), whichever is later.

§ 126.412. [Emission] Light-duty vehicle emission requirements.

(a) Starting with the model year 2008, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles 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 **in this subchapter**.

(b) **[Starting with the model year 2008, compliance with the NMOG fleetwide average in Title 13 CCR, Division 3, Chapter 1, § 1961 shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth.]**

[Reserved].

(b.1) Starting with the model year _____ (Editor's Note: The blank refers to the calendar year of the effective date of this rulemaking, when published as a final-form rulemaking.), a motor vehicle manufacturer shall demonstrate compliance with the fleet average NMOG+NOx emissions requirements as specified in Title 13 CCR, Division 3, Chapter 1,

based on the number of new light-duty vehicles delivered for sale in one of the following areas:

(1) This Commonwealth.

(2) California and the section 177 states, if the motor vehicle manufacturer has opted into the pooling provision compliance option in Title 13 CCR, Division 3, Chapter 1.

(c) [Credits and debits for calculating the NMOG 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, Division 3, Chapter 1.]

[Reserved].

(c.1) Starting with the model year _____ (Editor's Note: The blank refers to the calendar year of the effective date of this rulemaking, when published as a final-form rulemaking.), a motor vehicle manufacturer shall demonstrate compliance with the fleet average GHG emissions requirements, as specified in Title 13 CCR, Division 3, Chapter 1, based on the number of new light-duty vehicles delivered for sale in one of the following areas:

(1) This Commonwealth.

(2) California and the section 177 states if the motor vehicle manufacturer has opted into the pooling provision compliance option in Title 13 CCR, Division 3, Chapter 1.

(d) [NMOG fleet average credits generated during the 2008, 2009 and 2010 model years may be applied toward any of the model years 2008 through 2010 for the purpose of demonstrating compliance with subsections (b) and (c). The credits generated during this period may be applied at full value for any of the model years 2008 through 2010.]

[Reserved].

(e) [New motor vehicles] **A new motor vehicle** subject to this subchapter **[must] shall** possess a valid emissions control label which **[meets] conforms to** the requirements of Title 13 CCR, Division 3, Chapter 1.

(f) A new motor vehicle subject to this subchapter shall display a valid environmental performance label which conforms to the requirements of Title 13 CCR, Division 3, Chapter 1.

§ 126.412a. Zero emission vehicle requirements.

(a) Beginning with model year 2026, each motor vehicle manufacturer shall demonstrate compliance with the ZEV credit percentage requirement in Title 13 CCR, Division 3,

Chapter 1, § 1962.2, based on the number of new light-duty vehicles delivered for sale in this Commonwealth.

(b) For model years 2023 through 2025, a motor vehicle manufacturer may generate EACs by delivering ZEVs for sale in this Commonwealth. EACs accrued under this subsection are earned at values determined according to Title 13 CCR, Division 3, Chapter 1, § 1962.2. A motor vehicle manufacturer that generates ZEV EACs is subject to the reporting requirements in § 126.433 (relating to zero emission vehicle reporting requirements).

(c) ZEV credit banking and use provisions.

(1) Beginning with model year 2026, each affected motor vehicle manufacturer shall report annual ZEV credits generated by the delivery of subject vehicles for sale in this Commonwealth directly to the California ZEV credit system account for that manufacturer, in the account established for Pennsylvania.

(2) Beginning with model year 2026, each affected motor vehicle manufacturer may meet the Pennsylvania Clean Vehicles Program ZEV credit percentage requirement in subsection (a) for a given model year by submitting a commensurate amount of ZEV credits to the Department in accordance with Title 13 CCR, Division 3, Chapter 1, § 1962.2(b) and (g). Credits in each of the categories may be used to meet the requirement for that category as well as the requirements for lesser credit earning ZEV categories.

(3) Beginning with model year 2026, each affected motor vehicle manufacturer may sell or trade ZEV credits in accordance with the applicable provisions of Title 13 CCR, Division 3, Chapter 1, § 1962.2.

(d) ZEV deficit requirements.

(1) Beginning with model year 2026, a motor vehicle manufacturer that delivers for sale in this Commonwealth fewer ZEVs or TZEVs than required to meet its ZEV credit obligation in a given model year shall make up the deficit by submitting a commensurate amount of ZEV credits to the Department in accordance with Title 13 CCR, Division 3, Chapter 1, § 1962.2(g)(7).

(2) The number of motor vehicles not meeting the ZEV credit obligation must be equal to the motor vehicle manufacturer's credit deficit rounded to the nearest 1/100th and calculated according to the equation in Title 13 CCR, Division 3, Chapter 1, § 1962.2(g)(8).

APPLICABLE NEW 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 must be certified as meeting the motor

vehicle requirements of Title 13 CCR, Division 3, Chapter 1, [§ 1961,] as determined by testing in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

§ 126.422. New motor vehicle compliance testing.

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter must be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, [§ 1961,] as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR, Division 3, Chapter 2.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable and shall be provided by motor vehicle manufacturers to the Department upon a written request.

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MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS

§ 126.432. [Reporting] Light-duty vehicle fleet average reporting requirements.

(a) For [the] purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2008 model year, each **affected motor vehicle** 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 test group over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each **affected** 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] **NMOG+NO_x emissions, as applicable,** of its total deliveries for sale of [LDVs] **light-duty vehicles** in each test group for [Pennsylvania] **this Commonwealth** for that [particular] model year. The fleet average **NMOG+NO_x emissions** report[, **calculating compliance with the fleetwide NMOG exhaust emission average,**] shall be prepared [according to the procedures in] **in accordance with** Title 13 CCR, Division 3, Chapter 1.

(c) [Fleet] **The fleet** average [reports must] **NMOG+NO_x emissions report required in subsection (b) shall,** at a minimum, identify the **following:**

(1) The total number of vehicles, including offset vehicles, sold in each test group delivered for sale in this Commonwealth[, **the**].

(2) The specific vehicle models comprising the sales in [each state] this Commonwealth and the corresponding certification standards[, and the].

(3) The percentage of each vehicle model sold in this Commonwealth in relation to total fleet sales.

(d) [Compliance with the NMOG fleet average for the 2008, 2009 and 2010 model years must be demonstrated following the completion of the 2010 model year.] [Reserved].

(e) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each affected motor vehicle manufacturer shall submit to the Department by May 1 of the calendar year following the close of the completed model year, a report of the fleet average GHG emissions of its total deliveries for sale of light-duty vehicles in each test group in this Commonwealth for that model year. The fleet average GHG emissions report shall be prepared in accordance with Title 13 CCR, Division 3, Chapter 1.

(f) The fleet average GHG emissions report required in subsection (e) shall, at a minimum, identify the following:

(1) The total number of vehicles, including offset vehicles, sold in each test group delivered for sale in this Commonwealth.

(2) The specific vehicle models comprising the sales in this Commonwealth and the corresponding certification standards.

(3) The percentage of each vehicle model sold in this Commonwealth in relation to total fleet sales.

(g) The reports referenced in this section shall be submitted to the Department in an electronic format as specified by the Department.

§ 126.433. Zero emission vehicle reporting requirements.

(a) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program ZEV credit percentage requirement in § 126.412a (relating to zero emission vehicle requirements), each motor vehicle manufacturer shall submit to the Department by May 1 of the calendar year following the close of the completed model year a report that identifies the specified delivery data for the vehicles generating ZEV credits and the transfers and acquisitions of ZEV credits in accordance with Title 13 CCR, Division 3, Chapter 1, § 1962.2.

(1) The report shall provide the same information reported to the California ZEV credit account system for vehicles delivered for sale in this Commonwealth.

(2) The report may be amended based on late sales.

(b) Upon receipt of an oral or written request from the Department, a motor vehicle manufacturer subject to this section shall furnish to the Department or allow the Department to access and copy the records that relate to the motor vehicles that are subject to this section and that are relevant for determining compliance with the ZEV requirements in this subchapter. Unless otherwise specified, a motor vehicle manufacturer subject to this section shall retain the relevant records for 5 years after creating the records.

(c) EAC account creation and reporting.

(1) A motor vehicle manufacturer choosing to earn EACs calculated in accordance with the ZEV credit calculation provisions in Title 13 CCR, Division 3, Chapter 1, § 1962.2, shall submit a request to the Department to open a Commonwealth account to track ZEV EACs in this Commonwealth no later than March 1 of the calendar year after the close of the first model year for which the manufacturer intends to accrue ZEV EACs.

(2) A motor vehicle manufacturer that notifies the Department under paragraph (1) shall submit a report to the Department by May 1 of the calendar year after the close of the model year.

(i) The report shall identify the specified delivery data of all motor vehicles generating ZEV EACs for that model year under this subsection in accordance with Title 13 CCR, Division 3, Chapter 1, § 1962.2.

(ii) The report may be amended based on late sales.

(3) Prior to the reporting deadline for model year 2026 under subsection (a), the Department will submit the cumulative ZEV EACs earned under this subsection by a motor vehicle manufacturer that has complied with paragraphs (1) and (2) for upload by California into the motor vehicle manufacturer's California ZEV credit system account for Pennsylvania.

(d) The report referenced in this section shall be submitted to the Department in an electronic format as specified by the Department.

MOTOR VEHICLE DEALER RESPONSIBILITIES

§ 126.441. Responsibilities of motor vehicle dealers.

A dealer may not sell, offer for sale or lease, or deliver a new motor vehicle subject to this subchapter unless the vehicle has received the certification described in §§ 126.421 and 126.422 (relating to new motor vehicle certification testing; and new motor vehicle compliance testing), and conforms to the [following] standards and requirements contained in Title 13 CCR, Division 3, Chapter 2, [§ 2151:]§ 2151(a).

(1) [Ignition timing is set to manufacturer's specification with an allowable tolerance of $\pm 3^\circ$.] [Reserved].

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

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

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

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