



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

OFFICE OF
AIR AND RADIATION

October 29, 2007

CISD-07-16 (LDV/LDT/HD)

SUBJECT: Sales of California-certified 2008-2010 Model Year Vehicles (Cross-Border Sales Policy)

Dear Manufacturer:

Attached to this letter are documents pertaining to the United States Environmental Protection Agency (EPA)'s Policy on Cross-Border Sales (PCBS) of 2008-2010 model year vehicles that are federally certified to California Air Resources Board (CARB) requirements (California-certified vehicles). A history of EPA's policies for cross state border sales of California-certified vehicles, including previously issued policies which are still applicable to 2007 and earlier model year vehicles, is available at EPA's website at www.epa.gov/otaq/consumer.htm#CrossborderSales.

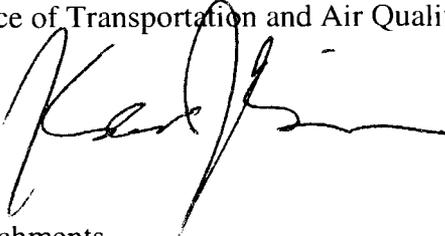
Attachment 1 presents the policy. The fundamental principles of the 2008-2010 policy itself remain unchanged from the previous policy. Attachment 2 updates the Questions and Answers document to address questions associated with recently-added Section 177 states. Attachment 3 provides an updated summary table and a set of maps reflecting the status of Section 177 states by model year. It is important to note that the summary table and the map reflect the most recent information available to EPA as of the issuance date of this letter. EPA will update the summary table and maps available on the web site listed above as new information becomes available.

Manufacturers must follow this PCBS to direct their sales of California-certified model years 2008 to 2010 vehicles. Manufacturers may choose to certify their vehicles to meet both federal and California requirements to avoid the cross state border sales issues addressed by this policy since vehicles meeting both federal and California requirements are allowed to be sold anywhere. If the EPA or CARB requirements change in the future, EPA may review this policy and revise it whenever it is necessary.

Should you have any questions regarding this guidance letter, please contact Emily Chen of my staff at (734) 214-4122 or chen.emily@epa.gov.

Sincerely,

Karl Simon, Director
Compliance and Innovative Strategies Division
Office of Transportation and Air Quality

A handwritten signature in black ink, appearing to read 'Karl Simon', with a long horizontal flourish extending to the right.

Attachments

Attachment 1
EPA Policy on Cross-Border Sales of
2008 to 2010 Model Years California-Certified Vehicles⁽¹⁾

Manufacturers may introduce into commerce 2008 to 2010 model year (MY) vehicles certified to meet California, but not EPA, requirements (California-certified vehicles), classified as passenger cars (PC), light duty trucks (LDT), medium duty passenger vehicles (MDPV), medium duty vehicles (MDV), and heavy duty vehicles (HDV) into California and the states that have adopted and placed into effect the California emission requirements for that vehicle class or classes. EPA will not prevent manufacturers from introducing the California-certified vehicles into commerce in the states that are contiguous to California and those states that have adopted and placed into effect the California emission requirements for the vehicle class or classes.

EPA will not prevent manufacturers from allowing their dealers in the following states to sell 2008 to 2010 MY California-certified vehicles to purchasers from any states in the U.S. or U.S. territories, on or after the effective date of the EPA certificate(s) of conformity for that vehicle or vehicles:

- (1) California;
- (2) The states that have adopted and placed into effect the California emission requirements of any vehicle classes of the vehicle(s) intended for sale; and
- (3) The states that are contiguous to California and the states specified in (2).

This policy does not replace or supersede any state requirements placed on manufacturers and their dealers. Manufacturers are responsible for complying with any applicable state requirements.

Because both federal and California emission requirements could possibly change in the future, EPA may revise this policy whenever it is necessary.

You may visit EPA's web site www.epa.gov/otaq/consumer.htm for frequently asked questions and answers regarding this policy, updated summary table and maps for state adoption status, or a copy of the CBS policies from 1993 to present.

Note:

*(1) **California-Certified Vehicles** are new vehicles that are certified **by EPA** only to the California emission standards and requirements. Vehicles that are certified to both the federal and California emission standards (50 state vehicles) are not included.*

Attachment 2
Questions and Answers on EPA's Cross Border Sales Policies

1. Why is the Cross-Border Sales Policy still necessary for 2008 and later model years?

Under federal law, vehicles introduced into commerce in the U.S. must be certified to comply with all applicable federal emission requirements. Vehicles certified to California-only requirements ("California-certified vehicles") do not necessarily comply with every federal requirement. Historically, EPA's Cross Border Sales Policy (CBSP) has been developed to address two issues:

- (1) Allow manufacturers to sell "California-certified vehicles" in California and the Section 177 states - states that have adopted and placed into effect California requirements under authority of Section 177 of the Clean Air Act. Manufacturers and their dealers located in California and any Section 177 states may sell California-certified vehicles to any person from any state.
- (2) Take no enforcement action against dealers located in the states that are contiguous to California and/or any Section 177 states if they sell California-certified vehicles to people from any state. Absent this policy, dealers in those contiguous states would only be allowed to sell California-certified vehicles to residents of California or section 177 states, while dealers located in California and the Section 177 states may sell California-certified vehicles to anyone.

The Federal Tier 2 emission standards, which have been in effect since the 2004 model year, do not remove all of the differences between the federal and California programs; there are California requirements which are less stringent than comparable federal requirements. Because 2008 and later model year California-certified vehicles do not necessarily comply with each and every federal emission requirement (which would be necessary to allow the sale of the California-certified vehicles everywhere), manufacturers must follow EPA's cross-border sales policy to direct their sales of California-certified vehicles for 2008 and later model years. In the event of changes to federal and California emission requirements in the future, EPA may revise this policy as necessary.

Manufacturers may choose to certify their vehicles to comply with both federal and California requirements to avoid the issues addressed by this policy. The vehicles certified to comply with both federal and California requirements are called "50 state vehicles," and may be delivered and sold to anyone in any state.

You may access <http://www.epa.gov/otaq/consumer.htm#CrossborderSales> to read more about the previously issued policies and history of the EPA CBS policy.

2. In which areas do the differences between federal and California requirements exist during and after the 2008 model year?

Examples of federal standards that are more stringent or different than comparable California ones during and after 2008 model year include: Supplemental Federal Test Procedure (SFTP) standards, cold temperature testing requirements, altitude testing requirements, some tailpipe standards and evaporative standards, fleet average requirements, fuel controls and the standards applicable to different vehicle weight classes, etc.

3. Which states have adopted California vehicle emissions standards?

Attachment 3 of the guidance letter provides a summary table and maps which contain the most recent states adoption status as of the issuance date of this letter. For the most current update, please visit the online summary table and maps at www.epa.gov/otaq/consumer.htm#CrossborderSales.

4. Should Virginia be considered a "contiguous" state to Pennsylvania under the CBSP for model years 2008 and later?

In a similar situation, EPA has treated Maine as a “contiguous” state to Massachusetts in the agency’s 1994 and later CBSP in order to reduce the recordkeeping burdens to manufacturers and their dealers

After examining the facts and applying the same criteria, such as population in border areas, dealership locations and density, transportation connections, etc. that the agency considered in providing exceptional relief to dealerships in Maine by granting the “contiguous state” status to Maine in 1994, we found no comparable conditions and/or other persuasive rationales for EPA to provide this exceptional relief for Virginia dealerships and treat Virginia as a “contiguous state” to Pennsylvania. Therefore, when Pennsylvania becomes a Section 177 state in 2008 model year EPA has determined that Virginia would not meet the criteria above and will not consider Virginia as a “contiguous” state to Pennsylvania with regard to the CBSP for model years 2008 and later.

5. Should Washington, D.C. be treated as a "contiguous state" after Maryland adopts CARB rules for the 2011 MY?

Yes, Washington D.C. will be considered as a “contiguous state” with regard to the CBSP after Maryland adopts and places the CARB vehicle emission rules into effect.

6. In cases where a state adopts California requirements for Passenger Cars (PCs) and Light Duty Trucks (LDTs) and/or Medium Duty Passenger Vehicles (MDPVs) but has not yet adopted California Medium Duty Vehicles (MDVs) requirements, should EPA allow California MDVs to be sold in that state and its contiguous states?

No. This policy neither replaces/supersedes any state requirements placed on manufacturers and their dealers nor adopts any CARB requirements for a state. Therefore, if a state has adopted California regulations for some vehicles introduced into commerce in the state, but has not adopted California regulations for other California Vehicle Classes, manufacturer should only introduce into commerce in that

state (or its contiguous states) California vehicles that belongs to the California Vehicle Class that for which the state has adopted California standards.

During model years 2008 – 2010, Washington is the only state that has California requirements in 2009 model year for Passenger Cars (PCs), Light Duty Trucks (LDTs) and Medium Duty Passenger Vehicles (MDPVs) but not Medium Duty Vehicles (MDVs). However, EPA will not prevent dealers in the state of Washington from selling California MDVs in model year 2009 and later because Washington will be a contiguous state to Oregon which has adopted California MDV requirements in 2009.

7. In cases where a state (New Jersey) adopts California requirements for a portion of a model year, should EPA allow California-certified vehicles to be sold in the state and in its contiguous states for the entire model year?

Manufacturers may introduce into commerce California-certified vehicles into New Jersey and its contiguous states for entire 2009 model year simply because, for the 2009 model year, New Jersey and its contiguous states (New York, Delaware and Pennsylvania) are either themselves a Section 177 state (New York and Pennsylvania) or a contiguous state to other Section 177 states (Delaware is a contiguous state to Pennsylvania; and New Jersey is a contiguous state to New York and Pennsylvania.)

8. What does a consumer need to know before buying a “California Vehicle”?

Although federal regulations do not prohibit a consumer, whose home state is not California or one of the “Section 177 states”, from buying “California vehicles”, an individual is advised to determine if a “California vehicle” can be registered with his/her home state before buying.

9. What language will appear on the EPA Certificates of Conformity for California vehicles issued to manufacturers?

The certificate language for the 2008 and later model years “California-certified vehicles” will be:

Pursuant to Section 206 of the Clean Air Act (42 U.S.C. 7525), this certificate of conformity is hereby issued to the above named manufacturer for the test group and evaporative/refueling family listed above, as approved by the California Air Resources Board. This certificate covers only those new motor vehicles which: (1) conform, in all material respects, to the design specifications that applied to those vehicles described in the application submitted to the California Air Resources Board; (2) are covered by said executive order; (3) are only introduced into commerce in the state of California or a state contiguous to California or in a state that, under the authority of Section 177 of the Clean Air Act, has adopted and placed into effect the California standards to which this test group has been certified or a state contiguous to such a state; and (4) are labeled as belonging to said test group and evaporative/refueling family.

10. What is restricted?

Manufacturers may not introduce into commerce new “California-certified vehicles” in states that have not adopted and placed into effect California standards or are not contiguous to such states. Exceptions will be made, however, if the vehicle being purchased is to be titled, registered, or principally used in a “Section 177 state” or California. This is the same exception that has existed with respect to California for the last decade. It allows an individual who is moving to a “Section 177 state” from Minnesota, for example, and who needs a new vehicle to get there, to buy a California vehicle in Minnesota.

11. Does this policy only apply to new vehicles?

Yes. Basically, manufacturers only deliver new vehicles to dealers. Under the Clean Air Act, a new vehicle is any vehicle that has not been sold to a final purchaser.

12. What about medium-duty vehicles certified to California standards?

The California Air Resources Board defines a medium-duty vehicle for purposes of California emissions requirements as any vehicle having a manufacturer’s gross vehicle weight rating (GVW) of 8,500 to 14,000 pounds*. New York, Vermont, Maine and Massachusetts have adopted California standards for medium-duty vehicles at this time; Connecticut, Oregon and Rhode Island place CARB MDV rules into effect in 2009 model year. Consequently, these vehicles are permitted to be introduced into commerce in the above states and EPA will take no action if manufacturers sell California MDVs in the contiguous states of those states (* Vehicles certified to the LEV I California emission standards are defined as a medium duty vehicle if they are between 6,000 and 14,000 lbs GVWR.)

13. Which states are considered contiguous states with respect to this policy?

See Summary table and the maps in Attachment 3.

14. May manufacturers deliver “California-certified vehicles” to these contiguous states?

EPA will take no action to prevent manufacturers from delivering California-certified vehicles to these contiguous state dealers. The objective of the policy is to allow dealers on both sides of California and the Section 177 states borders to continue to engage in cross border transactions without the requirement of dual inventories. Dealers, of course, may elect to maintain dual inventories to satisfy customer demands.

15. Will EPA act if a dealer located in California, the “Section 177 states” or their contiguous states sell a “California vehicle” to a resident of a different state, say Iowa?

EPA will take no action to prevent the dealers located in California, **any** Section 177 states or their contiguous states from selling a “California-certified vehicle” to purchasers from any state.

16. What about “drop shipments”?

EPA considers a “drop shipment” to be a type of sale in which a dealer will accept an order for a vehicle from an out-of-state customer, and the vehicle will be shipped directly to the customer via a local delivering dealer without the vehicle ever physically being in the selling dealer’s inventory.

According to the language of EPA’s Cross Border Sales policy, dealers located in California, a Section 177 state, or any of their contiguous states can sell California vehicles to purchasers from any state. With respect to the Cross Border Sales policy, we consider a “drop shipment” to be equivalent to a sale. Therefore, dealers located in the above states can “drop ship” California vehicles to purchasers from any state.

17. Can manufacturers deliver and/or sell federal vehicles to California or the states that adopted California standards?

Federal regulations do not prohibit manufacturers from delivering and/or selling federal vehicles in California or any Section 177 states. However, individual states may prevent the registration of vehicles that do not meet California standards.

18. How does the CBS policy affect warranty requirements?

State motor vehicle emissions warranty provisions are in addition to and do not void or eliminate federal emissions warranties under Section 207 of the Clean Air Act. A vehicle that is within the federal warranty period and subject to regulations issued under Section 202 of the Act is therefore covered by the federal emissions warranties, notwithstanding valid adoption by the state of separate warranties. Under this situation the federal and California warranty provisions are concurrent, and all vehicles, even those sold in California, have federal warranty provisions.

19. Are there any recordkeeping requirements?

There are no record keeping requirements for cross-border sales themselves. Manufacturers are responsible for all information and recordkeeping regarding California-certified vehicles as specified in 40 CFR 86.1862-04(a)(3)

20. Where can I get further information regarding the 2008 and Later Model Years Cross Border Sales Policy?

You may visit our web site at www.epa.gov/otaq/consumer.htm#CrossborderSales.

21. Where can I find the definitions for California Vehicle Classes of Passenger Car (PC), Light Duty Truck (LDT), Medium Duty Passenger Vehicle (MDPV), Medium Duty Vehicle (MDV) and Heavy Duty Vehicle (HDV)?

See Title 13, California Code of Regulations, § 1900. Definitions.
(http://www.arb.ca.gov/msprog/levprog/cleandoc/cleancomplete_lev-ghg_regs_8-07.pdf)

| State Adoption Status on California Vehicle Emissions Control Requirements | | | | | | |
|--|------------------------|-----------------------|---------------------------------------|----------------------|--|--|
| CAA Sec. 177 States ⁽¹⁾ | Contiguous States | Effective Model Year | | | | State Contact |
| | | PC/LDT ⁽²⁾ | MDPV ⁽²⁾ | MDV ⁽²⁾ | HDV ⁽²⁾ | |
| California | OR, NV, AZ | LEV II Phase-in 2004 | LEV II Phase-in 2004, MPDV in 2008 MY | LEV II Phase-in 2004 | 04=identical to EPA (NTE); 05-07=NTE; 2008 (SET, NTE and Idling Req) | Duc Nguyen (626) 575-6844 dnguyen@arb.ca.gov |
| Connecticut | RI, MA, NY | 2008 | 2009 | 2009 | 2006, NTE | Bill Menz (860) 424-3027 |
| Delaware | MD, PA, NJ | NA ⁽³⁾ | NA | NA | 2007, diesel only | Ali Mirzakhali 302.739.9402 |
| Georgia | FL, SC, NC, TN, AL | NA | NA | NA | 2005, diesel only | William Cook 404-363-7031 William_Cook@DNR.state.ga.us |
| Maine | NH | 2004 | 2008 | 2003 | NTE MY05-06; 2008 | Ronald. W. Severance (207) 287-7039 Ronald.W.Severance@me.gov |
| Maryland | DE | 2011 | 2011 | 2011 | NA | Marcia Ways (410) 537-3286 Mways@mde.state.md.us |
| Massachusetts | NH, VT, NY, RI, CT, ME | 2004 | 2009 | 2003 | 2005 (NTE); 2008, diesel only | Christine Kirby (617) 292-5631 Christine.Kirby@state.ma.us |
| New Jersey | DE, PA, NY | 2009 (Calendar Year) | NA | NA | 2009, diesel only | Dave West (609) 530-4036 dave.west@dep.state.nj.us |
| New York | VT, MA, CT, NJ, PA | 2004 | 2009 | 2004 | 2005 | Steve Flint (518) 402-8292 seflint@gw.dec.state.ny.us |
| North Carolina | VA, TN, GA, SC | NA | NA | NA | 2008, diesel only | Abrazzinskas, Michael (919) 715-3743 michael.abrazzinskas@ncmail.net |
| Oregon | WA, ID, NV, CA | 2009 | 2009 | 2009 | NA | David Nordberg (503) 229-5519 Nordberg.Dave@deq.state.or.us |
| Pennsylvania | NY, NJ, DE, MD, WV, OH | 2008 | NA | NA | NTE MY05 and beyond, adopted 2002 | Arleen Shulman (717) 772-3926 Mobile Sources Section ashulman@state.pa.us |
| Rhode Island | MA, CT | 2008 | 2009 | 2009 | In consideration | Steve Majkut (401) 222-2808 ex 7010 Steve.Majkut@dem.ri.gov |
| Texas | NM, OK, AK, LA | NA | NA | NA | 2001, diesel only | Morris Brown, TCEQ, Air Quality Planning Section, Phone: (512) 239-1438 |
| Vermont | NH, MA, NY | 2004 | 2009 | 2004 | NA | George Little (802) 241-4239 George.little@state.vt.us |
| Washington | ID, OR | 2009 | 2009 | NA | NA | Bob Saunders (360)-407-6888 rsau461@ecy.wa.gov |

Note:

(1) CAA Sec. 177 States: States that has adopted California emission regulations in accordance with Clean Air Act, Section 177.

(2) Abbreviations for California-certified Vehicle Classes:

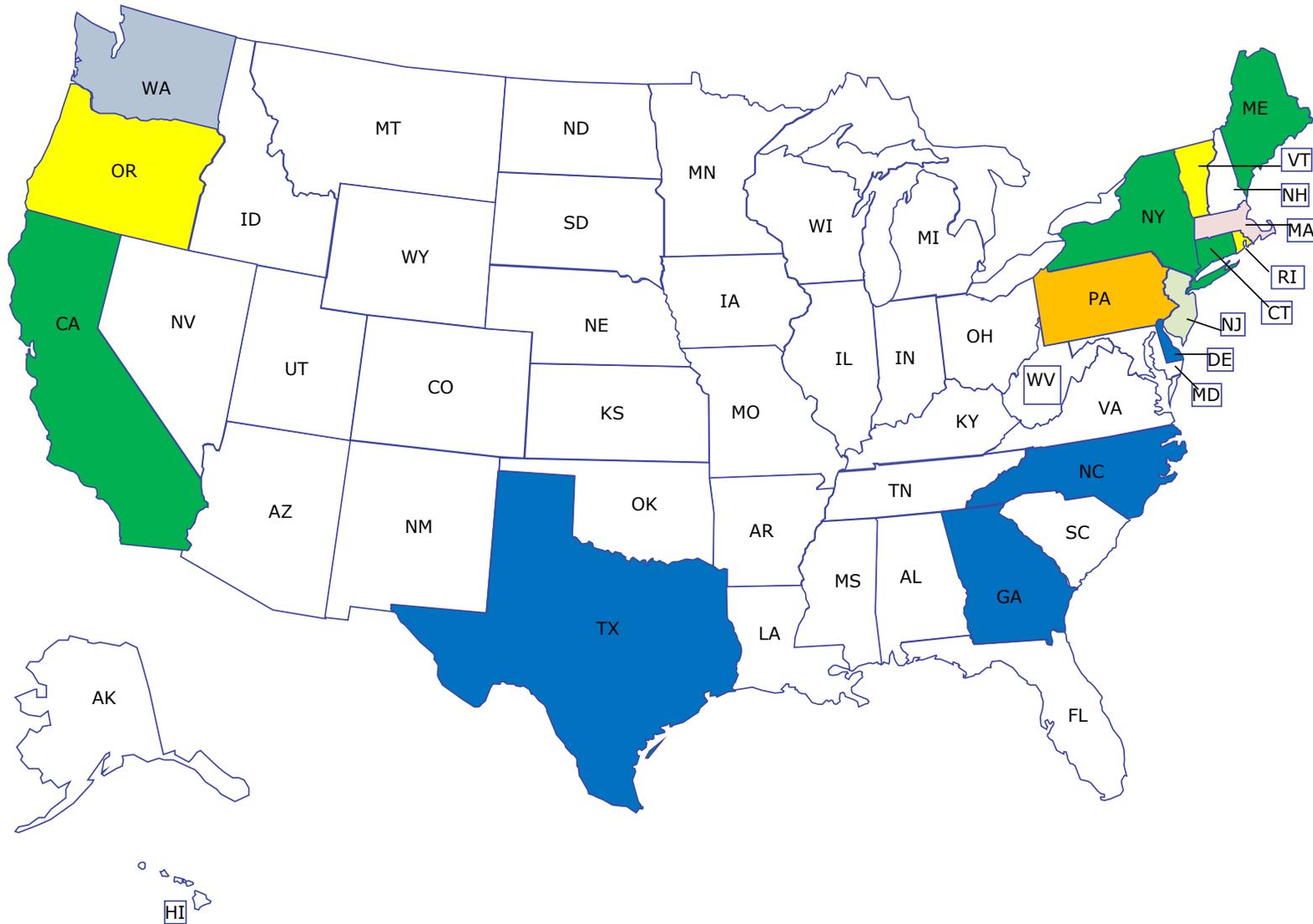
PC - Passenger Car; LDT- Light Duty Truck; MDPV - Medium Duty Passenger Vehicle; MDV - Medium Duty Vehicle; HDV - Heavy Duty Vehicle

(Ref: Title 13, California Code of Regulations, § 1900. Definitions, http://www.arb.ca.gov/msprog/levprog/cleandoc/cleancomplete_lev_ghg_regs_8-07.pdf)

(3) NA – Not yet adopted. Federal vehicle emissions regulations are applicable.

Updated: 10/04/07

CAA Sec. 177 States: 2009-2010 MY



Vehicle Class Abbreviations for California-certified Vehicles
(Ref: Title 13, California Code of Regulations, § 1900. Definitions)

| | |
|--------------|-------------------------------|
| PC: | Passenger Vehicle |
| LDT: | Light Duty Truck |
| MDPV: | Medium Duty Passenger Vehicle |
| MDV: | Medium Duty Vehicle |
| HDV: | Heavy Duty Vehicle |
| HDD: | Heavy Duty, Diesel Only |

Vehicle Classes Required to Comply with California Emission Requirements

| | | | |
|--|--------------------------|--|------------------------------|
| | PC, LDT, MPDV, MDV & HDV | | PC, LDT, MDPV, MDV |
| | PC, LDT, MPDV, MDV, HDD | | PC, LDT, HDD (Calendar Year) |
| | PC, LDT, MDPV | | HDD |
| | PC, LDT, HDV | | |