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ENVIRONMENTAL PROTECTION

AIR, ENERGY AND MATERIALS SUSTAINABILITY

DIVISION OF CLIMATE CHANGE MITIGATION AND MONITORING

Advanced Clean Cars II Program; Low Emission Vehicles; Diesel Powered Motor Vehicles; Gasoline Powered Motor Vehicles; Model Year 2027 or Later Heavy-Duty New Engine and Vehicle Standards and Requirements; Advanced Clean Trucks Program

Proposed Amendments: N.J.A.C. 7:27-14.1, 14.3, 15.1, 15.7, 28A.11, 29.2, 29.3, 29.4, 29.5, 29.6, 29.8, 31.3, and 31.4; and 7:27A-3.10

Proposed New Rules: N.J.A.C. 7:27-29A

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3.e, 13:1D-9, 26:2C-1 et seq., particularly 26:2C-37 et seq., and 48:25-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 01-23-07.

Proposal Number: PRN 2023-083.

A **public hearing** concerning this notice of proposal and an attendant proposal to revise New Jersey's Federal Clean Air Act State Implementation Plan will be held on Thursday, September 21, 2023, at 9:30 A.M. The hearing will be conducted virtually through the Department of Environmental Protection's (Department) video conferencing software, Microsoft

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Teams. A link to the virtual public hearing and a telephone call-in option will be provided on the Department's website at https://www.nj.gov/dep/rules/notices.html.

Submit comments by close of business on October 20, 2023, electronically at www.nj.gov/dep/rules/comments. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Department encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket No. 01-23-07.

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

PO Box 402

Trenton, NJ 08625-0402

If you are interested in providing oral testimony or submitting written comments at the virtual public hearing, please email the Department at monica.miranda@dep.nj.gov no later than 5:00 P.M., September 19, 2023, with your contact information (name, organization, telephone number, and email address). You must provide a valid email address so the Department can send

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you an email confirming receipt of your interest to testify orally at the hearing and provide you with a separate option for a telephone call-in line if you do not have access to a computer that can connect to Microsoft Teams. It is requested (but not required) that anyone providing oral testimony at the public hearing provide a copy of any prepared remarks to the Department through email.

The proposed rulemaking will become operative 60 days after adoption by the Commissioner of the Department (see N.J.S.A. 26:2C-8). This notice of proposal may be viewed or downloaded from the Department's website at www.nj.gov/dep/rules.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

This proposed rulemaking represents a continuation of the Department's efforts to mitigate the impacts of climate change by reducing greenhouse gas emissions and short-lived climate pollutants. Emissions from the transportation sector constitute the largest source of climate pollution in New Jersey. The proposed rules will incorporate by reference California's Advanced Clean Cars II (ACC II) regulation, which will require manufacturers of passenger cars and light-duty trucks to meet an annual zero-emission vehicle (ZEV) requirement intended to increase the percentage of ZEVs sold in New Jersey that meet the new minimum technical

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requirements. In addition to the annual ZEV requirement, the ACC II regulation includes more stringent multi-pollutant exhaust emission standards that manufacturers of internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles must meet. By increasing ZEV sales and the stringency of the multi-pollutant exhaust emission standards, the Department will reduce emissions of carbon dioxide (CO_2) and local air pollutants, like nitrogen oxides (NO_x) and fine particulate matter (PM2.5), from the transportation sector. In conjunction with the proposed incorporation of California's ACC II program, the Department proposes amendments to the penalty provisions at N.J.A.C. 7:27A-3.10 that correspond to the proposed new rules at N.J.A.C. 7:27-29A, as well as amendments to the Low Emission Vehicle (LEV) program at N.J.A.C. 7:27-29.

The Department is also proposing amendments to clarify and update several subchapters related to motor vehicles (N.J.A.C. 7:27-14, Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles, 7:27-15, Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles, 7:27-28A, Model Year 2027 or Later Heavy-Duty New Engine and Vehicle Standards and Requirements, and 7:27-31, Advanced Clean Trucks Program).

The Department held stakeholder meetings on March 7, 13, 14, 20, 22, 23, and 28, and April 10 and 12, 2023, to discuss this proposed rulemaking. The public information meeting materials are available on the Department's website at https://www.nj.gov/dep/njpact/.

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The portions of the Summary that follow are organized by topic; consequently, some provisions of the new rules, such as the definitions, may be discussed in several places in the Summary.

Advanced Clean Cars II Program: General

Pursuant to the Clean Air Act (CAA) (42 U.S.C. §§ 7401 et seq.), the State of California may enact stricter emission control standards for certain new motor vehicles and new motor vehicle engines, so long as California receives a waiver from the United States Environmental Protection Agency (EPA). See 42 U.S.C. § 7543. The CAA also authorizes qualifying states, like New Jersey, to adopt and enforce the same emission control standards for which California has received a waiver. See 42 U.S.C. § 7507. In 2006, the Department adopted California's Low Emission Vehicle (LEV) program at N.J.A.C. 7:27-29, which incorporated by reference California's more stringent emission control standards for all model year 2009 and subsequent passenger cars and light-duty trucks. The existing rules at N.J.A.C. 7:27-29 have two main components: (1) a ZEV requirement; and (2) multi-pollutant exhaust emission standards for internal combustion engine passenger cars, light-duty trucks, and medium-duty passenger vehicles.

Recently, California adopted the next phase of their emission control standards, the ACC II program, which includes the same two main components as the initial LEV program. California's ACC II program regulations will update the minimum technical requirements a ZEV

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must meet to be certified by the California Air Resources Board (CARB) and will increase the annual ZEV requirement incrementally until it peaks at 100 percent in model year 2035. Additionally, the ACC II program's multi-pollutant exhaust emission standards for internal combustion engines will require manufacturers to meet stricter standards for NO_x and PM emissions. The Department proposes to adopt the ACC II program at new N.J.A.C. 7:27-29A, making the rules at N.J.A.C. 7:27-29 obsolete after model year 2025. As discussed further below, California's ACC II program will begin with model year 2026, but the Department's new rules will be delayed at least one model year to ensure New Jersey has met the two-year lead time requirement at Section 177 of the Clean Air Act, 42 U.S.C. § 7505. Hence, there will be at least a one-year gap between the enforcement of the old program and the implementation of the ACC II program.

In 2007, New Jersey's Legislature passed the Global Warming Response Act (GWRA), N.J.S.A. 26:2C-37 et seq., which recognized that climate change, primarily caused by emissions of heat-trapping greenhouse gases, poses a threat to the Earth's ecosystems and environment. See N.J.S.A. 26:2C-38. Additionally, the Legislature acknowledged that reducing emissions of greenhouse gases was necessary to prevent further detrimental impacts on human, animal, and plant life. *Id*. A dozen years later, the Legislature amended the GWRA to require the State to develop programs to reduce emissions of both greenhouse gases and short-lived climate pollutants through a comprehensive strategy. See P.L. 2019, c. 197.

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In 2020, the Department released the GWRA 80x50 Report, which analyzed New Jersey's emissions reductions, evaluated the plans for further reducing emissions, and presented a set of strategies across seven emission sectors for policymakers to consider in formulating legislation, rules, policies, and programs to ensure that New Jersey achieves the emission reduction goals set forth in the GWRA. See New Jersey Department of Environmental Protection, *New Jersey's Global Warming Response Act 80x50 Report*, October 15, 2020, Executive Summary p. v, https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf (80x50 Report). Based upon the estimates contained in the 2022 Mid-Cycle Update of the New Jersey Statewide Emissions Inventory Report, 34.6 MMT of the State's total 91.0 MMT of CO_2e emissions were attributed to the transportation sector. See New Jersey Greenhouse Gas Inventory 2022 Mid-Cycle Update Report (December 2022), p. 4, https://dep.nj.gov/ghg/nj-ghg-inventory/.

In 2020, the Department also released its Report on Climate Change, which observed that the public health and environmental concerns associated with ozone pollution are heightened because of the interaction between climate change and air quality. See New Jersey Department of Environmental Protection, New Jersey Scientific Report on Climate Change, June 2020, p. 61, https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf (2020 Report on Climate Change). High temperatures, ample sunshine, and stagnant air masses are conducive to high ground-level ozone (ozone) levels. *Ibid*. And though precursor emissions may decrease,

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they are expected to remain high in dense urban areas and air quality generally will deteriorate due to a warming climate. *Id*. at 62.

As indicated in the Department's climate reports, mitigating the impacts of climate change will require reductions in pollutants that directly contribute to climate change (such as greenhouse gases and short-lived climate pollutants), and reductions in pollutants, such as NO_x emissions (which are a precursor of ground-level ozone), as well as PM2.5. The Department is proposing to incorporate by reference California's ACC II regulation, not only because the regulation will reduce emissions of greenhouse gases by furthering the goal of increased electrification of the transportation sector, but also because it will further the goal of mitigating the impacts that climate change and pollutants, such as NO_x emissions have on air quality and public health by requiring manufacturers of new internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles to comply with the more stringent California multi-pollutant exhaust emission standards.

Advanced Clean Cars II: ZEV Obligations

Overview of the Annual ZEV Requirement, 13 CCR 1962.4

One of the two main components of CARB's ACC II program is an annual ZEV requirement for manufacturers of passenger cars and light-duty trucks. Generally speaking, a ZEV is any vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational mode or condition. 13 CCR 1962.4. Battery electric vehicles (BEVs) and fuel cell electric vehicles (FCEVs) meet the definition of a

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ZEV. However, a manufacturer cannot meet its annual ZEV requirement using any vehicle that can be defined as a ZEV. Rather, the ACC II program requires a manufacturer to meet its annual ZEV requirement using vehicles that meet the minimum technical requirements (qualifying ZEVs) set forth in the regulation. To calculate their annual ZEV requirement, a manufacturer of passenger cars and light-duty trucks must multiply the applicable ZEV percentage requirement by the manufacturer's production volume in a given model year, which is expressed in whole vehicles. CARB's regulation sets forth the two methods that a manufacturer may use to determine production volume, which is based on the total number of passenger cars and light-duty trucks produced and delivered for sale using either a three-year average or the given model year numbers. Once the annual ZEV requirement is determined, a manufacturer must use "vehicle values" to satisfy its obligation. Generally speaking, a single vehicle value is generated by the production and delivery for sale of a single qualifying ZEV or a qualifying plug-in hybrid electric vehicle (PHEV), which is a vehicle that uses both battery-powered electricity and another fuel, such as gasoline or diesel. A manufacturer may produce and sell its own qualifying ZEVs or PHEVs to generate the vehicle values necessary to meet its annual ZEV requirement, purchase or trade surplus vehicle values generated by another manufacturer, or use its own banked values. The percentage of production volume used to calculate a manufacturer's annual ZEV requirement increases annually through model year 2035 when the ZEV percentage requirement equals 100 percent of a manufacturer's production volume.

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The annual ZEV requirement of California's ACC II program begins with model year 2026 for most manufacturers, but small volume manufacturers are not required to comply with the annual ZEV requirement until model year 2035. The ACC II program has a number of flexibilities built into the regulation. Broadly speaking, there are seven primary flexibility options. First, a manufacturer may use banked ZEV values to satisfy its annual ZEV requirement. Pursuant to the ACC II program, banking may include "credits" that were earned under prior versions of the ZEV requirement, since the ACC II program allows the conversion of some historical credits to values or partial values, as well as excess credits earned during the model years covered by ACC II. Second, a manufacturer may pool its values by over-complying with its annual ZEV requirement in one state and using the excess values to satisfy its annual ZEV requirement in another state. Third, a manufacturer that produces fuel cell electric vehicles (FCEV) for sale in California, or in a state that has adopted California's ACC II program, can receive extra values based on percentage of sales volume of the manufacturer's FCEV sales in the state where they sell the most FCEVs (known as the "annual proportional FCEV allowance"). There are, however, limits on these first three options: (1) each option is capped in terms of the number of values a manufacturer may use to satisfy its annual ZEV requirement; and (2) the pooled, proportional, and historical credits that are converted to values are available to be used only through model year 2030.

Fourth, a manufacturer may earn a partial vehicle value for the manufacture and sale of a PHEV that does not meet the minimum standards for a full ZEV value. Fifth, a manufacturer

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may earn a vehicle value greater than one for the sale of a ZEV pursuant to any of three environmental justice program options. Though the PHEV and environmental justice value options are available to manufacturers, the regulation caps the total number of values a manufacturer may earn in this manner, and limits the option to certain model years specified at 13 CCR 1962.4. Sixth, a manufacturer may earn early compliance vehicle values. Like the partial vehicle value opportunities, the early compliance vehicle values are capped and may only be used during specified model years. Finally, a manufacturer participating in the ACC II program in more than one state may trade ZEV values with other manufacturers who are subject to the annual ZEV requirement in those states.

Pursuant to the ACC II program, a manufacturer's annual percentage requirement begins at 35 percent of that manufacturer's production volume in model year 2026 and increases each year until it peaks at 100 percent of the manufacturer's production volume for model year 2035 and later. The ACC II program's annual ZEV requirement for model years 2026 through 2035 or later is shown in Table 1 below:

Table 1: ACC II Annual ZEV Sales Requirement

Model Year	*Percentage Requirement*
2026	35%
2027	43%
2028	51%
2029	59%

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2030	68%
2031	76%
2032	82%
2033	88%
2034	94%
2035 or later	100%

ZEV: N.J.A.C. 7:27-29A.2, Purpose and Applicability

Pursuant to 13 CCR 1962.4, the ACC II program's annual ZEV requirements apply to any vehicle manufacturer that produces and delivers for sale passenger cars and light-duty trucks in California in 2026 and subsequent model years. Proposed N.J.A.C. 7:27-29A.2, Purpose and applicability, indicates the Department's intent to establish California's ACC II program in New Jersey by incorporating the California regulations by reference. However, the Department proposes to delay the applicability of the rules to ensure that the rules comply with the two-year lead time requirement at Section 177 of the Clean Air Act, 42 U.S.C. § 7505. Therefore, proposed N.J.A.C. 7:27-29A.2, establishes applicability for model year 2027 or later passenger cars and light-duty trucks delivered for sale in New Jersey on or after January 1, 2027. The percentage requirement used to calculate a manufacturer's annual ZEV requirement in New Jersey will begin at 43 percent in model year 2027 (see Table 1 above). In the event that the proposed rules are not adopted in time to be operative on or before January 1, 2024 (and,

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therefore, applicable to model year 2027), the Department will modify the rules upon adoption to apply beginning with model year 2028 when the annual percentage requirement is 51 percent. Even though the operative date of the annual ZEV requirement in New Jersey will be delayed, the model years applicable to the flexibilities described above will remain unchanged with the exception of the early compliance flexibility, which is not tied to a particular year, but provides that manufacturers may earn early compliance values for two model years prior to commencement of the annual ZEV sales requirements. In New Jersey, the two model years prior to commencement of the ZEV requirement are expected to be 2025 and 2026. The proposed rules will not be enforceable in New Jersey unless or until such time as California receives a waiver from the EPA, pursuant to 42 U.S.C. § 7543, as published in the Federal Register, for the applicable engine standard, vehicle standard, or other emission requirement.

The proposed rules also incorporate by reference CARB's exemptions for emergency vehicles and military tactical vehicles. In order to emphasize that these vehicles are not subject to the rules, the Department proposes to repeat the exemption at N.J.A.C. 7:27-29A.2(d).

ZEV: Fees, N.J.A.C. 7:27-29A.4

The Department proposes to charge each intermediate volume and large volume manufacturer an annual fee of $0.50 per vehicle for each passenger car, light-duty truck, and medium-duty vehicle delivered for sale in New Jersey on and after January 1, 2026. The fee will cover the Department's anticipated costs associated with verifying vehicle values that

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manufacturers can earn and bank beginning in model year 2026, such as environmental justice values and converted historical credits. See 13 CCR 1962.4(j).

In order that the Department can determine the number of vehicles to which the fee applies, the proposed rules require each intermediate and large volume vehicle manufacturer to report to the Department their production volume for each calendar year. The report is due by March of the succeeding year. The Department will notify each manufacturer how much it is required to pay. Payment is due 30 days after the manufacturer receives the Department's notice. If a manufacturer does not comply with the proposed fee rules for payment, the manufacture will not be eligible to earn, deposit, use, or acquire vehicle equivalent or values until it fully complies. Vehicle equivalent values are discussed below.

ZEV: N.J.A.C. 7:27-29A.7 Incorporation by Reference

As noted above, the Department is incorporating California's ACC II regulation by reference. Proposed N.J.A.C. 7:27-29A.7, Incorporation by reference, identifies the specific provisions of the CCR and California vehicle code that are to be incorporated by reference into this new subchapter, as well as the minor language changes necessary to effectively implement the program in New Jersey. To maintain consistency with the relevant provisions of the CCR, proposed N.J.A.C. 7:27-29A.7 dictates prospective incorporation by reference of the provisions of the CCR and California vehicle code. This means that all amendments, supplements, repeals, or other changes to those provisions that California makes to the incorporated rule shall also be

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effective in New Jersey on the effective date cited by California. Additionally, the Department intends that when an applicable provision of the CCR or California vehicle code is incorporated by reference, the incorporation includes all documents and notes associated with that provision, unless specifically excluded by the Department's rules. Equally important, proposed N.J.A.C. 7:27-29A.7 provides that if there is an inconsistency between the New Jersey rules and the California rules or code incorporated by reference, the California rules or code control. Of course, the incorporation by reference of the provisions of the California regulation or code does not affect the Department's authority to enforce any other State requirements.

As set forth at proposed N.J.A.C. 7:27-29A.7(f) and (g), the Department proposes to replace certain California-specific terms in the CCR and California Vehicle Code with New Jersey-specific terms, unless the context clearly indicates it would be inappropriate or this subchapter specifies otherwise. Additionally, at N.J.A.C. 7:27-29A.7(g), the Department proposes to eliminate the references to the California Health and Safety sections pertaining to the community-based mobility programs. As will be described in greater detail below, the Department proposes to use New Jersey-specific criteria to determine whether to approve a community-based mobility program.

The Minimum Technical Requirements a Vehicle Model Must Meet to be Certified for One Vehicle Value, 13 CCR 1962.2 through 1962.8, 1968.1, 1968.2, 1968.5, and 1969

The Department proposes to incorporate by reference 13 CCR 1962.2 through 1962.8, 1968.1, 1968.2, 1968.5, and 1969. These sections describe the minimum technical requirements

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a ZEV or PHEV must meet to qualify for a single vehicle value that may be used by a manufacturer toward its annual ZEV requirement. Though PHEVs meeting these requirements can be counted as a single vehicle value, a manufacturer may use PHEV sales to satisfy only 20 percent of its annual ZEV requirement.

Each of the minimum requirements a ZEV or PHEV must meet to be certified by CARB as satisfying a single vehicle value are described below:

Range Value and Durability for ZEVs, 13 CCR 1962.4

Generally speaking, range value is the number of miles a battery or plug-in hybrid electric vehicle can travel on a single battery charge. The minimum certification range value of a ZEV must be greater than or equal to 200 miles if it is to qualify as one vehicle value, as provided at 13 CCR 1962.4. Additionally, 13 CCR 1962.4 outlines the minimum durability requirements for a ZEV to qualify as one vehicle value. For model years 2026 through 2029, a ZEV must maintain 70 percent of its range value for a useful life of 10 years or 150,000 miles, whichever occurs first. As an example, a new model year 2026 vehicle with a CARB-certified range value of 200 miles must maintain a range value of 140 miles during its useful life. For model years 2030 or later, a ZEV must maintain 80 percent of its range value for a useful life of 10 years or 150,000 miles, whichever occurs first.

Range Value and Useful Life for PHEV, 13 CCR 1962.4

ACC II requires a PHEV to have a certified range value of greater than or equal to 70 miles and a minimum all-electric range value greater than or equal to 40 miles using the US06

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test procedures if it is to qualify for a single vehicle value. See 13 CCR 1962.4. As a plug-in hybrid can run on battery or an internal combustion engine, a PHEV's internal combustion engine must be certified to full useful life for super ultra-low-emission-vehicle 30 (SULEV30) or lower exhaust emission standards for passenger cars and light-duty trucks to qualify as a single vehicle value.

Battery Labeling Requirements for ZEV and PHEV, 13 CCR 1962.6

Both ZEVs and PHEVs must meet the battery labeling requirements at 13 CCR 1962.6 to qualify as a single vehicle value. The labeling requirements for the batteries are intended to better facilitate battery reuse and recycling by specifying the information that must be included on a battery's label, the location of the label, and the format of the label. This provision also includes data reporting requirements that will assist in the reuse and recycling of batteries.

Warranty and recall requirements for ZEV and PHEV, 13 CCR 1962.7 and 1962.8

To qualify as a single vehicle value, ZEVs and PHEVs must meet the warranty and recall requirements at 13 CCR 1962.7 and 1962.8. These provisions require manufacturers of ZEVs and PHEVs to provide warranties and ensure that those manufacturers will be subject to mandatory recalls. Warranty and recall requirements have been imposed on manufacturers of internal combustion engine vehicles for decades, but this is the first time CARB has required minimum warranty requirements for ZEVs. Although the Department is incorporating the warranty provisions by reference through proposed N.J.A.C. 7:27-29A.7, proposed N.J.A.C. 7:27-29A.5 clarifies that when a covered vehicle is sold to a purchaser in New Jersey, the

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manufacturer must comply with the provisions under the California warranty requirements. Moreover, if requested, manufacturers must provide the Department with the Emission Warranty Information and Zero-Emission Vehicle Warranty Information Reports that are provided to CARB.

Service Information Requirements for ZEV and PHEV, 13 CCR 1969

For a ZEV or PHEV to qualify as a single vehicle value, manufacturers are required to provide the service information specified at 13 CCR 1969. Vehicle and engine manufacturers must make available for purchase all emission-related motor vehicle information and emission-related engine information that is provided to the motor vehicle manufacturer's or engine manufacturer's franchised dealerships or authorized service networks for the engine or vehicle models they have certified in the California. The manufacturers must make available for purchase all emission-related motor vehicle information and emission-related engine information that is provided to the motor vehicle manufacturer's or engine manufacturer's franchised dealerships or authorized service networks for the engine or vehicle models they have delivered for sale to New Jersey.

Charging Requirements for ZEV and PHEV, 13 CCR 1962.3

To qualify as a single vehicle value, ZEVs and PHEVs must meet the minimum charging requirements at 13 CCR 1962.3. This provision sets forth minimum requirements for charging

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equipment and capabilities, which include, but are not limited to, cord length, amperage, testing requirements, and charging capabilities.

Data Standardization, and Malfunction and Diagnostic System Requirements for ZEVs and PHEVs, 13 CCR 1962.5, 1968.1, 1968.2, and 1968.5

To qualify as a single vehicle value, ZEVs and PHEVs must meet certain data standardization and malfunction and diagnostic system requirements specified at 13 CCR 1962.5, 1968.1, 1968.2, and 1968.5. These sections describe the technical requirements for electronic interface (that is, on board diagnostics or OBD) with internal combustion engine vehicles and zero emission vehicles, as well as standards for indicating a malfunction (for example, check engine light).

Additional Allowances that May Count Toward an Annual ZEV Requirement, 13 CCR 1962.4

As described above, the ACC II program includes an annual ZEV requirement for manufacturers of passenger cars and light-duty trucks. Generally, a manufacturer's annual ZEV requirement must be satisfied using vehicle values where the sale of one qualifying ZEV or PHEV is equal to one vehicle value. However, CARB included some flexibilities in the ACC II program to help manufacturers meet their obligations with partial credits. Though the annual ZEV requirements in New Jersey are expected to be implemented in New Jersey one year later than the annual ZEV requirements in California, the model years tied to the flexibilities set forth in California's regulation will be the same in New Jersey, with the exception of the early compliance flexibility option, as further described below.

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Partial Value for the Sale of PHEVs

A model year 2026 through 2028 PHEV that does not qualify for a whole vehicle value may qualify for partial vehicle value pursuant to 13 CCR 1962.4. The amount of the partial vehicle value is calculated in proportion to the certification range value of the PHEV. Only 20 percent of a manufacturer's ZEV requirement may be met by a manufacturer selling PHEVs. The 20 percent includes PHEVs that qualify as a whole vehicle value, as described above, as well as those PHEVs that qualify as a partial vehicle value.

Environmental Justice Vehicle Values

For qualifying 2024 through 2031 model year ZEVs and PHEVs, vehicle manufacturers may earn additional vehicle values by participating in one or more environmental justice flexibilities. These flexibilities include three options: community-based clean mobility programs, new ZEVs and PHEVs offered at low MSRP, and vehicles sold at the end of lease to participating dealerships.

Community-Based Clean Mobility Programs

Manufacturers may earn an additional 0.50 vehicle value for a ZEV or an additional 0.40 vehicle value for a PHEV sold to a qualifying community-based clean mobility program, as long as the vehicle is sold at a minimum 25 percent discount from the manufacturer's suggested retail price (MSRP).

The CCR provisions incorporated by reference define a community-based clean mobility program as a program that: 1) provides access to clean mobility solutions other than vehicle

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ownership including ZEV car sharing, ride-sharing, vanpools, ride-hailing, or on-demand first-mile/last-mile services; 2) serves a community in which at least 75 percent of the census tracts in the project area (where community residents live and services operate) are a disadvantaged community, as defined in California by Health and Safety Code section 39711, a low-income community as defined in California by Health and Safety Code section 39713, or a tribal community regardless of Federal recognition; and 3) is implemented by a community-based organization, Native American Tribal government regardless of Federal recognition, or a public agency or nonprofit organization that has received a letter of support from a project-related community-based organization or local community group that represents community members that will be impacted by the project or has a service background related to the type of project. 13 CCR 1962.4(l).

California's definitions for "disadvantaged community" and "low-income community" are based on provisions in the California Health and Safety Code. The Department proposes to replace the references to the California Health and Safety Code provisions in order to apply New Jersey-specific determinations based on the State's unique socio-economic and environmental conditions. Pursuant to N.J.A.C. 7:27-29A.7(g), Incorporation by reference, the Department proposes to replace the "disadvantaged community" language in the CCR with "overburdened community subject to adverse cumulative stressors, as determined by the Department pursuant to N.J.A.C. 7:1C." Similarly, the Department proposes to replace the "low-income community" language with "a low-income community where at least 35 percent of the households qualify as

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low-income households as determined by the Department pursuant to N.J.A.C. 7:1C." The replacement language refers to the Department's recently adopted Environmental Justice rules.

Vehicles Sold at the End of Lease to Participating Dealerships

For each model year 2026 through model year 2031 ZEV or PHEV with an MSRP less than or equal to $40,000 that was originally leased in New Jersey and sold at end of the lease to a dealership participating in a financial assistance program, a manufacturer may earn a total 0.25 partial vehicle value. When a PHEV or ZEV is sold to a participating dealership, an initial 0.10 vehicle value is earned. If, and when, that ZEV or PHEV is subsequently purchased by a financial assistance program participant during the calendar years 2026 through 2031, the manufacturer earns an additional 0.15 vehicle value.

California defines a financial assistance program as "a vehicle purchase incentive program where approved dealerships accept a point-of-sale incentive for used ZEVs and PHEVs for lower-income consumers." 13 CCR 1962.4(l). As yet there are no approved dealerships; however, the State will need to develop a process to approve New Jersey dealerships that wish to participate in a financial assistance program pursuant to ACC II.

New ZEVs and PHEVs Offered at Low MSRP

Manufacturers of ZEVs and PHEVs may earn an additional 0.10 vehicle value for 2026 through 2028 model year vehicles that have an MSRP of $20,275 or less for passenger cars and $26,670 or less for light-duty trucks. The dollar amount of the maximum MSRP is adjusted annually based on the Consumer Price Index (CPI).

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Limitations Applicable to All Three Environmental Justice Flexibility Options

In order to ensure that emission reductions take place in environmental justice communities, any additional vehicle values secured using environmental justice flexibilities must be applied in the state in which they were earned and may not be transferred to another state that has adopted California's emission standards pursuant to Section 177 of the CAA (a "Section 177 state"). Manufacturers may use environmental justice flexibilities to offset no more than five percent of their annual ZEV requirement.

Early Compliance Vehicle Values

Pursuant to the ACC II program, manufacturers may earn additional vehicle values by selling qualifying vehicles ahead of the required California schedule. California allows early value generation for two model years prior to commencement of the annual ZEV requirements. If New Jersey's annual ZEV requirement begins in model year 2027, manufacturers would be able to earn and bank early compliance values for model years 2025 and 2026. Manufacturers may apply early compliance values against their annual ZEV requirement for the first three model years of the requirement. For New Jersey, this would mean manufacturers could use the early compliance values they banked to satisfy their annual ZEV requirements for model years 2027, 2028, and 2029.

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As discussed above, the ACC II regulation has a number of flexibilities built in to allow a manufacturer to meet a potential shortfall based on annual variability in sales while still making progress on overall sales. Specifically, in any model year a manufacturer may bank excess values earned by exceeding the annual ZEV sales requirement in one model year and apply those values to a future model year's annual ZEV requirement.

In the ACC II regulation, California has chosen to use the term "vehicle value" when discussing a manufacturer's obligation to satisfy its annual ZEV requirement, whereas previous California regulations (including LEV) referred to "credits" when describing a manufacturer's ZEV requirement. Pursuant to ACC II, a manufacturer may convert its historical "credits" to "values" and bank those credits to satisfy its annual ZEV requirement in model years 2026 through 2030. In addition, through model year 2030 manufacturers will also be permitted to pool their credits by transferring excess values earned in California, or a Section 177 state to satisfy value deficits in California or a Section 177 state. These early model year flexibilities will be important as manufacturers work to deploy a greater number of qualifying ZEV models and increase the number of ZEV sales pursuant to the ACC II program requirements.

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Advanced Clean Cars II: Emission Standards for Model Year 2027 or Later Internal Combustion Engine Passenger Car, Light-Duty Truck, and Medium-Duty Vehicles

Overview of the Multi-pollutant Exhaust Emission Standards for Internal Combustion Engine Passenger Car, Light-duty Truck, and Medium-duty Vehicles, 13 CCR 1956.8, 1960.1, 1961, 1961.1, 1961.2, 1961.3, 1961.4

The second of the two main components of CARB's ACC II program is the development of more stringent multi-pollutant exhaust emission standards for internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles. For instance, the ACC II program does not allow manufacturers to use a fleet average that includes ZEVs or PHEVs to meet the NO_x emission standard, and manufacturers must be able to meet a lower particulate matter emission standard. Further, the ACC II program requires these more stringent standards be met under a more aggressive driving cycle for some vehicle types. By increasing the stringency, the ACC II program ensures that the internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles sold in model year 2026 or later (model year 2027 or later in New Jersey) will meet the most stringent but technologically feasible exhaust emission standards.

Multi-pollutant Exhaust Emission Standards: N.J.A.C. 7:27-29A.2, Purpose and Applicability, and 29A.3, Requirements for Vehicle Transactions, 13 CCR 1956.8, 1960.1, 1961, 1961.1, 1961.2, 1961.3, and 1961.4

Pursuant to 13 CCR 1962.4, the ACC II program's multi-pollutant exhaust emission standards apply to any vehicle manufacturer who produces and delivers for sale model year 2026

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or later passenger cars, light-duty trucks, and medium-duty vehicles in California. However, as discussed above, the Department proposes to delay the applicability of the rules. Thus, the multi-pollutant exhaust emission standards would apply to model year 2027 or later internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles delivered for sale in New Jersey on or after January 1, 2027. In the event that the adoption of these rules is not finalized in order to be operative by January 1, 2027, the Department will modify the rules upon adoption to commence with model year 2028.

Pursuant to proposed N.J.A.C. 7:27-29A.3, Requirements for vehicle transactions, individuals and businesses would generally be prohibited from selling, leasing, importing, delivering, purchasing, acquiring, registering, receiving, or otherwise transferring new, 2027 or later model year passenger cars, light-duty trucks, or medium-duty vehicles unless the vehicles have been certified to meet the standards proposed to be incorporated by reference. This requirement affects only new vehicles and does not impact the sale, trade, ownership, or operation of used vehicles in New Jersey. A vehicle with an odometer reading of 7,500 miles or more is presumed to have been transferred to an ultimate purchaser. This provision is included because the Department does not consider a vehicle with more than 7,500 miles on the odometer to be “new,” and such vehicles, therefore, would not be subject to the proposed subchapter. Unless it is covered by one of the exclusions or exemptions, a vehicle with fewer than 7,500 miles on the odometer and that transferred into New Jersey for sale would be subject to the proposed subchapter.

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Although new 2027 or later model year passenger cars, light-duty trucks, or medium-duty vehicles must meet California certification requirements, the Department is proposing a list of exceptions to allow for the acquisition or transfer of vehicles in limited situations that are beyond vehicle owners' control or to which the certification requirements do not apply. Examples of the exemptions include, but are not limited to, vehicles sold for the purpose of being dismantled, vehicles transferred by court decree, and vehicles that are leased to the general public but are operated primarily outside of New Jersey. As discussed previously, emergency vehicles and military tactical vehicles are exempt from California emission requirements.

Finally, the Department is proposing, at N.J.A.C. 7:27-29A.3, to make it clear that new model year 2026 vehicles produced and delivered for sale in New Jersey after December 31, 2025, and before January 1, 2027, do not need to be certified to meet the ACC II program's standards. Although the vehicles would be required to be certified in order to be produced and delivered for sale in California, the proposed rules would apply in New Jersey to model year 2027 or later motor vehicles produced and delivered for sale in New Jersey on or after January 1, 2027. In the event that the adoption of these rules is not finalized in order to be operative by January 1, 2027, the Department will modify the rules upon adoption to commence with model year 2028. All vehicles sold in New Jersey must be certified to meet the Federal emission standards.

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As discussed above in the section on ZEVs, proposed N.J.A.C. 7:27-29A.7, Incorporation by reference, identifies the specific provisions of the CCR and California vehicle code that the Department proposes to incorporate by reference into this new subchapter, as well as the minor language changes necessary to effectively implement the program in New Jersey. The discussion of proposed N.J.A.C. 7:27-29A.7 above related to those provisions that applied to ZEVs. Below is a description of the sections of CCR and California Vehicle Code incorporated by reference that pertain to the multi-pollutant exhaust emission standard provisions of the ACC II program:

- 13 CCR 1956.8(g) and (h), 1960.1, 1961, 1961.1 through 1961.4, which prescribe exhaust emission standards and test procedures for passenger cars, light-duty trucks, and medium-duty vehicles, generally. California updated sections 1961.2 and 1961.3 and added section 1961.4 as part of the ACC II program;
- 13 CCR 1962.5, 1968.1, 1968.2, 1968.5, which describe the technical requirements for electronic interface (that is, OBD) with both internal combustion engine vehicles and zero emission vehicles, as well as standards for indicating a malfunction (for example, “check engine light”). California added section 1962.5 and updated section 1968.2 as part of the ACC II program;
- 13 CCR 1965, which prescribes emission control labels applied to vehicles, detailing what emission control devices are present and the vehicle’s emissions

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certification category. California updated section 1965 as part of the ACC II program;

- 13 CCR 1969, which requires vehicle and engine manufacturers to make available for purchase all emission-related motor vehicle information and emission-related engine information that is provided to the motor vehicle manufacturer's or engine manufacturer's franchised dealerships or authorized service networks for the engine or vehicle models they have certified in California. Section 1969 has been updated by California as part of the ACC II program;
- 13 CCR 1976 and 1978, which revise the evaporative and refueling emission standards for new, model year 2027 or later passenger cars, light-duty trucks, and medium-duty vehicles. California updated sections 1976 and 1978 as part of the ACC II program;
- 13 CCR 2035 through 2041, and 2046, which describe the warranty requirements for emission control systems on internal combustion engine vehicles. California updated sections 2037 and 2038 as part of the ACC II program;
- 13 CCR 2062, which specifies test procedures manufacturers must apply during vehicle production;
- 13 CCR 2101, 2109, and 2110, which describe how California may require vehicles be provided to them by the manufacturer for compliance testing and how recalls and remedial actions are processed if defects are discovered;

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- 13 CCR 2111 through 2121, which detail procedures for voluntary and influenced vehicle recalls. California updated Section 2112 as part of the ACC II program;
- 13 CCR 2122 through 2133, and 2135, which detail procedures for ordered vehicle recalls;
- 13 CCR 2136 through 2140, which describe in-use vehicle enforcement test procedures. California updated sections 2139 and 2140 as part of the ACC II program;
- 13 CCR 2141 through 2149, which detail how manufacturers may report failures of emission-related controls and components. California updated section 2147 as part of the ACC II program;
- 13 CCR 2150 and 2151, which give California the right to observe vehicle assembly lines and inspect new vehicles at dealerships to ascertain compliance with emission requirements;
- 13 CCR 2221 and 2222, which require that emission-related replacement parts used to repair vehicles perform in compliance with emissions standards and that aftermarket, add-on, or modified parts be certified by CARB for their application. This section has specific requirements for catalytic converters and diesel particulate filters and prohibits used, recycled, remanufactured, refurbished, or salvaged catalytic converters and diesel particulate filters from use;

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- 13 CCR 2235, which requires that vehicles comply with California's requirements for fuel tank fill pipes; and
- California Vehicle Code Sections 27156.2 and 27156.3, which define emergency vehicles that are exempt from vehicle emission standards.

As discussed above in the discussion of incorporation by reference related to ZEVs, in order to implement the ACC II program in New Jersey, the Department proposes to replace certain California-specific terms in the CCR and California Vehicle Code with New Jersey-specific terms, unless the context clearly indicates it would be inappropriate or this subchapter specifies otherwise.

ACC II: Provisions at N.J.A.C. 7:27-29A Applicable to the ZEV and Multi-pollutant Exhaust Emission Standards

N.J.A.C. 7:27-29A.1, Definitions

The Department proposes to incorporate by reference the definitions contained in the ACC II regulation, the majority of which are found at 13 CCR 1900, 1905, and 1962.4, as well as in the model year 2026 and newer ZEV and PHEV Test Procedures. In addition to the California definitions being incorporated by reference, the proposed rules include a definitions section at N.J.A.C. 7:27-29A.1, that provides definitions of terms specific to New Jersey. The proposed definitions of acronyms "CARB," "CCR," "PHEV," "USEPA," and "ZEV" are provided in order that the Department's proposed rules can refer to acronyms throughout.

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Additionally, the Department proposes to define "California Air Resources Board," "Commissioner," "Department," and "State" since those terms do not appear in the California regulation, but are necessary to distinguish between California and New Jersey provisions. The Department proposes to include "intermediate volume manufacturer," "large volume manufacturer," "light-duty truck," "manufacturer," "medium-duty vehicle," and "passenger car" by referencing the definitions in the CCR. Though these terms are defined in the provisions of the CCR that the Department proposes to incorporate by reference, the Department is including the terms at N.J.A.C. 7:27-29A for reference because these terms appear in the New Jersey-specific text of the rules. The proposed definition of "nitrogen oxides" or "NO_x" is consistent with its definition in other mobile source provisions of the Air Pollution Control rules at N.J.A.C. 7:27.

The Department has also proposed definitions of terms that are specific to the interpretation and enforcement at N.J.A.C. 7:27-29A. The proposed definition of "ultimate purchaser" defines the vehicle owner and excludes dealers or other entities whose only interest in the vehicle is for resale. "Person" is defined because it appears in the proposed definition of ultimate purchaser. The Department's proposed definitions of "business," "dealer," and "delivered for sale" are identical to the definitions of the same terms in the LEV Program rules at N.J.A.C. 7:27-29.1. The Department's proposed definitions of "sale" or "sell" are consistent with the same terms in the LEV Program rules at N.J.A.C. 7:27-29.1, except to the extent that the definitions in ACC II exclude engines from those definitions. The proposed definition of "lease"

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is consistent the definition of the term in the Model Year 2027 or Later Heavy-Duty New Engine and Vehicle Standards and Requirements at N.J.A.C. 7:27-28A.1. The proposed definition of "motor vehicle" is consistent with the definition in multiple Department mobile source rules, such as N.J.A.C. 7:27-14.1, 15.1, and 29.1. The proposed definition of "new motor vehicle" delineates applicability, as the proposed ACC II rules generally apply only to new motor vehicle transactions, and is consistent with the definition of the term at N.J.A.C. 7:27-28A-1. "Certification" or "certified" is proposed to be defined consistent with similar terms used in other mobile source rules, such as N.J.A.C. 7:27-14.1, 15.1, and 29.1. The proposed definition of "model year" references the Federal definition at 40 CFR 85.2302.

N.J.A.C. 7:27-29A.5, Manufacturer Compliance with California Warranty

As discussed above, the Department proposes to incorporate by reference the provisions of California's ACC II program that impose minimum warranty requirements for ZEVs for the first time and impose more substantial warranty requirements for MY 2027 or later internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles. To emphasize that those provisions are enforceable in New Jersey, proposed N.J.A.C. 7:27-29A.5 provides that when a covered vehicle is sold to a purchaser in New Jersey, the manufacturer must comply with the provisions pursuant to the California warranty requirements being incorporated by reference.

N.J.A.C. 7:27-29A.6, Enforcement

The Department proposes enforcement provisions at N.J.A.C. 7:27-29A.6 for the ACC II program that are similar to the enforcement provisions contained in the existing LEV program

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rules. These provisions set forth: (1) recordkeeping requirements for businesses in New Jersey that conduct transactions involving model year 2027 or later passenger cars and light-duty trucks; (2) the scope of the Department's authority to enter, inspect, test, and sample vehicles; and (3) the Department's authority to enforce CARB orders, enforcement actions, or recall campaigns. The enforcement provisions are different to the extent that the Department has streamlined the New Jersey-specific rule provisions and relies on the provisions of the CCR as incorporated by reference for purposes of identifying the violations.

N.J.A.C. 7:27A-3.10, Civil Administrative Penalties for Violations

At N.J.A.C. 7:27A-3.10, the Department proposes new civil administrative penalties for violations of proposed new N.J.A.C. 7:27-29A. Existing N.J.A.C. 7:27A-3.5 authorizes the Department to impose a civil administrative penalty for a violation of any provision at N.J.A.C. 7:27, the Air Pollution Control Act (Act), or any rule promulgated, or administrative order, operating certificate, registration requirement, or permit issued pursuant to the Act, even if the violation is not otherwise included at N.J.A.C. 7:27A. The proposed penalties at N.J.A.C. 7:27A-3.10(m)29A are similar to the existing penalties for similar violations of provisions in the existing LEV program at N.J.A.C. 7:27-29.

Pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 through 133, a person responsible for a minor violation is afforded a period of time by the Department to correct the violation in order to avoid being subject to a penalty. Based upon the criteria set forth at N.J.S.A. 13:1D-129, the Department has determined which of the proposed penalties at N.J.A.C. 7:27A-3.10(m) are

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minor, and, thus, subject to a grace period, and which are non-minor, and, thus, not subject to a grace period. Generally, the Department has determined that those violations that do not result in excess emissions (and, therefore, pose minimal risk to the public health, safety, and the environment), and do not materially and substantially undermine or impair the goals of the regulatory program, are classified as "minor." Pursuant to the existing rules, a minor violation can be ineligible for a grace period if the conditions at N.J.A.C. 7:27A-3.10(s) are not met.

Amendments to the Low Emission Vehicle (LEV) Program at N.J.A.C. 7:27-29

As stated above, the ACC II program is the next phase in California's emission standards. California's prior emission standards, which are incorporated by reference at N.J.A.C. 7:27-29, end with vehicles produced and sold through model year 2025. As the Department's ACC II program is set forth at N.J.A.C. 7:27-29A, the Department proposes amendments throughout the rules at N.J.A.C. 7:27-29 to insert an end date of calendar year 2025.

Importantly, the Department is not proposing to amend N.J.A.C. 7:27-29.10, Warranty, or 29.12, Enforcement, which contain warranty and recall provisions that apply to internal combustion engine passenger cars, light-duty trucks, and medium-duty vehicles. It is imperative that these requirements remain intact so that if any model year 2009 through model year 2025 passenger car, light-duty truck, or medium-duty vehicle purchased pursuant to N.J.A.C. 7:27-29 is subject to recall by California, the vehicle manufacturer must still recall that vehicle in New Jersey. Likewise, for consumer protection, a California-certified model year 2009 through model

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year 2025 vehicle purchased in New Jersey would be eligible for the California warranty provisions.

Clarifications and Updates of Miscellaneous Provisions

N.J.A.C. 7:27-14, Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles, and 15, Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles

N.J.A.C. 7:27-14.1, Definitions, 14.3, General Prohibitions, 15.1, Definitions, and 15.7, Prohibition of Tampering with Emission Control Apparatus

The Department is proposing to amend N.J.A.C. 7:27-14.1, 14.3(e), 15.1, and 15.7(a), to the extent that these provisions identify, define, and refer to "EPA Memorandum 1A." On November 23, 2020, the EPA's Office of Enforcement and Compliance Assurance issued "EPA Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices" (EPA Tampering Policy), which superseded and replaced EPA Memorandum 1A. Though EPA Memorandum 1A is defined to include any subsequent revisions to the policy, which would include a replacement memorandum, the Department is proposing to update the term and definition at N.J.A.C. 7:27-14.1 and 15.1, as well as the references at N.J.A.C. 7:27-14.3(e) and 15.7(a) to identify the more recent EPA document, which provides guidance on enforcement concerning modifications to diesel and gasoline vehicle emission controls. The proposed amendments have no substantive impact since the existing rules incorporate supplements and amendments to the original document. The proposed amendment is for clarity only.

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N.J.A.C. 7:27-28A.11 Incorporation by Reference

As part of its adoption of the Model Year 2027 or Later Heavy-Duty New Engine and Vehicle Standards and Requirements, the Department noted its intention to establish a New Jersey-specific averaging, banking, and trading (ABT) program in a future rulemaking. The delayed establishment of a New Jersey-specific program has allowed the Department time to review the ABT provisions and requirements of other states that have adopted California's Heavy-Duty New Engine and Vehicle Standards and Requirements pursuant to Section 177 of the CAA. After review, the Department is proposing to amend N.J.A.C. 7:27-28A.11, Incorporation by reference, to establish a New Jersey-specific ABT program consistent with the programs in other states.

While the Department adopted the California-specific ABT program regulatory provisions of the CCR earlier this year, it did not make the revisions necessary for the program to be operated in New Jersey. These proposed amendments will make the necessary replacements to the provisions the Department already incorporated by reference, for New Jersey to operate its own ABT program. Specifically, certain California-specific terms in the CCR are proposed to be replaced with New Jersey-specific terms, unless the context clearly indicates it would be inappropriate or this subchapter specifies otherwise. Thus, the Department proposes to replace "California" with "New Jersey," except where California certified vehicles are discussed.

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Likewise, "CA-ABT" is proposed to be replaced with "NJ-ABT." There are several other minor replacements to adjust the program to New Jersey.

In order to maintain consistency with California and other states that have adopted this program, the Department is not proposing any changes to the calculations or model year applicability. However, the Department acknowledges that this rulemaking comes after California's model year 2022 cutoff for the conversion of Federal credits into state-specific ABT program credits. Accordingly, the Department proposes to allow manufacturers until model year 2025 to opt into the New Jersey ABT program, convert historical Federal credits, and report newly earned credits in accordance with California's procedures.

N.J.A.C. 7:27-31 Advanced Clean Trucks Program

N.J.A.C. 7:27-31.3, Applicability

The Department is proposing to amend N.J.A.C. 7:27-31.3 to clarify that military tactical vehicles and emergency vehicles are exempt from California's Advanced Clean Trucks regulation. Since these vehicle categories are excluded from emission standard regulations in California, New Jersey is mirroring the same exclusion. When the Department adopted the Advanced Clean Trucks Program in 2021, it intended to establish a program identical to California's Advanced Clean Trucks program; thus, these provisions were not intentionally omitted. The Department's proposed amendment corrects this omission and clarifies the Department's intent to regulate the same vehicle categories as the California program.

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N.J.A.C. 7:27-31.4 Incorporation by Reference

The Department is proposing to amend N.J.A.C. 7:27-31.4 to incorporate by reference the California definitions of military tactical vehicle and emergency vehicle for the purpose described above.

Social Impact

By decarbonizing the light-duty vehicle population in New Jersey, the Department anticipates that the proposed rulemaking will have a positive social impact on the State's residents; reducing emissions from fossil fuel combustion will positively influence health outcomes, protect water quality, and safeguard ecosystems in New Jersey's forests and wetlands by mitigating future clime change impacts compared to a business as usual scenario. As explained in the Environmental Impact statement, the largest sector of greenhouse gas emissions in the State is transportation. The largest share of transportation sector emissions, in turn, are on-road gasoline-powered passenger vehicles and light-duty trucks, such as pickup trucks and SUVs, with 86 percent of vehicle miles traveled in 2018 coming from these types of vehicles. See 80x50 Report at page 12. Therefore, to mitigate the impacts and effects of climate change, it is important to reduce greenhouse gas emissions from the passenger vehicles and light-duty trucks that are subject to California's ACC II program. In addition to greenhouse gas reductions, the proposed rulemaking will also reduce pollutants that have an adverse impact on air quality and human health.

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The ACC II program would not force a vehicle owner to replace an internal combustion engine vehicle with a ZEV; the purpose of ACC II is to transition the State's light-duty vehicles from internal combustion engine vehicles to ZEVs. The Department recognizes the sweeping and transformative effect this will have on the State. Indeed, for the proposed ACC II program to succeed, consumers in New Jersey will need to embrace ZEVs on a much larger scale than they have to date and at an accelerated pace. This will require, for example, affordable and reliable ZEVs and sufficient charging infrastructure throughout the State, which could mean upgraded distribution lines and other utility infrastructure. In the absence of consumer acceptance of the proposed ACC II program, an unintended consequence could be vehicle owners retaining their fossil-fuel powered vehicles for longer, meaning older, more polluting vehicles remain on the road. To avoid this situation and to achieve the significant climate change and public health benefits of a large-scale transition to ZEVs, the State has put in place multiple complementary measures, policies, laws, and funding mechanisms to increase consumer acceptance and uptake of electric vehicles. Under the direction of Governor Murphy, the Department and other State agencies continue to actively evaluate opportunities and strategies and develop programs to support ZEV adoption in the State that would further complement this proposed rulemaking, with a particular emphasis on addressing barriers to ZEV access for overburdened communities and low- and moderate-income residents.

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Reducing NO_x and PM2.5 Emissions

The proposed rulemaking will assist in transitioning the transportation sector from gasoline and diesel combustion engines to zero emission engines. Not only will this transition reduce emissions of CO_2, but it will also reduce emissions of NO_x, and PM2.5, which will benefit public health especially in overburdened communities that have a high traffic volume.

The effects of NO_x and PM2.5 on public health have been widely and extensively studied by the EPA and others. For instance, elevated levels of NO_x cause damage to the mechanisms that protect the human respiratory tract and can increase a person's susceptibility to, and the severity of, respiratory infections and asthma. Long-term exposure to high levels of NO_x can cause chronic lung disease. Other health effects from exposure to NO_x include shortness of breath and chest pains. Further, long-term exposure to low concentrations of nitrogen dioxide (NO_2), a component of NO_x, also causes adverse health effects, including lung irritation and aggravate lung diseases, such as asthma. See USEPA, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2, Regulatory Impact Analysis (August 2016), pp. 6-2 to 6-6, at https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P7NS.PDF?Dockey=P100P7NS.PDF.

Studies have also shown that reducing PM2.5 may lead to reduced incidence of premature mortality and morbidity Integrated Science Assessment (ISA) for Sulfur Oxides-Health Criteria (Final Report, Sep 2008), USEPA, Washington, DC, EPA/600/R-08/047F; USEPA. Integrated Science Assessment for Oxides of Nitrogen-Health Criteria (Final Report,

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July 2008), USEPA, National Center for Environmental Assessment Washington, DC, EPA/600/R-08/071; and USEPA. Integrated Science Assessment (ISA) for Particulate Matter (Final Report, Dec 2009), USEPA, Washington, DC, EPA/600/R-08/139F.

Impacts of Climate Change

The Department's 2020 New Jersey Scientific Report on Climate Change compiles scientific material in a comprehensive report detailing both the effects and the impacts of climate change. See New Jersey Department of Environmental Protection. 2020. New Jersey Scientific Report on Climate Change, Version 1.0 (Eds. R. Hill, M.M. Rutkowski, L.A. Lester, H. Genievich, N.A. Procopio) Trenton, NJ 184 pp. While the report examines climate change at the global and regional level, its purpose is to explain the current and anticipated effects and impacts in New Jersey. See *Id*. at 3. One of the report's findings is that New Jersey is uniquely vulnerable to climate change due to multiple factors, including its coastal location, population density, and geography. See *Id*., Executive Summary. The effects of climate change on the environment have a multitude of social costs, economic impacts, and environmental damages. Below are a few of the impacts that are predicted to occur under low-, moderate-, and high-emissions scenarios set forth in the 2020 Report on Climate Change.

Air Quality

The EPA sets national ambient air quality standards (NAAQS) for six criteria pollutants. One of these health-based standards is for ground level ozone. New Jersey is classified as nonattainment for the ozone standard, which means the level of ozone measured at designated

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monitors around the State exceeds the Federal standards. See 2020 Report on Climate Change, p. 61. "The primary climate change impacts on ozone formation are expected to result from changes to meteorological conditions, often referred to as the ozone-climate penalty." *Id*. at 62. The ozone-climate penalty refers to a phenomenon in which the level of ozone precursors in the atmosphere may remain stable or even decrease, but warming temperatures offset those improvements, such that ozone formation remains unchanged. Thus, the work New Jersey has done, and continues to do, to reduce ozone precursors may be less effective at reducing ground-level ozone as temperatures continue to rise due to greenhouse gas emissions, like CO_2, and short-lived climate pollutants, like black carbon. See *Id*. at pp. 61-62 and 25-26.

Increased concentrations of ground level ozone have been linked to a number of health impacts, including, but not limited to, eye irritation, aggravated asthma and other respiratory distress, and premature death. See *Id*. at 63-64. Additionally, there is some evidence that the health impacts of increased ozone may be elevated when combined with other climate-related impacts, such as the higher temperatures that occur during heat waves. See *Id*. at 66. This is particularly significant for New Jersey's urban areas where high temperatures are often accompanied by high levels of other local air pollutants. See *Id*. at 66.

In short, climate change will result in increased respiratory and cardiovascular health problems, particularly among vulnerable populations, such as the very young, very old, and those suffering from asthma or allergic illness. See *Id*. at 61-69.

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Water Resources

The effects of climate change (temperature, precipitation, sea-level rise) may impact water quality and supply in New Jersey. See 2020 Report on Climate Change, p. 71. The quality of groundwater sources in New Jersey may also suffer adverse impacts from climate change as increased periods of precipitation can lead to contamination of groundwater supplies. Similarly, sea-level rise can lead to saltwater intrusion of coastal groundwater supplies, causing increased levels of salinity. See *Id*. at 73-75. Water quality concerns extend beyond groundwater supplies. New Jersey's surface water resources may also be threatened by rising air and water temperatures, increased extreme weather events, and sea-level rise, all of which could result in increased salinity, which existing water treatment plants are not designed to handle. See *Id*. at 75. For example, increased precipitation can lead to an increase in surface water nutrient loading, which poses the potential to stimulate rapid and excessive growth of harmful algal blooms, particularly in surface waters in proximity to agricultural practices. See *Id*. at 78.

In sum, climate change may result in a reduction in the amount of water necessary to meet the State's needs and require more extensive resources to treat the remaining water supply.

Agriculture

The effects of climate change, particularly changes in precipitation levels, temperature, and the concentration of CO_2 in the atmosphere, will impact crop and animal farming. See 2020 Report on Climate Change, p. 81. As discussed in greater detail in the Agriculture Industry Impact, insects, weeds, and pathogens are expected to thrive in warmer, wetter weather, which is

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in stark contrast to the decrease in productivity anticipated for many of New Jersey's crops and livestock, which may be unable to adapt to the environmental effects of climate change. See *Id*. at 81-83. On the whole, climate change is anticipated to have a negative impact on New Jersey's agricultural industry as it may diminish the variety of crops and livestock that are cultivated in New Jersey for sale and consumption both locally and regionally.

Forests, Wetlands, and Carbon Sequestration

The effects of climate change, including changes in precipitation levels, temperature, and the concentration of CO_2 in the Earth's atmosphere, have already begun to impact ecosystems in New Jersey's forests and wetlands. See 2020 Report on Climate Change, pp. 85-113. Warmer temperatures mean that some pest species will grow faster, travel further, and live well into warmer winters, all the while putting pressure on tree species unprepared for the onslaught. See *Id*. at 90-91. Likewise, warmer temperatures and the potential for prolonged periods of drought may affect the composition of the tree species in New Jersey's forests. These conditions favor species that are more tolerant of drought and sandy soils, while existing hardwood trees will become stressed. See *Id*. at 85-90. Moreover, "[i]ncreases in temperature, and the hot, dry periods that result, may intensify the danger of wildfires by drying out vegetation and soil" in New Jersey forests. *Id*. at 93.

Some of New Jersey's freshwater wetlands are under threat because of climate change impacts, such as changes in precipitation, sea-level rise, and increased temperatures. See 2020 Report on Climate Change, p. 95-98. Tidal wetlands in New Jersey face similar threats to their

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existing ecosystems due to the effects of climate change. See *Id*. at 98-108. Sea-level rise contributes to the erosion of existing tidal wetlands and an increase in marsh migration. Increased frequency, severity, and duration of precipitation events will also contribute to the erosion of some tidal wetlands. See *Id*. at 104-107. The erosion and diminishing of New Jersey's freshwater and tidal wetlands will result in the loss of plant and animal habitats, loss of natural flood control resources, and depletion of the State's natural buffers that help to protect coastal communities from storms. See *Id*. at pp. 95 and 99.

New Jersey's forests and wetlands serve as carbon sinks. See 2020 Report on Climate Change, p. 111. Specifically, these resources work as natural carbon capture systems, removing CO_2 from the atmosphere and helping New Jersey lower its net emissions. See *Ibid*. As explained above, the loss of forests and wetlands due to climate change will hinder New Jersey's ability to offset carbon emissions through these carbon sinks, and in the case of forests destroyed by pests, such as the pine beetle or wildfires, forests could become net carbon emitters. See *Id*. at 112.

In summary, climate change will have a negative impact on the State's plant and animal life, reducing habitats and diminishing the quality of recreational and cultural endeavors available within the State. Though the proposed new rules, standing alone, will not eradicate climate change, they are an important step in a larger strategy intended to mitigate the impacts of climate change.

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100 Percent ZEV Requirement by 2035

Impact on New Jersey's Light Duty Population

As explained in the Summary, the proposed ACC II program would transform a large portion of the State's transportation sector – passenger cars and light duty trucks such as SUVs, pickup trucks, and vans (collectively, light-duty vehicles)– from predominantly internal combustion engines and vehicles to zero emission engines and vehicles, including battery electric vehicles and plug-in hybrid electric vehicles. As of December 2019, the Department estimates that there were just over 30,000 registered ZEVs in the State. See 80x50 Report, p. 15. As of December 31, 2022, the Department estimates that there were 91,515 registered ZEVs, of a total 6.7 million registered (light-, medium-, and heavy-duty) vehicles in the State. Pursuant to ACC II, the ZEV requirement for manufacturers selling light-duty vehicles in this State will start at 43 percent with model year 2027 and increase to 100 percent in 2035. Manufacturers must meet the ZEV requirement using vehicle values. However, the ZEV program includes a number of flexibilities for a manufacturer, such as purchasing surplus vehicle values generated by another manufacturer or using its own banked values. Therefore, the annual ZEV percentage requirement does not necessarily translate directly to the percentage of electric vehicles delivered by a particular manufacturer for sale in the State. For example, pursuant to the existing ZEV requirements, the annual ZEV requirement for model year 2022 was 14.5 percent of new light-duty vehicle sales. However, as a result of the flexibilities in the previous ZEV program

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requirements, the actual number of electric vehicles sold for calendar year 2022 was 27,208, which represents approximately five percent of new vehicle sales.

Because of the program framework, the Department is unable to predict exactly how manufacturers will meet their requirements, since compliance may be through actual sales, purchase of values, utilization of banked values, or some combination of these methods. Nevertheless, the Department participated in an analysis of the benefits of adopting ACC II in New Jersey compared with a business-as-usual (BAU) scenario. The analysis was conducted by Sonoma Technology, Inc. (Sonoma), with technical input on the data and methodologies from the Department, the International Council on Clean Transportation, and the Northeast States for Coordinated Air Use Management (NESCAUM). See Benefits of Adopting California's Advanced Clean Cars II Standards in Sixteen U.S. States, https://theicct.org/wp-content/uploads/2023/05/ACC-II-project-report-final-042623.pdf (Sonoma: Final Benefits Report). As part of that analysis, Sonoma included estimates for the number of ZEVs that were expected to be registered in New Jersey under the BAU and ACC II scenarios. See Sonoma: Final Benefits Report, p. 22, Table 5 New Jersey (MY 2027 Implementation). For the study, the BAU scenario projected the number of ZEVs in New Jersey assuming manufacturers' compliance with the Department's existing rules at N.J.A.C. 7:27-29, which include a ZEV requirement of 22 percent for model year 2025. The Department notes that the BAU scenario does not include the EPA's recently proposed rules to impose more stringent multi-pollutant exhaust emissions standards for light-duty vehicles and Class 2b and 3 (medium-duty) vehicles

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that would phase-in over model years 2027 through 2032, since this is not a final rule. See 88 FR 29184 (May 5, 2023).

Pursuant to the BAU scenario, Sonoma estimated that 822,000 total ZEVs will be registered in New Jersey in 2035. See Sonoma: Final Benefits Report, p. 22, Table 5 New Jersey (MY 2027 Implementation). In contrast, pursuant to the ACC II scenario, Sonoma estimated that 2.5 million light-duty ZEVs (out of an estimated total of 6.4 million registered light-duty vehicles) will be registered in New Jersey in 2035. *Ibid*. By 2050, the Department expects the majority of internal combustion engine vehicles presently in use, or sold between now and 2035, to have reached the end of their useful lives and the number of ZEVs registered to comprise almost 90 percent of the entire light-duty vehicle population, as manufacturers will be required to meet a 100 percent ZEV requirement for model year 2035, which will likely need to be met by direct sales.

Although there are uncertainties as to the manner in which manufacturers will comply with the annual ZEV requirements, the proposed rulemaking would clearly force the accelerated transition to ZEV passenger vehicles, pickups, and SUVs by model year 2035. As explained in CARB's Initial Statement of Reasons (ISOR), "[t]ransforming to a zero-emission transportation system equitably requires a coordinated, collaborative, and cross-cutting approach," with the ACC II regulation being one piece of a larger strategy. CARB, Initial Statement of Reasons April 12, 2022, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/isor.pdf.

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Impact on Vehicle Manufacturers, Dealers, and Service Industry

The ZEV regulation directly regulates manufacturers. Manufacturers have stated that "the future is electric" and set their own targets for ZEV sales. See generally Alliance for Automotive Innovation, 2022 Industry Report, The Driving Force, Merging Innovation and Policy, page 13, at https://www.autosinnovate.org/resources/papers-reports/Driving%20Force%20Annual%20Report.pdf. Thus, manufacturers are already committed to producing and delivering for sale increasing numbers of electric vehicles and electric vehicle models to dealerships in the State. However, as noted above, the scale and pace at which they must produce and deliver ZEVs to New Jersey, California, and other states that have adopted or will adopt ACC II, will be a challenge. Additionally, manufacturers will have to produce a range of ZEV types to meet various consumer needs, including affordability, and demonstrate quality that is comparable to internal combustion engines or vehicles. ZEVs also require batteries, which require critical minerals, or fuel cells for power. Batteries that reach the end of warranty or end of useful life must be properly managed through repurposing, reuse, recycling, and ultimately disposal.

New car and truck dealers will also be impacted as manufacturers determine how to meet their ZEV requirements. The number and types of ZEVs and internal combustion engine vehicles for each model year that are offered for sale or lease in the State will depend on manufacturer production and delivery. The impact on car dealers, in turn, will depend on consumer demand for and affordability of those vehicles. Although car dealerships have been preparing for a shift to

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ZEVs, the ACC II ZEV requirement is a sweeping and ambitious requirement. To keep pace, car dealerships may need to remodel their service areas, and will need sufficient charging infrastructure at their locations, which could require new or upgraded transformers and distribution lines, as well as equipment, such as heavier capacity vehicle lifts, forklifts, lift trays for battery packs, and insulated tools. Dealership sales representatives may also need training to be able to convey accurate information to consumers about the proper use and maintenance of each new ZEV model. Sales representatives will be expected to answer customer questions regarding electric vehicle range, charging opportunities, and warranty and service provisions.

As ZEVs become increasingly common in New Jersey, the automotive service industry will have to transition as well. The National Institute for Automotive Service Excellence offers a certification path for hybrid/electric vehicle specialists and many vehicle manufacturers offer similar programs for the service technicians at their dealerships. Service garages may require some upgrades to work on electric vehicles, such as heavier capacity lifts and charging stations. Auto repair shops and technicians would also be affected by decreased repair volumes for internal combustion engine vehicles.

Consumer Considerations and Charging Infrastructure Needs

The ultimate success of the ACC II program, however, depends on consumers. As CARB noted, "[a]chieving 100 percent ZEV and PHEV sales by 2035 will require mainstream consumers to embrace electric drive technologies in their purchasing. This consumer change will require continued improvements in electric technology, owner support, and conveniences, as well

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as successful strategies to communicate the benefits to potential buyers." ISOR at p. 21.

California's ACC II program includes a number of battery requirements, including increased minimum range, durability, and warranty provisions, "to ensure that ZEVs are attractive to consumers and actually replace internal combustion engine vehicles, securing the resulting air quality benefits by ensuring the efficacy of the lowest-cost vehicle option in meeting basic transportation needs…." See ISOR at p. 46. For the same reason, California's ACC II program also includes various requirements related to charging, such as charging cords, minimum on-board charging speed, and standard DC fast charging capability. See ISOR pp. 46-56.

A successful transition will depend on adequate access to charging and sufficient charging points across the State. This includes home charging, which is "the most convenient and usually the least-cost source of electricity for charging." ISOR at p. 28. As in California, the Department expects that in New Jersey, most drivers will charge their vehicles at home. However, while the reliance on home charging, supplemented by occasional public charging, is expected to continue, CARB also expects a "growing share of drivers using public charging infrastructure as more and more drivers reside in apartments and rental properties without access to home charging." ISOR at p. 28.

Responding to concerns about charging access, recent New Jersey law requires that developers of new multi-unit dwellings with five or more units of dwelling space pre-wire electrical infrastructure (make ready) at 15 percent of the parking spaces to facilitate easy and cost-efficient future installation of charging stations and also install charging stations in one-third

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of that 15 percent. See P.L. 2021, c. 171. Within three years, developers must install charging in an additional one-third of the 15 percent, and within six years, the final one third. *Ibid*. Similarly, developers of new parking lots and garages must install a minimum number of make-ready parking spaces in proportion to the total number of off-street parking spaces. For example, a new parking lot or garage must include at least one make-ready space if there are 50 or fewer off-street parking spaces. The minimum number of make-ready spaces increases incrementally from there. At the top end, if there will be more than 150 off street parking spaces, the developer must install at least four percent of the total parking spaces as make-ready parking spaces, at least five percent of which shall be accessible for people with disabilities.

The same law required a Statewide municipal electric vehicle ordinance that ensures consistent permitting practices for EV charging stations across all 566 municipalities. See P.L. 2021, c. 171. Within the State, efforts have been underway since 2016 to build out the necessary charging infrastructure for ZEVs. The State has awarded more than $240 million since 2019 for 2,980 charging stations with 5,271 ports at 680 locations. The State also developed a toolkit to encourage and support the installation of electric vehicle charging in existing multifamily dwellings. https://dep.nj.gov/drivegreen/multi-unit-dwelling-toolkit/. Utilities have committed $215 million for make-ready infrastructure for public, multi-unit dwelling and workplace charging stations and residential chargers. https://dep.nj.gov/wp-content/uploads/drivegreen/pdf/nj-ev-success-flyer.pdf.

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As ZEVs increase in number, electricity demand will also increase. The State will need to ensure that distribution lines and electricity supply meet the increased electricity demand, while monitoring potential ratepayer impact for any upgrades or buildout needed. The New Jersey Board of Public Utilities (BPU), in late 2022, released a report on the modernization of New Jersey's electric grid and is advancing regulatory changes and working with stakeholders to further develop regulatory and policy proposals based on the report's recommendations. https://nj.gov/bpu/newsroom/2022/approved/20221110a.html. Additionally, to meet the anticipated demand, many agencies, including, but not limited to, the Department, the BPU, and the New Jersey Economic Development Authority (NJEDA), will continue to collaborate to ensure the development and expansion of wind, solar, battery, and other clean energy technology in the State.

Comparison with EPA Proposed Rules for Model Years 2027 through 2032

As mentioned above, the EPA recently proposed rules to impose more stringent multi-pollutant exhaust emissions standards for light-duty and medium-duty vehicles that would phase-in over model years 2027 through 2032. See 88 FR 29184 (May 5, 2023). CARB conducted a preliminary comparison of the ACC II requirements with the proposed Federal rule. See Comparison of Advanced Clean Cars and EPA Light-Duty/Medium-Duty Multipollutant Proposal (4cleanair.org), https://www.4cleanair.org/wp-content/uploads/CARB_Presentation_to_NACAA-ACCII_and_Fed_LMDV_Proposal-2023-05-15.pdf.

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While there is a benefit to national standards for internal combustion engine vehicles during the transition to a full ZEV population, the California ACC II program has a number of requirements that will benefit consumers, particularly related to batteries and charging, that are not included in the proposed EPA rules. For example, the ACC II requirements on battery durability are more comprehensive and user friendly and also include more robust warranties than the proposed EPA rule. In addition, the ACC II requirements include charging requirements, which are not included in the EPA's proposed rule. The ACC II program also requires standardized battery labeling, which will assist with proper battery management, whether it is reusing, repurposing, recycling, or disposing of the battery. These elements of the California ACC II program will benefit consumers and the environment.

A direct comparison of the emissions reductions from the California ACC II program and the proposed EPA standards is difficult because of the different regulatory approaches of the two programs. The ACC II program requires manufacturers to comply with an annual ZEV requirement that continues to increase. In contrast, the EPA's proposed regulations would allow manufacturers to meet an emission standard that does not prescribe ZEVs, but assumes that a manufacturer's fleet would include ZEVs along with internal combustion engine vehicles. By model year 2032, the EPA estimates that its proposed standard would result in a ZEV sales rate of approximately 67 percent in order for manufacturers to meet the emission standards. However, the EPA's proposed rule does not increase stringency of emission standards beyond model year 2032. In contrast, the ACC II regulation includes a 100 percent ZEV requirement by

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2035 that will remain in place for 2035 and all later model years. Though a direct comparison of the emission benefits is difficult, the Department has determined that the ACC II regulation will provide greater consumer benefits for ZEV-purchasers than the EPA's proposal.

Amendments to the LEV Program at N.J.A.C. 7:27-29

The Department's rulemaking to amend the existing LEV program at N.J.A.C. 7:27-29 at the conclusion of calendar year 2025 is not expected to have a substantial social impact. As noted above, California has adopted the next phase of their emission control standards, the ACC II program, which is proposed to begin with model year 2027 in New Jersey. The amendments simply clarify the end date of the existing program so there is no confusion about the applicable subchapter.

Clarifications and updates of Miscellaneous Provisions at N.J.A.C. 7:27-14, 15, 28A, and 31

The Department's proposed amendments to miscellaneous provisions at N.J.A.C. 7:27-14, 15, 28A, and 31 are not expected to have a substantial social impact. The amendments at N.J.A.C. 7:27-14 and 15 merely update a reference to a memorandum; the amendments at N.J.A.C. 7:27-31 clarify that exemptions to California's ACT program should have been incorporated by reference; and the amendments at N.J.A.C. 7:27-28A update the CCR provisions, which were previously incorporated by reference, to establish a New Jersey-specific ABT program consistent with the programs in other states.

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Economic Impact

As discussed in the Social Impact, implementation of the proposed ACC II program would result in a large portion of the State's transportation sector transitioning from internal combustion engines, which have been in mass production since the early 1900s, to zero-emission vehicles, which involve rapidly evolving technology such as battery electric, plug-in hybrid, and fuel-cell electric vehicles. As such, the ACC II program will drive a paradigm shift for the light-duty vehicle sector that will have direct economic impacts on manufacturers and indirect impacts on other areas of the economy, such as consumers and automotive-related businesses. Further, there may be ripple effects on the economy at large. The transition to zero-emission vehicles will have a positive direct impact on the economy as a result of health benefits and climate mitigation.

Direct Economic Impacts

Manufacturers

The Department has reviewed the economic analysis performed by CARB as part of its ACC II rulemaking process. CARB's initial analysis was set forth in the Standardized Regulatory Impact Assessment (SRIA) published in January 2022, but was subsequently refined and updated in its ISOR and Final Statement of Reasons (FSOR). See Standardized Regulatory Impact Analysis, January 26, 2022, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/appc1.pdf, ISOR, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/isor.pdf, and Final Statement of

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Reasons August 25, 2022,

https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/fsor.pdf. CARB's analysis recognizes that the ACC II regulation will require manufacturers to produce new vehicles to comply with the ZEV requirements as well as the more stringent multi-pollutant exhaust emission standards. See SRIA, p. 49. Further, the cost to produce these new vehicles will be higher than the cost to continue producing their existing vehicles in most vehicle classifications. *Ibid*.

To estimate the costs of compliance for a typical vehicle manufacturer, CARB considered the direct costs associated with every requirement of the regulation for each model year, and for each type of vehicle, including internal combustion engine, battery electric, plug-in hybrid (PHEV), and fuel cell electric vehicles. See SRIA, pp. 49-86. In the most recent update to its economic analysis, CARB estimated the average incremental cost of compliance to be $440.00 per vehicle in MY 2026 and increasing to $1,119 per vehicle in MY 2035. See FSOR, Appendix F, p. 14, Table VI-1. Since this is an average, CARB recognized that "[s]ome vehicle segments and technology combinations may experience [higher] incremental manufacturing costs than their conventional ICEV counterparts." FSOR, Appendix A pp.125-126.

Though most vehicle manufacturers will have to adapt their fleets to meet California's ACC II standards, the Department does not anticipate any additional cost to manufacturers in order to comply with the ACC II requirements in New Jersey; manufacturers will incur costs to adapt their fleets to comply with the ACC II program in California and would not incur those

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costs again to comply with New Jersey's proposed rules incorporating the ACC II regulation by reference. Manufacturers' costs to initially adapt their fleets to ACC II standards would include research, development, design, retooling factories, and retraining employees. These costs are independent of New Jersey's participation in the ACC II program. As additional states adopt California's ACC II program, manufacturers will have to produce more compliant vehicles. The increased production volume tends to drive down the additional incremental per vehicle cost, and gives manufacturers more flexibility in recovering their initial costs to adapt to California standards.

The Department proposes to charge intermediate and large volume manufacturers in New Jersey an annual fee of $0.50 per vehicle for each passenger car, light-duty truck, and medium-duty vehicle delivered for sale in New Jersey on and after January 1, 2026. The fee will offset the Department's anticipated costs associated with verifying vehicle values that manufacturers can earn and bank beginning in model year 2026, such as environmental justice values and converted historical credits. See 13 CCR 1962.4. Pursuant to the existing LEV program, these manufacturers have been charged a $0.25 per vehicle fee since 2009. The Department has determined that the fee should be adjusted to account for inflation, as well as the increase in work that will need to be done to verify ZEV sales.

CARB found that a minority of vehicle manufacturers, those that are already ZEV-only manufacturers, are likely to experience a positive economic impact if the ACC II program is implemented. See SRIA, p. 39. Specifically, as the annual ZEV requirement increases, ZEV-only

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manufacturers may benefit by selling ZEV credits to vehicle manufacturers that are still transitioning their fleets. *Ibid*.

Indirect Economic Impacts

Consumers

As noted above, CARB projects that the ACC II regulations will increase costs to manufacturers. However, CARB explained that there is a great deal of uncertainty about how and whether the increased costs would be passed on to consumers. See SRIA, p. 85. If manufacturers pass on the costs, each individual manufacturer may use a different strategy. *Ibid*. While some may pass the cost onto the consumer directly through the pricing of individual ZEVs, other manufacturers may spread the increased costs equally over all new vehicles in their fleet. *Ibid*. No matter the particular strategy chosen by an individual manufacturer, it is likely that some or all of the increased costs to manufacturers will be passed on to consumers in the form of higher prices. Though not mentioned in CARB's analysis, it is also possible that consumers will be faced with additional price increases as a result of larger market forces, including, but not limited to, individual dealer mark-ups and corporate decision making by manufacturers.

CARB's SRIA estimated the total cost of ownership (TCO) for vehicle owners in California based on a statewide average for all vehicles sold as a result of the regulation. See SRIA , pp. 94-97. As CARB summarized in its ISOR, "[i]ndividual vehicle consumers, for most ZEVs in the program, will see cost-savings when considering [TCO]. The results show that for [battery electric vehicles], operational savings will offset any incremental costs over the 10-year

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period evaluated." ISOR, p. 15. For example, the TCO over a 10-year period for a battery electric vehicle purchased in 2026 is expected to result in a $1,732 cost-savings as compared to an internal combustion engine vehicle; a battery electric vehicle purchased in 2035 is expected to result in a $6,683 cost-savings as compared to an internal combustion engine vehicle. See SRIA, pp. 104-107. However, CARB also found that over the 10-year period evaluated, owners of fuel cell electric vehicles and plug-in hybrid electric vehicles will not have a net savings. See ISOR, pp. 143-44. CARB's estimates did not incorporate any financial incentives, such as rebates or tax credits. Therefore, it is possible that Federal, state, or other incentives would mean the TCO is even more favorable for battery electric vehicles and could potentially result in a favorable TCO for plug-in hybrid electric vehicles and fuel cell electric vehicles. Additionally, CARB's assessment did not account for a New Jersey-specific variable: the Petroleum Products Gross Receipts (PPGR) tax. Pursuant to P.L. 2016, c. 57, a statutory formula determines how much the PPGR tax rate is to be adjusted annually in order to meet the Highway Fuels Revenue Target. Unless the funding model for the PPGR changes, decreased demand for gasoline and diesel fuel will cause an increase in the price per gallon paid by consumers, so that the revenue target can be met, thus increasing the cost of ownership for drivers continuing to operate internal combustion engine vehicles.

State Government

State and local governments are also consumers of vehicles. As with private consumers, the Department expects that State and local governments will pay a greater upfront cost for

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battery electric vehicles purchased for use in State and local fleets, which will be offset by decreased maintenance costs over the life of the vehicles. Additionally, charging infrastructure will need to be installed or expanded at State and local government offices to support increased battery electric or plug-in hybrid vehicle use. Naturally, fleets will need to transition over time; thus, the economic impacts will be absorbed over the next couple of decades.

In addition to higher up-front costs for vehicles and costs for infrastructure upgrades, the Department anticipates that the proposed ACC II rules will result in lost revenue to the State. At present in New Jersey, vehicle sales are currently taxed at 6.625 percent; however, ZEVs are exempt from this sales tax. As the proposed rulemaking intends to increase the sale of ZEVs, pursuant to the existing tax model, fewer taxes will be collected on future vehicle sales. In addition to lost revenue from collections on new vehicle sales, revenue from the Motor Fuels Tax (presently 10.5 cents per gallon for gasoline and 13.5 cents per gallon for diesel fuel) and the Petroleum Products Gross Receipts tax will decline significantly if the ACC II program is adopted, as more New Jerseyans will drive vehicles that do not rely on gasoline.

The Department does not attempt to calculate the exact amount of revenue lost from vehicle sales taxes, the motor fuels tax, and the petroleum products gross receipts tax because intervening legislative, regulatory, and policy changes any time in the next two decades could radically alter any projection of revenue, and such factors are outside of the Department's control and foresight. The Department anticipates that impacts will be relatively small in the initial

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years after the adoption of the ACC II program and will increase significantly as the percentage of ZEVs on the road increases in the later years of the program.

Car Dealerships

As manufacturers produce new vehicles to comply with the ZEV requirements, as well as the more stringent multi-pollutant exhaust emission standards, dealerships in New Jersey will have to adjust to an evolving fleet of vehicles. In particular, dealerships will have to accommodate the influx of ZEVs and decrease in internal combustion engine vehicle models. Many dealerships have begun taking the steps necessary to accommodate ZEVs. As noted above, the Department adopted the LEV rules, which included a ZEV requirement, in 2006. As of December 31, 2022, 91,515 electric vehicles were registered in New Jersey, which is a fairly small percentage of the total vehicles sold by dealers since 2006. Accordingly, the Department anticipates that dealerships will need to make some fundamental changes in their business practices over the next decade as manufacturers comply with the steadily increasing annual ZEV requirements of the ACC II program. Dealerships will likely experience some negative economic impact early on due to the additional costs associated with ZEVs. The economic impacts to dealerships will include, but not be limited to, the costs associated with the installation or expansion of electric vehicle charging stations, the infrastructure needed to service electric vehicles, and/or training of staff. The number of vehicle charging stations to be installed, the amount of infrastructure modification and retraining of staff will depend on a number of

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variables, including, but not limited to, the size, location, and services provided at the individual dealership, as well as manufacturer requirements.

Automotive Repair Industry

Like dealerships, the automotive repair industry in New Jersey will need to adjust to an evolving fleet of vehicles if the ACC II program is adopted. For instance, automobile repair businesses may need to make infrastructure modifications to service and charge electric vehicles. Further, ZEVs (the majority of which are battery electric vehicles) generally require less maintenance over the lifetime of the vehicle, resulting in the lower total cost of ownership, as discussed above. Over time, this will likely reduce the demand for automobile mechanics in New Jersey, which in turn may decrease the number of businesses providing services. In addition, mechanics may find it necessary to undergo training, hire new specialists, and/or purchase new equipment as the ZEV population increases in New Jersey. Overall, the vehicle repair and maintenance service industry, including dealerships with service departments, is expected to see negative impacts. However, to put this in perspective, it is important to note that internal combustion engine-powered light-duty vehicles will likely make up a majority of the fleet in 2035. Based on the analysis performed by Sonoma, more than 60 percent of the registered light-duty vehicles in New Jersey will still be gasoline or diesel powered as the ACC II program reaches the 100 percent ZEV requirement in 2035. See Sonoma: Final Benefits Report. Thus, businesses and employees will have time to respond to changes in the labor market.

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Retail Gasoline Stations

Retail gasoline stations are expected to see negative economic impacts due to reduced gasoline sales as more of New Jersey's residents drive ZEVs. As of May 2022, the Bureau of Labor Statistics estimates that roughly 10,000 people throughout New Jersey are employed as automotive and watercraft service attendants. As gas stations experience a reduced demand for attendants to pump gas and diesel fuel, job losses are likely. As noted above, a majority of New Jersey's light-duty fleet will still likely consist of internal combustion engines in 2035. See Sonoma: Final Benefits Report. Thus, the need to service gasoline- and diesel-fueled vehicles driven by New Jersey residents and vehicles passing through from other states, will likely result in incremental employment impacts. Since the transition to ZEVs will occur over the next couple of decades, retail businesses and employees will have time to respond to changes in the labor market. For instance, it is possible that new business models will develop as a result of public charging. Attendants may be employed to assist with charging and/or retail spending may increase as drivers stop to charge their electric vehicles.

Tier 1 Suppliers, ZEV Infrastructure Installers, and Electric Utility Providers

As the ACC II program is implemented, CARB found that some businesses may see a positive economic impact from the increased sale and use of ZEVs. See SRIA, pp. 39-40. The most obvious beneficiaries are those businesses that supply engine components to manufacturers, otherwise known as "Tier 1 suppliers." See *Ibid*. These businesses will likely see an increase in demand as manufacturers work to develop technology that will decrease emissions in internal

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combustion engines and rely on Tier 1 suppliers capable of developing and supporting the emerging ZEV technologies. See *Ibid*. Private businesses that provide ZEV infrastructure (manufacturers, installers, and operators of charging stations) are likely to see positive economic impacts as a result of the increased demand for their services. See SRIA at 40. The Department anticipates that the rules will result in an increase in the total amount of ZEVs registered in the State and, therefore, the total electric vehicle miles travelled will increase. This will increase the amount of electricity used for transportation, which may result in increased utility investments. See SRIA at 40. The Department does not attempt to calculate the exact amount of expected increases in investments or growth in industries because intervening legislative, regulatory, and policy changes over the next two decades could significantly alter projections and such factors are outside of the Department's control and foresight.

Monetized Value of NO_x and PM2.5 Emission Reductions

As discussed in the Social Impact, Sonoma Technology, Inc., conducted an analysis of the health benefits if the Department were to implement the ACC II program in New Jersey. That analysis estimated the potential health impacts of NO_x and PM2.5 reductions in New Jersey and the surrounding states using the EPA's Co-Benefits Risk Assessment Health Impacts Screening and Mapping Tool (COBRA) and estimated the value of health benefits associated with the following 14 health outcomes: asthma exacerbation; emergency room visits, asthma; cardiovascular hospital admissions; respiratory hospital admissions; lower respiratory symptoms; minor restricted activity days; mortality, all cause (low-end estimate); mortality, all cause (high-

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end estimate); infant mortality; upper respiratory symptoms; and work loss days. See Benefits of Adopting California's Advanced Clean Cars II (ACC II) Standards in New Jersey, https://theicct.org/wp-content/uploads/2023/05/nj-acc-ii-benefits-fs-may23.pdf (Fact Sheet)

The aggregated economic values combining all health effects modeled can be found in Table 3 of Sonoma Technology, Inc.'s Fact Sheet, as reproduced below:

Analysis Year	Total NO_x reduction (TPY)[a]	Total PM2.5 reduction (TPY)[a]	In-State benefit[b] (millions $)	Out-of-State benefit[b] (millions $)	In-State burden[c] (millions $)	Out-of-State burden[c] (millions $)	Net benefit[d] (millions $)
2040	1,224	82	776.0	609.0	-27.5	-22.1	1,335.4

[a] Emissions reduction in tons per year

[b] Benefit of reduced on-road emissions

[c] Burden of increased electric generation emissions

[d] Sum of in-State and out-of-State benefits and burdens

As described in the Table, Sonoma Technology, Inc., estimated that the implementation of the ACC II program in New Jersey will provide a net in-State health benefit of $748.5 million ($776 million in-State benefit minus the in-State burden of $27.5 million). Further, the analysis

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estimated a combined health benefit of $1.3 billion by adding the in-State benefit to the out-of-State benefits.

This amount is likely an underestimate of the avoided health costs, as there are additional avoided health outcomes linked to emissions that may not be captured by the COBRA tool. For example, PM2.5, polycyclic aromatic hydrocarbons (PAHs), NO_x, and black carbon have been associated with deficits in intelligence, memory, and behavior. PAHs, which are a component of black carbon and PM2.5, have been associated with developmental delay; reduced IQ; symptoms of anxiety; depression; and inattention; attention deficit hyperactivity disorder (ADHD); and reduced size of brain regions important for processing information and impulse control. See American Journal of Public Health, Healthy Air, Healthy Brains: Advancing Air Pollution Policy to Protect Children's Health, March 13, 2019, by D.C. Payne-Sturges et al., https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2018.304902. Black carbon and PM2.5 have also been associated with asthma exacerbation. See Science of the Total Environment, Acute effects of black carbon and PM2.5 on children asthma admissions: a time-series study in a Chinese city, by Hua, J., Yin, Y., Peng, L., Du, L., Geng, F., and Zhu, L. (2014), Vol. 481, pp. 433-38. It was estimated that nationwide in 2008, $4 billion in direct medical costs and nearly $5 billion in indirect costs, such as lost productivity resulting from parents' caring for sick children, could be attributed to asthma. Applying a range of attributable fractions (10 percent to 35 percent), the best estimate of nationwide childhood asthma costs in 2008 that could be associated with environmental factors was $2.2 billion. Health Affairs, Reducing the Staggering Costs of

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Environmental Disease in Children, Estimated at $76.6 Billion in 2008, 2011, by L. Trasande & Y. Liu in Health Affairs, https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2010.1239.

Monetized Value of CO_2 Emission Reductions

As discussed in the Social and Environmental Impact statements, climate change impacts are significant and far-reaching. Among the significant direct and indirect environmental changes the State will experience are "increases in temperature, variability in precipitation, frequency and intensity of storms, sea-level rise, ocean acidification, and the associated impacts to ecological systems, natural resources, human health, and the economy." 2020 Report on Climate Change, p. vi.

The economic costs of greenhouse gas emissions can be expressed using the social cost of carbon (SC-CO_2). The SC-CO_2 is "the monetary value of the net harm to society associated with adding a small amount of that [CO_2] to the atmosphere in a given year." Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990, February 2021 (2021 IWG Interim Estimates), p.2, https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf. "The SC-CO_2 is intended to provide a comprehensive measure of the net damages—that is, the monetized value of the net impacts— from global climate change that result from an

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additional ton of CO_2." National Academies of Sciences, Engineering, and Medicine 2017. Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide. Washington, DC: The National Academies Press (2017 NAS Report), p.5, https://doi.org/10.17226/24651. The damages include, but are not limited to, "changes in net agricultural productivity, human health effects, property damage from increased flood risk natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services." 2021 IWG Interim Estimates, p. 2. As the SC-CO_2 provides a dollar valuation of the damages caused by one ton of carbon pollution, the SC-CO_2 can also be used to represent the monetary benefit of reducing carbon emissions by providing an estimate of the avoided cost of future damages.

In 2018, New Jersey's Legislature determined, as part of its findings relative to nuclear energy, that "[t]he social cost of carbon, as calculated by the U.S. Interagency Working Group on the Social Cost of Carbon in its August 2016 Technical Update, is an accepted measure of the cost of carbon emissions." N.J.S.A. 48:3-87.3.b(8). Likewise, the 2019 Energy Master Plan (EMP) and the Department's 2018 CO_2 Budget Trading Program rules notice of proposal used the U.S. Interagency Working Group on Social Cost of Greenhouse Gases (IWG) supported SC-CO_2 values to consider the avoided social costs of actions taken to reduce greenhouse gas emissions. Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, August 2016 (2016 IWG TSD

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Update), https://www.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf. Considering all of these factors, the Department has determined that the techniques used to estimate the 2021 IWG SC-CO_2 values are based on the most current science and, therefore, are appropriate when estimating the monetary benefits of avoided greenhouse gas emissions.

The Department further notes that the Intergovernmental Panel on Climate Change (IPCC) has stated that the Federal SC-CO_2 estimates described in the 2016 IWG TSD Update and 2021 IWG Interim Estimates are likely underestimated due to the omission of significant impacts that cannot be accurately monetized, including important physical, ecological, and economic impacts. See IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5 degrees Celsius above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. In Press (2018 IPCC Special Report), p.150-51, https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Full_Report_High_Res.pdf.

As noted in both the 2021 IWG Interim Estimates and the 2016 IWG TSD Update cited above, the models used by the IWG did "not include all of the important physical, ecological,

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and economic impacts of climate change recognized in the climate change literature" at that time, and that in the IWG's judgement "these limitations suggest that the SC-CO_2 estimates are likely conservative." 2016 IWG TSD Update, 20-21. While the Department understands there is uncertainty regarding the precise potential future impacts of climate change, the Department agrees with the IPCC and the IWG's own guidance. Therefore, the monetary benefits set forth below are believed to be conservative, and the avoided greenhouse gas emissions achieved through this rulemaking will likely result in greater economic benefits.

The SC-CO_2 "for a given year is an estimate, in dollars, of the present discounted value of the future damage caused by a 1-metric ton increase in CO_2 emissions into the atmosphere in that year, or equivalently, the benefits of reducing CO_2 emissions by the same amount in that year." 2017 NAS Report, p.5. The SC-CO_2 is year specific and is highly sensitive to the discount rate used to discount the value of the damages in the future due to CO_2 emissions. The SC-CO_2 increases over time as social-ecological systems become more stressed from the aggregate impacts of climate change and future emissions cause incrementally larger damages.

Table ES-1 from the 2021 IWG Interim Estimates, as partially reproduced below, shows the increase of SC-CO_2 values over time for each discount rate used by the Department.

Table ES-1: Social Cost of CO_2, 2020-2050 (in 2020 dollars per metric ton of CO_2

Discount Rate and Statistic

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Emissions Year	5% Average	3% Average	2.5% Average
2020	14	51	76
2025	17	56	83
2030	19	62	89
2035	22	67	96
2040	25	73	103
2045	28	79	110
2050	32	85	116

(Values derived from the 2021 IWG Interim Estimates, p. 5, Table ES-1)

According to the 2021 IWG Interim Estimates, "the range of discount rates reflects both uncertainty and, at least in part, different policy or value judgements." *Id*. at 27. When modeling the economic impact of climate change, a higher discount rate decreases the value today of future environmental damages. The Department's SC-CO_2 estimates are calculated using the 2.5, three, and five percent discount rates determined by IWG to "reflect reasonable judgments under both descriptive and prescriptive approaches." Interagency Working Group on Social Cost of Carbon, United States Government, Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, February 2010 (2010 IWG TSD), p.23, https://www.epa.gov/sites/default/files/2016-12/documents/scc_tsd_2010.pdf. Following IWG recommendations, the Department's estimates of avoided SC-CO_2 benefits are presented as a

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range of values using the 2.5, three, and five percent discount rates. See 2021 IWG Interim Estimates.

Using the emissions reductions described in Table 1 of the Environmental Impact, the Department estimated the total SC-CO_2 benefits for avoided emissions from 2026 through 2050. The corresponding total SC-CO_2 benefits are estimated as $4.24 billion (five percent discount rate), $17.55 billion (three percent discount rate), and $27 billion (2.5 percent discount rate).

Amendments to the LEV Program at N.J.A.C. 7:27-29

The Department's proposed rulemaking to amend the existing LEV program at N.J.A.C. 7:27-29 at the conclusion of calendar year 2025 is not expected to have a substantial economic impact. As noted above, California has adopted the next phase of their emission control standards, the ACC II program, which is proposed to begin with model year 2027 in New Jersey. The proposed amendments simply clarify the end date of the existing program so there is no confusion about the applicable subchapter.

Clarifications and updates of Miscellaneous Provisions at N.J.A.C. 7:27-14, 15, 28A, and 31

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ABT program consistent with the programs in other states. The cost to manufacturers to report sales data to New Jersey will be *de minimis*.

Environmental Impact

The Department expects that the proposed ACC II program will have a net positive environmental impact. By establishing requirements for vehicle manufacturers to produce and deliver ZEV passenger cars and light-duty trucks as an increasing percentage of their annual sales in the State, the proposed rules will reduce emissions of CO_2, as well as the criteria pollutants, NO_x and PM2.5. According to the 80x50 Report, transportation sector emissions comprise the largest sector of greenhouse gas emissions in the State. See 80x50 Report, p. 11. According to the 2022 Greenhouse Gas Emissions Inventory Report Years 1990-2019 (2022 GHG Inventory Report), on-road gasoline-powered passenger vehicles, including sedans, pickup trucks, and SUVs, accounted for the largest share of on-road emissions at 29.7 MMT CO_2e (82 percent of on-road total of 34.0 MMT CO_2e) in 2019. See 2022 GHG Inventory Report, pages 3, 15-16, 2022-ghg-inventory-report_final-1.pdf (nj.gov). The proposed rules, which are estimated to result in 16.2 MMT/yr CO_2e benefits in 2050 (see Table 2 below) will serve as one step towards reducing emissions from the transportation sector, thereby mitigating the adverse environmental effects and impacts of climate change.

As described in the Social Impact, the Department participated in an analysis of the benefits in New Jersey if ACC II were adopted compared with a business-as-usual (BAU)

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scenario. Sonoma conducted the analysis with technical input from the Department, ICCT and NESCAUM. See Fact Sheet, Benefits of Adopting California's Advanced Clean Car II (ACC II) Standards in New Jersey. See https://theicct.org/wp-content/uploads/2023/05/nj-acc-ii-benefits-fs-may23.pdf. (Sonoma: Fact Sheet). Pursuant to the BAU scenario, ZEV sales are predicted to remain relatively flat after 2025 because the Department's existing rules at N.J.A.C. 7:27-29 end with a 22 percent requirement in model year 2025. However, there will still be a steadily increasing population of ZEVs in New Jersey's fleet as older internal combustion engine vehicles are retired and ZEVs are purchased, leveling off by 2040 with only about 17 percent of the total population of light-duty vehicles being ZEVs. The study modeled the emissions of NO_x, PM2.5, volatile organic compounds (VOC), sulfur dioxide (SO_2), ammonia (NH_3), and carbon dioxide equivalent (CO_2e). The pollutants of greatest concern and impact that are summarized include NO_x, PM2.5, and well-to-wheels (WTW) CO_2e. The modeling accounts for emissions of NO_x and PM2.5 resulting from tailpipe emissions from internal combustion engine vehicles and the power plant emissions associated with electricity used to charge electric vehicles. The WTW CO_2e emissions modeling also accounts for upstream CO_2 emissions related to petroleum production and refining, and power plant operation. The cumulative benefits resulting from implementation of the New Jersey ACC II program in 2027 can be found in Table 1 of Sonoma's Fact Sheet, as reproduced below.

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Table 1

Cumulative ACC II Emissions Benefits Compared to the Business-as-Usual Scenario, MY2027 ACCII Program Start (NO_x and $PM_{2.5}$ in US tons, CO_2e in million metric tons)

By 2030			By 2040			By 2050		
NO_x	$PM_{2.5}$	WTW CO_2e	NO_x	$PM_{2.5}$	WTW CO_2e	NO_x	$PM_{2.5}$	WTW CO_2e
881	59	8.2	8,886	649	94.2	25,998	1,775	269.7

See Sonoma: Fact Sheet.

Pursuant to a BAU scenario, CO_2e emissions from vehicles are expected to decrease based on improvements in technology and fuel economy, as well as the phase in of some ZEVs, as noted above. However, the proposed ACC II program accelerates and amplifies that decrease in emissions. Table 2 of Sonoma's Fact Sheet, as reproduced below, highlights the projected CO_2e emission reductions in a BAU scenario plus the additional emission reductions that would be achieved with the adoption of the ACC II program. For example, in the year 2030, the BAU scenario is expected to result in reductions of 3.1 million metric tons of CO_2e per year. But pursuant to the ACC II Program scenario, New Jersey is predicted to have a reduction of 5.8

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million metric tons of CO_2e per year (BAU tailpipe CO_2e reductions plus the ACC II tailpipe CO_2e reductions).

Table 2

Projected Light-Duty Onroad Vehicle CO_2e Emission Reductions, MY2027 ACCII Program Start – BAU and ACCII Adoption Scenarios (MMT/Y)

Year	Business-as-usual CO_2e reductions		Additional CO_2e reductions if ACC II sales goals are achieved	
	Tailpipe	Total (WTW)	Tailpipe	Total (WTW)
2030	3.1 MMT/Y	3.5 MMT/Y	2.7 MMT/Y	3.3 MMT/Y
2040	7.3 MMT/Y	8.7 MMT/Y	10.1 MMT/Y	12.3 MMT/Y
2050	7.9 MMT/Y	9.8 MMT/Y	16.2 MMT/Y	20.8 MMT/Y

See Sonoma: Fact Sheet. While the BAU CO_2e reductions are significant, overlaying the ACC II program produces greater additional reductions. Though electric vehicles will increase the demand for electricity, the net environmental benefits are still positive because of the increased efficiency of electric vehicle powertrains versus internal combustion engine powertrains and the anticipated cleaner power generating mix in the State.

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Amendments to the LEV Program at N.J.A.C. 7:27-29

The Department's rulemaking to amend the existing LEV program at N.J.A.C. 7:27-29 at the conclusion of calendar year 2025 is not expected to have a substantial environmental impact. As noted above, California has adopted the next phase of their emission control standards, the ACC II program, which is proposed to begin with model year 2027 in New Jersey. The amendments simply clarify the end date of the existing program, so there is no confusion about the applicable subchapter.

Clarifications and Updates of Miscellaneous Provisions at N.J.A.C. 7:27-14, 15, 28A, and 31

The Department's proposed amendments to miscellaneous provisions at N.J.A.C. 7:27-14, 15, 28A, and 31 are not expected to have a substantial environmental impact. The amendments at N.J.A.C. 7:27-14 and 15 merely update a reference to a memorandum; the amendments at N.J.A.C. 7:27-31 clarify that exemptions to California's ACT program should have been incorporated by reference; and the amendments at N.J.A.C. 7:27-28A update the CCR provisions, which were previously incorporated by reference, to establish a New Jersey-specific ABT program consistent with the programs in other states.

Federal Standards Statement

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N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), requires State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The Federal Clean Air Act (CAA) (42 U.S.C. §§ 7401 et seq.) granted the State of California the authority to enact stricter emission standards than the national standards set by the EPA. See 42 U.S.C. § 7543. The CAA also authorizes qualifying states to adopt and enforce emission standards for which California has received a waiver, if the state gives two years' lead time. See 42 U.S.C. § 7507. Thus, once the EPA grants California's request for a waiver for the ACC II regulations, pursuant to 42 U.S.C. § 7543, the more stringent emission standards that the Department proposes to incorporate by reference will be a Federally authorized standard. If, however, a waiver is not granted, the proposed rules will not be applied or enforced pursuant to N.J.A.C. 7:27-29A.2. Given the framework of the CAA, the proposed rules would not exceed a Federal standard once a waiver is granted. Thus, no further analysis is necessary.

Although the Department determined a Federal standards analysis is not necessary because the proposed rules will either be Federally authorized or will not be enforced until Federally authorized, the Department recognizes that the proposed ACC II program is more strict than the EPA's current multi-pollutant emission standard. As discussed in the Social Impact, the Department has determined that it is critical to reduce greenhouse gas emissions to mitigate the impacts and effects of climate change. In New Jersey, passenger vehicles and light-duty trucks are the largest contributors to greenhouse gas emissions from the transportation sector. By

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adopting the ACC II program, the State will achieve greater emission reductions, which should result in greater health and environmental protections, than a business-as-usual scenario under the EPA's current multi-pollutant emission standards.

As explained in the Economic Impact, the direct costs of the ACC II rules will be borne by manufacturers, who will face an increase in incremental costs to produce ACC II compliant vehicles versus the production of vehicles compliant with EPA's existing emission standards. Nonetheless, a manufacturer's costs to design and produce vehicles that comply with the more stringent, ACC II emissions standards will only need to be incurred one time and will not recur each time a 177 state adopts the ACC II standards. Consumers of battery electric vehicles are likely to see a cost savings over a 10-year cost of ownership period. Whereas, consumers of fuel cell electric vehicles and plug-in hybrid vehicles, are not anticipated to achieve a net savings over time. Though the State may experience deceases in revenue, as a result of the decrease in sales of internal combustion engine vehicles, intervening legislative, regulatory, and policy changes related to vehicle sales and fuel taxes in the next two decades could reverse that trend. Car dealerships and the automotive repair industry in New Jersey will also have to make adjustments to their business models including investments in infrastructure, such as charging stations, that will result in increased costs. And some businesses in the State, like gasoline retail stations will see a decrease in sales, while other businesses, like Tier 1 suppliers and ZEV infrastructure installers, will likely see an increase in sales. To the extent costs are incurred, the

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Department has determined that these costs are justified due to the need to reduce emissions from the light-duty vehicle sector and transition to zero-emission vehicles.

As CARB explained in its ISOR, "[m]anufacturers have made significant improvements in battery technology, which has enabled more vehicle offerings in more segments and increasing capabilities. […] Additionally, technology costs have fallen significantly, namely battery costs, over the last 10 years and are expected to continue to drop over time. This will make ZEVs cost-competitive with gasoline vehicles in the 2030-2035 timeframe, if not sooner. [… T]he market is clearly poised for massive transformation. Every light duty vehicle manufacturer has made commitments to electrify their product line." ISOR at pp. 36-37. For these reasons, the Department is confident that the increase in ZEV sales required by the ACC II program is achievable.

As explained in the Summary, the proposed rules are intended to be a first step in a comprehensive plan to lower greenhouse gas emissions in the State in order to mitigate the impacts of climate change. The Department has determined that the proposed ACC II program is essential if the State is to successfully decarbonize light-duty vehicles. Further, the Department anticipates the benefits of the proposed rulemaking to be an increase in the quality of life and protection of human health and the environment.

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Amendments to the LEV Program at N.J.A.C. 7:27-29

The Department's rulemaking to amend the existing LEV program at N.J.A.C. 7:27-29 at the conclusion of calendar year 2025 would not exceed a Federal standard. In fact, the Federal standard would be in effect for at least one calendar year before the proposed ACC II program would become operative. Thus, no further analysis is necessary.

Clarifications and Updates of Miscellaneous Provisions at N.J.A.C. 7:27-14, 15, 28A, and 31

The amendments at N.J.A.C. 7:27-14 and 15 merely update a reference to an EPA memorandum; therefore, no Federal standard analysis is required. The amendments at N.J.A.C. 7:27-31 clarify that exemptions to California's ACT program should have been incorporated by reference when the Department originally adopted the rules. Since EPA granted California's request for a waiver for the ACT program rules, pursuant to 42 U.S.C. § 7543, the ACT program is a Federally authorized standard. Accordingly, no Federal standard analysis is required. The amendments at N.J.A.C. 7:27-28A establish a New Jersey-specific ABT program consistent with California's Low NO_x Omnibus rules. Once the EPA grants California's request for a waiver for the Low NO_x Omnibus rules, pursuant to 42 U.S.C. § 7543, the more stringent emission standards that the Department proposes to incorporate by reference will be a Federally authorized standard. If a waiver is not granted, the rules will not be applied or enforced; therefore, no Federal standard analysis is required.

Jobs Impact

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The Department anticipates that the proposed rulemaking will have both a negative and positive impact on job retention and creation in the State over the long-term, depending on the employment sector being analyzed.

As part of its economic analysis, CARB estimated the impact of the ACC II regulation on the total employment in California across all industries. CARB stated that "The proposed regulation is estimated to have a negative impact on employment growth beginning in 2026, which increases through 2035 as the Proposed Regulation becomes more stringent but begins to diminish post-2035 as operational cost-savings grow and vehicle costs decrease." CARB ISOR, pp. 168-169. According to CARB, "[a]s the requirements of the Proposed Regulation go into effect, consumers and businesses must initially spend more on vehicle purchases, reducing spending elsewhere in the economy, which tends to reduce employment across many industries that serve and produce goods for consumers. Over time, vehicle purchasers are estimated to realize operational cost-savings, shifting consumer spending away from categories such as vehicle maintenance and repair and gasoline and towards other areas." ISOR, p. 169.

As discussed at length in the Social and Economic Impacts, one of the largest negative employment impacts anticipated is in the vehicle repair and maintenance industry. ISOR, p. 169. Retail gasoline sales are also expected to be negatively impacted since retail gasoline stations in New Jersey employ attendants to assist in gasoline sales. These impacts may be reduced if retail operations successfully transition to providing electric vehicle charging. And though some

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industries will see job losses, other industries, such as the electric power industry, are expected to make gains. See ISOR, pp. 169-70.

As noted above, the proposed rulemaking represent a continuation of the Department's efforts to mitigate the impacts of climate change by reducing greenhouse gas emissions and short-lived climate pollutants. However, simultaneous efforts are needed and are underway to transition to clean energy across all sectors. The Department anticipates that the transition to clean energy will create jobs and spur advances, including advances in zero-emission electric vehicle technology and infrastructure.

The New Jersey Council on the Green Economy (NJCOGE) released the Green Jobs for a Sustainable Future roadmap in September 2022, which identified areas of green job growth in New Jersey, including the transition to alternative vehicles. See Green Jobs for a Sustainable Future, https://www.nj.gov/governor/climateaction/documents/CGE%20Roadmap.pdf (Green Jobs Roadmap). In modeling the employment impacts of alternative vehicle adoption, NJCOGE conducted an analysis specific to New Jersey's labor market and demographics. Although the Green Jobs Roadmap did not directly examine the impacts of ACC II, it projects a net employment growth of 39,844 jobs in the years from 2022 through 2031 in the alternative vehicles sub-sector. *Id*. at p. 21. This forecast for job creation does not include the full slate of economic or employment impacts from either the Infrastructure Investment and Jobs Act or the Inflation Reduction Act, both of which will be significant drivers of future job creation for New Jersey's green economy. *Id*. pp. 21-22. As the Green Jobs Roadmap notes, "new technologies

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such as offshore wind, storage, and alternative vehicles provide significant opportunities for growth in New Jersey's green economy and additional manufacturing and supply chain jobs." *Id*. at p. 50. Many of the jobs related to the green economy are in the high-skilled labor workforce. *Id*. at p. 45.

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Agricultural Industry Impact

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The Department anticipates that the proposed rulemaking will have a positive impact on the agricultural industry in New Jersey by reducing emissions of CO_2 and, therefore, reducing atmospheric concentrations of the gases that are driving climate change. The 2020 Report on Climate Change includes a section that outlines the existing and anticipated impacts of climate change on the agricultural industry in New Jersey. See 2020 Report on Climate Change, pp. 81-83. The term "agriculture" is defined broadly in the report to include crops, livestock, and nursery plants. See 2020 Report on Climate Change, p. 81. Though many factors can affect agriculture, the report focuses on alterations in temperature CO_2 concentrations, and availability of water, which can be attributed to climate change. See 2020 Report, p. 81. These alterations include:

- Increased temperatures, which can:
    - negatively impact the flavor and visual appeal of crops
    - result in conditions that are no longer suitable for specialty crops, such as cranberries and blueberries
    - result in a larger number of insects, whose lifespans are elongated
    - lead to an increased use of pesticides, which may cause other adverse environmental impacts
    - negatively impact livestock production (such as milk production)
- Increases in the concentration of CO2, which can:
    - lead to increases in weeds competing for crop resources

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  - lead to an increased in the amount and frequency of herbicide use, which may cause other adverse environmental impacts

- Changes in water availability, which can:
  - Lead to longer dry periods, increasing the need for irrigation and increasing the cost of production

    See 2020 Report on Climate Change, pp. 81-83.

In other words, climate change is expected to have major impacts on the growth and productivity of New Jersey crops and livestock due to an increase in dry spells, heat waves, and sustained droughts. "Crop yields are expected to decrease [and become] stressed due to agricultural pests and weeds as winter temperatures continue to rise. All of this will increase pressure on farms, which will likely result in an increased use of herbicide and pesticide use." 2020 Report on Climate Change, p. 83. For this reason, the proposed rulemaking should have a positive impact on agriculture in this State by reducing the extent of significant losses attributable to climate change.

Regulatory Flexibility Statement

As required pursuant to the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated the reporting, recordkeeping, and other compliance requirements that the proposed rulemaking would impose upon small businesses. The Regulatory

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Flexibility Act defines the term "small business" as "any business which is a resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees." The Department is not aware of any vehicle manufacturer that is resident in New Jersey that employs fewer than 100 full-time employees. Accordingly, no further analysis is required.

Housing Affordability Impact Analysis

In accordance with N.J.S.A. 52:14B-4, the Department has evaluated the proposed rulemaking to determine its impact, if any, on the affordability of housing. The proposed rulemaking will require manufacturers of passenger cars and light-duty trucks to meet an annual ZEV requirement intended to increase the percentage of ZEVs sold in New Jersey. As explained in the Social Impact, for the ACC II program to be successful in New Jersey, the State will need sufficient charging infrastructure build-out, including at homes. CARB estimated the additional cost of installing home Level 2 Circuit and Wiring to range from $680.00 (single-family home detached) to $2,000 (single-family home attached, duplex, triplex, quad). See CARB Standardized Regulatory Impact Analysis (updated March 29, 2022) page 92, at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/appc1.pdf. Based on this information, the Department does not believe that the proposed rulemaking will have a significant impact on housing affordability.

Smart Growth Development Impact Analysis

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In accordance with N.J.S.A. 52:14B-4, the Department has evaluated the proposed rulemaking to determine their impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The proposed rulemaking will require manufacturers of passenger cars and light-duty trucks to meet an annual ZEV requirement intended to increase the percentage of ZEVs sold in New Jersey. The proposed rulemaking does not impact land use development of any kind, including that of residential housing. Therefore, the rulemaking is unlikely to evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

In accordance with N.J.S.A. 52:14B-4(a)(2) and 2C:48B-2, the Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 27

AIR POLLUTION CONTROL

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SUBCHAPTER 14. CONTROL AND PROHIBITION OF AIR POLLUTION FROM DIESEL-POWERED MOTOR VEHICLES

7:27-14.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"EPA [Memorandum 1A] **Tampering Policy**" means the memorandum dated [June 25, 1974] **November 23, 2020**, and issued by the EPA's Office of Enforcement and [General Counsel] **Compliance Assurance**, which sets forth the EPA's [interim tampering enforcement] **nonbinding** policy **regarding the potential investigation and prosecution of civil enforcement actions**. This term also includes any revisions [to the policy set forth in the June 25, 1974, memorandum that are]**, supplements, or replacements that may be** subsequently issued by the EPA. A copy of this EPA [memorandum has been filed with the Office of Administrative Law and] **Tampering Policy** may be obtained from the Bureau of Mobile Sources in the Department of Environmental Protection.

…

7:27-14.3 General prohibitions

(a) - (d) (No change.)

(e) No person shall cause, suffer, allow, or permit any of the following, unless it is performed in accordance with **the** EPA [Memorandum 1A] **Tampering Policy** or it is exempt from

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prohibition by CARB Executive Order (information on devices or modifications approved by CARB Executive Order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov):

1.-3. (No change.)

(f) (No change.)

SUBCHAPTER 15. CONTROL AND PROHIBITION OF AIR POLLUTION FROM GASOLINE-FUELED MOTOR VEHICLES

7:27-15.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"EPA [Memorandum 1A] **Tampering Policy**" means the memorandum dated [June 25, 1974] **November 23, 2020**, and issued by the EPA's Office of Enforcement and [General Counsel] **Compliance Assurance**, which sets forth the EPA's [interim tampering enforcement] **nonbinding** policy **regarding the potential investigation and prosecution of civil enforcement actions**. This term also includes any revisions [to the policy set forth in the June 25, 1974, memorandum that are]**, supplements, or replacements that may be** subsequently issued by the EPA. A copy of [this] **the** EPA [memorandum has been filed with the Office of Administrative Law and] **Tampering Policy** may be obtained from the Bureau of Mobile Sources in the Department of Environmental Protection.

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…

7:27-15.7 Prohibition of tampering with emission control apparatus

(a) No person shall cause, suffer, allow, or permit any of the following, unless it is performed in accordance with **the** EPA [Memorandum 1A] **Tampering Policy** or it is exempt from prohibition by CARB Executive Order (information on devices or modifications approved by CARB Executive Order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov):

1.-4. (No change.)

(b) (No change.)

SUBCHAPTER 28A. MODEL YEAR 2027 OR LATER HEAVY-DUTY NEW ENGINE AND VEHICLE STANDARDS AND REQUIREMENTS

7:27-28A.11 Incorporation by reference

(a)-(e) (No change.)

(f) The following provisions of the CCR and the California Vehicle Code are incorporated by reference within this subchapter, except as provided at (f)1 through 7 below:

Table 1
Provisions Incorporated by Reference
California Code of Regulations (CCR)
Title 13
Chapter 1

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Motor Vehicle Pollution Control Devices	
Article 1	
General Provisions	
Section 1900	Definitions
Section 1905	Exclusion and Exemption for Military Tactical Vehicles and Equipment
Article 2	
Approval of Motor Vehicle Pollution Control Devices (New Vehicles)	
Section 1956.8	Exhaust Emission Standards and Test Procedures—1985 and Subsequent Model Heavy-Duty Engines and Vehicles, 2021 and Subsequent Zero-Emission Powertrains, and 2022 and Subsequent Model Heavy-Duty Hybrid Powertrains
Section 1961.2	Exhaust Emission Standards and Test Procedures—2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles
Section 1965	Emission Control and Smog Index Labels—1979 and Subsequent Model Year Vehicles
Section 1968.2	Malfunction and Diagnostic System Requirements—2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles
Section 1971.1	On-Board Diagnostic System Requirements—2010 and Subsequent Model-Year Heavy-Duty Engines
Article 6	
Emission Control System Warranty	
Section 2035	Purpose, Applicability and Definitions
Section 2036	Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty

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Vehicles and Motor Vehicle Engines Used in Such Vehicles	
Chapter 2	
Enforcement of Vehicle Emission Standards and Enforcement Testing	
Article 1.5	
Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles	
Section 2065	Applicability of Chapter 2 to 2005 and Subsequent Model Year Heavy Duty Engines and Vehicles.
Article 2.1	
Procedures for In-Use Vehicle Voluntary and Influenced Recalls	
Section 2111	Applicability
Section 2112	Definitions
Appendix A to Article 2.1	
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls
Section 2114	Voluntary and Influenced Recall Plans
Section 2115	Eligibility for Repair
Section 2116	Repair Label
Section 2117	Proof of Correction Certificate
Section 2118	Notification
Section 2119	Record keeping and Reporting Requirements
Section 2121	Penalties
Article 2.2	
Procedures for In-Use Vehicle Ordered Recalls	
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls
Section 2125	Ordered Recall Plan
Section 2126	Approval and Implementation of Recall Plan
Section 2127	Notification of Owners
Section 2128	Repair Label
Section 2129	Proof of Correction Certificate
Section 2130	Capture Rates and Alternative Measures
Section 2131	Preliminary Tests

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Section 2133	Record keeping and Reporting Requirements
Article 2.3	
In-Use Vehicle Enforcement Test Procedures	
Section 2137	Vehicle Selection
Section 2139	Testing
Section 2139.5	CARB Authority to Test for Heavy-Duty In-Use Compliance
Section 2140	Notification of In-Use Results
Article 2.4	
Procedures for Reporting Failure of Emission-Related Components	
Section 2141	General Provisions
Section 2142	Alternative Procedures
Section 2143	Failure Levels Triggering Recall
Section 2144	Emission Warranty Information Report
Section 2145	Field Information Report
Section 2146	Emissions Information Report
Section 2147	Demonstration of Compliance with Emission Standards
Section 2148	Evaluation of Need for Recall
Section 2149	Notification of Subsequent Action
Article 5	
Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action	
Section 2166	General Provisions
Section 2166.1	Definitions
Section 2167	Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors
Section 2168	Required Corrective Action and Recall for Emission-Related Component Failures
Section 2169	Required Recall or Corrective Action Plan
Section 2169.1	Approval and Implementation of Corrective Action Plan
Section 2169.2	Notification of Owners

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Section 2169.3	Repair Label
Section 2169.4	Proof of Correction Certificate
Section 2169.5	Preliminary Tests
Section 2169.6	Communication with Repair Personnel
Section 2169.7	Recordkeeping and Reporting Requirements
Section 2169.8	Extension of Time
Section 2170	Penalties
Chapter 9	
Article 4	
Off-Road Compression-Ignition Engines and Equipment	
Section 2423(n)	Exhaust Emission Standards and Test Procedures—Off-Road Compression-Ignition Engines
Chapter 10	
Article 1	
Commercial Motor Vehicle Idling	
Sections 2485(c)(2), 2485(c)(3), and 2485(h)	Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling
Title 17	
Division 3	
Chapter 1	
Subchapter 10	
Article 4	
Subarticle 12	
Greenhouse Gas Emission Requirements for New 2014 and Subsequent Model Heavy-Duty Vehicles	
Section 95661	Applicability
Section 95662	Definitions
Section 95663	Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles
Provisions Incorporated by Reference	
California Vehicle Code	
Division 12. Equipment Of Vehicles	
Chapter 5. Other Equipment	

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Article 2. Exhaust Systems
Section 27156.2
Section 27156.3

1.-5. (No change.)

6. At 13 CCR 2485(c)(3)(D), replace "operation of the APS in California" with "operation of the APS in New Jersey"; [and]

7. At 13 CCR 1956.8(a)(2)(F), replace the text to read as follows:

"(F) Transit Agency Diesel-Fueled Bus and Engine Exemption Request

For 2027 and subsequent model diesel-fueled medium heavy-duty or heavy heavy-duty engines used in urban buses, the Department will approve a Transit Agency Diesel-Fueled Bus and Engine Exemption Request made by a transit agency or bus company that meets each of the conditions and requirements at subparagraphs 1 and 2 below. If granted, an exemption request will allow a transit agency or bus company to purchase, rent, or lease exempt buses, contract for service with bus service providers to operate exempt buses, or re-power buses with engines that are certified to both the federal emission standards for 2010 and later model year diesel-fueled medium heavy-duty or heavy heavy-duty engines and vehicles, as set forth at title 40, Code of Federal Regulations section 86.007-11, effective March 27, 2023, and the Greenhouse Gas Emissions and Fuel Economy Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2 requirements promulgated at 81 FR 73,478.

1. Conditions

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If an exemption request is filed for the purpose of making a purchase of a MY 2027 or subsequent MY diesel-fueled medium heavy-duty or heavy heavy-duty engine to be used in an urban bus, the transit agency's or bus company's exemption request shall demonstrate that there are no diesel-fueled medium heavy-duty or heavy heavy-duty engines used in urban buses certified to meet the Exhaust Emission Standards for 2027 and Subsequent Model Light Heavy-Duty Engines, and Medium Heavy-Duty Engines located at 13 CCR 1956.

2. Requirements and Procedures

a. The transit agency or bus company must submit its Transit Agency Diesel-Fueled Bus and Engine Exemption Request to the Department.

b. The Transit Agency Diesel-Fueled Bus and Engine Exemption Request must be submitted by May 1st of the first calendar year in which the exemption is requested.

c. The Transit Agency Diesel-Fueled Bus and Engine Exemption Request must identify the number of exempt buses needed for each bus type.

d. If the transit agency or bus company requests to apply the exemption request to an existing contract, the Transit Agency Diesel-Fueled Bus and Engine Exemption Request must include a copy of the contract.

e. The Transit Agency Diesel-Fueled Bus and Engine Exemption Request must identify the number of exempt buses or re-powered buses that the transit agency or bus company requests for each calendar year within the triennial period of the Transit Agency Diesel-

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Fueled Bus and Engine Exemption Request, where the year the request is submitted is counted as the first calendar year.

3. The Department will issue an Executive Exemption Approval Letter if all foregoing conditions and requirements at subparagraphs 1 and 2 above are met. The Executive Exemption Approval Letter will allow a triennial quota for the purchase, rent, lease, contract for service, or re-power of exempt buses or engines. The triennial quota expires at the end of the third calendar year of the triennial period.

4. If the Transit Agency Diesel-Fueled Bus and Engine Exemption Request is approved by the Department, the transit agency or bus company may proceed with engine repower or exempt bus purchase, lease, rental, or contract for service. In the instance where new exempt engines and buses will be purchased or manufactured under the contract, the Executive Exemption Approval Letter will allow the bus and engine manufacturers to sell exempt engines to and manufacture exempt buses for the transit agency or bus company that has obtained the exemption. The transit agency or bus company must notify all parties involved of the approval and provide a copy of the issued Transit Agency Diesel-Fueled Bus and Engine Exemption Approval Letter to the engine and bus dealer(s), bus manufacturer(s), and engine manufacturer(s) involved with delivering the exempt buses or engines to the transit agency or bus company.

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5. A transit agency or bus company may request a hearing to review the Department's denial of an Executive Exemption Approval Letter pursuant to the procedures set forth at N.J.A.C. 7:27-1.32[.]"; **and**

8. At "CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY-DUTY DIESEL ENGINES AND VEHICLES" incorporated by reference within 13 CCR 1956.8, replace the following terms:

i. At 86.1 15.B.3, in all subsections, replace "California" with "New Jersey," except "California certified," and replace "CA-ABT" with "NJ-ABT";

ii. At 86.1 15.B.3.(e), replace "Manufacturers that do not begin enrollment in the CA-ABT program in 2022 model year may not transfer any federal-ABT credits into the CA-ABT program." with "Manufacturers that do not begin enrollment in the NJ-ABT program in 2025 model year may not transfer any Federal-ABT credits into the NJ-ABT program.";

iii. At 86.1 15.B.3.(k)(1), replace "Chief, Emissions Certification and Compliance Division, California Air Resources Board, 4001 Iowa Ave., Riverside, CA 92507." with "NJ Department of Environmental Protection, Bureau of Mobile Sources, PO Box 420, Mail Code 401-02E, Trenton, NJ 08625."; and

iv. At 86.1 15.B.3.(k)(3), replace "ARB" with "the Department."

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SUBCHAPTER 29. LOW EMISSION VEHICLE **(LEV)** PROGRAM

7:27-29.2 Purpose

(a) (No change.)

(b) The LEV program shall apply to all model year 2009 [and subsequent] **through model year 2025** motor vehicles that are passenger cars and light-duty trucks subject to the California LEV program and delivered for sale in New Jersey on or after January 1, 2009.

(c) (No change.)

7:27-29.3 Applicability - LEV program

(a) Except as set forth [in] **at** (b) and (c) below, no dealer or other person within this State shall deliver for sale, offer for sale, sell, import, deliver, purchase, rent, acquire, receive, or register on or after January 1, 2009**,** a new 2009 [or subsequent] **through 2025** model-year passenger car or light-duty truck**,** unless the vehicle has been certified by the CARB and has received a CARB Executive Order.

(b) – (d) (No change.)

7:27-29.4 Emission certification standards

Each model year 2009 [and subsequent] **through model year 2025** motor vehicle subject to N.J.A.C. 7:27-29.3(a) shall be California-certified.

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7:27-29.5 NMOG fleet-wide average exhaust emission requirement

(a) A manufacturer of model year 2009 [or later] **through model year 2025** passenger cars or light-duty trucks delivered for sale in New Jersey on or after January 1, 2009**,** shall demonstrate compliance with the NMOG fleet-wide average exhaust emission requirement of Title 13, CCR, Section 1961, which average shall be based on the number of the manufacturer's vehicles subject to N.J.A.C. 7:27-29.3(a).

(b) (No change.)

7:27-29.6 ZEV [Sales Requirement] **sales requirement**

(a) Beginning on January 1, 2009, for vehicles manufactured in model year 2009 [and each subsequent] **through** model year **2025**, each manufacturer shall comply with the ZEV sales requirement at Title 13, CCR, Section 1962, including early credit and banking provisions.

(b) (No change.)

7:27-29.8 Fees

(a) Each intermediate volume and large volume vehicle manufacturer shall pay to the Department an annual fee of $0.25 per vehicle for each passenger car and light-duty truck, including both [Federal Tier 2 certified] **Federal-** and California-certified vehicles, delivered for sale in New Jersey on or after January 1, 2005 **and prior to January 1, 2026**, and which vehicles the manufacturer has been required to report under Section D.6(a), "California

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Assembly-Line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," as set forth at Title 13, CCR, Section 2062.

(b) For vehicles delivered for sale in calendar year**s** 2005 [and thereafter] **through 2025**, each intermediate volume and large volume manufacturer shall report its New Jersey production numbers to the Department by March 1 of the succeeding calendar year.

(c) - (d) (No change.)

SUBCHAPTER 29A. NEW JERSEY ADVANCED CLEAN CARS II PROGRAM

7:27-29A.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Business" means an occupation, profession, or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; or a profit-seeking enterprise or concern.

"California Air Resources Board" or "CARB" means the agency, or its successor, established and empowered to regulate sources of air pollution in the state of California, including motor vehicles, pursuant to Section 39003, California Health and Safety Code, as amended or supplemented.

"CCR" means the California Code of Regulations.

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"Certification" or "certified" means a finding by CARB or the EPA that a motor vehicle has satisfied the criteria for the control of specified air contaminants from motor vehicles, adopted by CARB or the EPA, respectively, as set forth in their respective regulations.

"Commissioner" shall have the same meaning as the term "Commissioner" as defined at N.J.A.C. 7:27-1.4.

"Dealer" means any person actively engaged in the business of offering to sell, soliciting, or advertising the sale, buying, transferring, leasing, selling, or exchanging of new motor vehicles and who has an established place of business.

"Delivered for sale" means vehicles that have received a bill of lading for sale in New Jersey and are shipped, or are in the process of being shipped, to a dealer in New Jersey.

"Department" shall have the same meaning as the term "Department" as defined at N.J.A.C. 7:27-1.4.

"EPA" shall have the same meaning as the term "EPA" as defined at N.J.A.C. 7:27-1.4.

"Intermediate volume manufacturer" means a manufacturer that has been designated by CARB as an intermediate volume manufacturer as defined at 13 CCR 1900.

"Large volume manufacturer" means a manufacturer that has been designated by CARB as a large volume manufacturer as defined at 13 CCR 1900.

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"Lease" means any commercial transaction recognized pursuant to the laws of this State as a means of creating a right to use a good and includes renting. It also includes offering to rent or lease.

"Light-duty truck" shall have the same meaning as "light-duty truck" as defined at 13 CCR 1900.

"Manufacturer" means any small, intermediate, or large volume vehicle manufacturer as defined at 13 CCR 1900.

"Medium-duty vehicle" shall have the same meaning as "medium-duty vehicle" as defined at 13 CCR 1900.

"Model year" means model year as defined at 40 CFR 85.2302 and determined in accordance with the provisions at 40 CFR 85.2301 through 85.2304, which are incorporated herein by reference.

"Motor vehicle" or "vehicle" means every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting such devices as run only upon rails or tracks and motorized bicycles.

"New motor vehicle" means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.

"Passenger car" shall have the same meaning as "passenger car" as defined at 13 CCR 1900.

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"Person" shall have the same meaning as the term "person" as defined at N.J.A.C. 7:27-1.4.

"PHEV" means a plug-in hybrid electric vehicle.

"Sale" or "sell" means the transfer of equitable or legal title to a motor vehicle to the ultimate or subsequent purchaser.

"State" shall have the same meaning as the term "State" as defined at N.J.A.C. 7:27-1.4.

"Ultimate purchaser" means, with respect to any new motor vehicle, the first person who in good faith purchases a new motor vehicle for purposes other than resale.

"ZEV" means a zero-emission vehicle.

7:27-29A.2 Purpose and applicability

(a) This subchapter establishes, in the State, an Advanced Clean Cars II program, which incorporates the requirements of the California Advanced Clean Cars II program.

(b) The New Jersey Advanced Clean Cars II program shall apply to all model year 2027 or later motor vehicles that are passenger cars, light-duty trucks, and medium-duty vehicles subject to the California Advanced Clean Cars II program and delivered for sale in New Jersey on or after January 1, 2027.

(c) The specified engine and vehicle standards and requirements set forth in the provisions of the CCR, as identified at N.J.A.C. 7:27-29A.7, shall not be operative in New Jersey

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unless or until such time as California receives a waiver from the EPA pursuant to 42 U.S.C. § 7543, as published in the Federal Register, for the applicable engine standard, vehicle standard, or other emission requirement.

(d) The New Jersey Advanced Clean Cars II program shall not apply to:

1. Emergency vehicles, pursuant to California's Vehicle Code Sec. 27156.2 and 27156.3, as incorporated by reference at N.J.A.C. 7:27-29A.7; or

2. Military tactical vehicles, pursuant to 13 CCR 1905, as incorporated by reference at N.J.A.C. 7:27-29A.7.

7:27-29A.3 Requirements for vehicle transactions

(a) Except as set forth at (b) and (c) below, on or after January 1, 2027, no person who is a resident of this State, or who operates an established place of business within this State, shall sell, lease, import, deliver, purchase, acquire, register, receive, or otherwise transfer in this State, or offer for sale, lease, or rental in this State, a new 2027 or subsequent model-year passenger car, light-duty truck, or medium-duty vehicle, unless the vehicle has been certified by CARB.

(b) New model year 2026 passenger cars, light-duty trucks, and medium-duty vehicles that were produced and delivered for sale in New Jersey after December 31, 2025, and before January 1, 2027, are not required to be certified by CARB in order to be sold, offered for sale, purchased, acquired, or received in New Jersey.

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(c) The prohibitions at (a) above do not apply to:

1. A vehicle held for daily lease or rental to the general public or engaged in interstate commerce, that is registered and principally operated outside of New Jersey;

2. A vehicle acquired by a resident of this State for the purposes of replacing a vehicle registered to such resident, which vehicle was damaged, or became inoperative beyond reasonable repair, or was stolen while out of this State; provided that such replacement vehicle is acquired out-of-State at the time the previously registered vehicle was either damaged or became inoperative beyond reasonable repair or was stolen;

3. A vehicle transferred by inheritance;

4. A vehicle transferred by court decree;

5. A vehicle certified by CARB or the EPA and originally registered in another state by a resident of that state who subsequently establishes residence in this State;

6. A vehicle transferred directly from one dealer to another dealer;

7. A vehicle sold for the purpose of being wrecked or dismantled; or

8. A vehicle sold exclusively for off-highway use.

(d) For the purposes of this subchapter, it is presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of fewer than 7,500 miles has not been transferred to an ultimate purchaser.

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7:27-29A.4 Fees

(a) For vehicles delivered for sale in calendar year 2026 and thereafter, each intermediate volume and large volume manufacturer shall report its New Jersey production volume to the Department by March 1 of the succeeding calendar year.

(b) Each intermediate volume and large volume vehicle manufacturer shall pay to the Department an annual fee of $0.50 per vehicle for each passenger car, light-duty truck, and medium-duty vehicle, including both Federally certified and California-certified vehicles, delivered for sale in New Jersey on or after January 1, 2026.

(c) The Department shall notify each manufacturer of the total fee due. The manufacturer shall remit the fee to the Department within 30 days after receipt of the Department's notice.

(d) An intermediate volume or large volume manufacturer that does not pay the fee shall not be permitted to earn, deposit, use, or acquire vehicle equivalent credits or values until such time as its fee and any unpaid balance are paid.

7:27-29A.5 Warranty

(a) Each manufacturer of a vehicle subject to N.J.A.C. 7:27-29A.3(a) shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle will comply during its period of warranty coverage with all applicable requirements set forth in the sections of the

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CCR, as identified at N.J.A.C. 7:27-29A.7.

(b) Each manufacturer of a vehicle subject to N.J.A.C. 7:27-29A.3(a) shall submit to the Department, upon request, an Emission Warranty Information Report as defined at 13 CCR 2144 and a Zero-Emission Vehicle Warranty Information Report as defined at 13 CCR 1962.8.

(c) For purposes of compliance with (b) above, a manufacturer may submit copies of the Emission Warranty Information Reports and the Zero-Emission Vehicle Warranty Information Reports that are submitted to CARB.

7:27-29A.6 Enforcement

(a) The Department, or its representative, shall have the right to enter and inspect any site, building, equipment, or vehicle, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., this subchapter, any exemption, or any order, consent order, agreement, or remedial action plan issued, approved, or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any material, motor vehicle, or any emissions therefrom, at the facility; to sketch or photograph any portion of the site, building, or vehicles; to copy or photograph any document or record necessary to determine such compliance or non-compliance; and to interview any employees or representatives of the owner, operator, or registrant. Such right shall be absolute and shall not be conditioned

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upon any action by the Department, except the presentation of appropriate credentials, as requested, and in compliance with appropriate standard safety procedures.

(b) Records to support any application, notice, report, or amendment submitted to the Department pursuant to this subchapter shall be maintained for a period of no less than five years after submitting the information to the Department, and shall be made readily available to the Department, upon request.

(c) Failure to comply with any of the obligations or requirements of this subchapter shall subject the violator to an enforcement action pursuant to the provisions at N.J.S.A. 26:2C-19 and N.J.A.C. 7:27A-3.

(d) Any order or enforcement action taken by CARB to correct noncompliance with any section of Title 13 of the California Code of Regulations, which action results in the recall of any vehicle pursuant to any provision of the CCR identified at N.J.A.C. 7:27-29A.7, shall be applicable in New Jersey, except where the manufacturer demonstrates to the Department's satisfaction within 30 days of issuance of the CARB action that the action is not applicable to vehicles subject to N.J.A.C. 7:27-29A.3(a).

(e) Any emission-related recall campaign, voluntary or otherwise, initiated by any manufacturer that results in the recall of any vehicle pursuant to any provision of the California Code of Regulations identified at N.J.A.C. 7:27-29A.7, shall be applicable in New Jersey, except where the manufacturer demonstrates to the Department's satisfaction

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within 30 days of the CARB approval of the campaign that the campaign is not applicable to vehicles subject to N.J.A.C. 7:27-29A.3(a).

7:27-29A.7 Incorporation by reference

(a) Unless specifically excluded by this subchapter, when a provision of the CCR or the California Vehicle Code is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, publications, and cross-references are also incorporated by reference, as supplemented or amended.

(b) Supplements, amendments, and any other changes including, without limitation, repeals, or stays that affect the meaning or operational status of a California rule or legislation incorporated by reference, brought about by either judicial, administrative, or legislative action, and adopted or otherwise noticed by the State of California, shall be immediately effective and applicable to this subchapter on the date such change is effective in California, so that the New Jersey rule will have the same meaning and status as its California counterpart.

(c) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the CCR or the California Vehicle Code and this subchapter, the provisions incorporated by reference from the CCR or the California Vehicle Code shall prevail.

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(d) Nothing in the provisions incorporated by reference from the CCR or the California Vehicle Code shall affect the Department's authority to enforce statutes, rules, permits, or orders administered or issued by the Commissioner.

(e) The following provisions of the CCR and the California Vehicle Code are incorporated by reference within this subchapter, as supplemented or amended, except as provided at (f) and (g) below:

Table 1	
California Code of Regulations (CCR)	
Title 13	
Chapter 1	
Motor Vehicle Pollution Control Devices	
Article 1	
General Provisions	
Section 1900	**Definitions**
Section 1905	**Exclusion and Exemption of Military Tactical Vehicles and Equipment**
Article 2	
Approval of Motor Vehicle Pollution Control Devices (New Vehicles)	

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Section 1956.8(g) and (h)	**Exhaust Emission Standards and Test Procedures — 1985 and Subsequent Model Heavy Duty Engines and Vehicles**
Section 1960.1	**Exhaust Emission Standards and Test Procedures — 1981 through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles**
Section 1961	**Exhaust Emission Standards and Test Procedures — 2004 through 2019 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles**
Section 1961.1	**Greenhouse Gas Exhaust Emission Standards and Test Procedures — 2009 through 2016 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles**
Section 1961.2	**Exhaust Emission Standards and Test Procedures — 2015 through 2025 Model Year Passenger Cars and Light-Duty Trucks, and 2015 through 2028 Model Year Medium-Duty Vehicles**
Section 1961.3	**Greenhouse Gas Exhaust Emission Standards and Test Procedures — 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles**

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Section 1961.4	**Exhaust Emission Standards and Test Procedures — 2026 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles**
Section 1962.2	**Zero-Emission Vehicle Standards for 2018 through 2025 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles**
Section 1962.3	**Electric Vehicle Charging Requirements**
Section 1962.4	**Zero-Emission Vehicle Requirements for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks**
Section 1962.5	**Data Standardization Requirements for 2026 and Subsequent Model Year Light-Duty Zero Emission Vehicles and Plug-in Hybrid Electric Vehicles**
Section 1962.6	**Battery Labeling Requirements**
Section 1962.7	**In-Use Compliance, Corrective Action, and Recall Protocols for 2026 and Subsequent Model Year Zero-Emission and Plug-in Hybrid Electric Passenger Cars and Light-Duty Trucks**

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Section 1962.8	**Warranty Requirements for Zero-Emission and Batteries in Plug-in Hybrid Electric 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks**
Section 1965	**Emission Control and Smog Index Labels — 1979 and Subsequent Model Year Vehicles**
Section 1968.1	**Malfunction and Diagnostic System Requirements — 1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines**
Section 1968.2	**Malfunction and Diagnostic System Requirements — 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Engines**
Section 1968.5	**Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines**
Section 1969	**Motor Vehicle Service Information — 1994 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Engines and Vehicles, and 2007 and Subsequent Model Heavy-Duty Engines**

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Section 1976	**Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions**
Section 1978	**Standards and Test Procedures for Vehicle Refueling Emissions**
Article 6	
Emission Control System Warranty	
Section 2035	**Purpose, Applicability and Definitions**
Section 2036	**Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light -Duty Trucks, and Medium -Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy -Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers**
Section 2037	**Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles**
Section 2038	**Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks**

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	and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles
Section 2039	**Emission Control System Warranty Statement**
Section 2040	**Vehicle Owner Obligations**
Section 2041	**Mediation; Finding of Warrantable Condition**
Section 2046	**Defective Catalyst**
Chapter 2	
Enforcement of Vehicle Emission Standards and Enforcement Testing	
Article 1	
Assembly Line Testing	
Section 2062	**Assembly-line Test Procedures 1998 and Subsequent Model Years**
Article 2	
Enforcement of New and In-use Vehicle Standards	
Section 2101	**Compliance Testing and Inspection – New Vehicle Selection, Evaluation and Enforcement Action**
Section 2109	**New Vehicle Recall Provisions**
Section 2110	**Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year**

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Article 2.1	
Procedures for In-Use Vehicle Voluntary and Influenced Recalls	
Section 2111	**Applicability**
Section 2112	**Definitions**
Section 2113	**Initiation and Approval of Voluntary and Influenced Recalls**
Section 2114	**Voluntary and Influenced Recall Plans**
Section 2115	**Eligibility for Repair**
Section 2116	**Repair Label**
Section 2117	**Proof of Correction Certificate**
Section 2118	**Notification**
Section 2119	**Record keeping and Reporting Requirements**
Section 2120	**Other Requirements Not Waived**
Section 2121	**Penalties**
Article 2.2	
Procedures for In-Use Vehicle Ordered Recalls	
Section 2122	**General Provisions**
Section 2123	**Initiation and Notification of Ordered Emission-Related Recalls**

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Section 2124	**Availability of Public Hearing**
Section 2125	**Ordered Recall Plan**
Section 2126	**Approval and Implementation of Recall Plan**
Section 2127	**Notification of Owners**
Section 2128	**Repair Label**
Section 2129	**Proof of Correction Certificate**
Section 2130	**Capture Rates and Alternative Measures**
Section 2131	**Preliminary Tests**
Section 2132	**Communication with Repair Personnel**
Section 2133	**Record keeping and Reporting Requirements**
Section 2135	**Extension of Time**
Article 2.3	
In-Use Vehicle Enforcement Test Procedures	
Section 2136	**General Provisions**
Section 2137	**Vehicle, Engine, and Trailer Selection**
Section 2138	**Restorative Maintenance**
Section 2139	**Testing**
Section 2140	**Notification and Use of Test Results**
Article 2.4	

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Procedures for Reporting Failure of Emission-Related Components	
Section 2141	**General Provisions**
Section 2142	**Alternative Procedures**
Section 2143	**Failure Levels Triggering Recall and Corrective Action**
Section 2144	**Emission Warranty Information Report**
Section 2145	**Field Information Report**
Section 2146	**Emissions Information Report**
Section 2147	**Demonstration of Compliance with Emission Standards**
Section 2148	**Evaluation of Need for Recall**
Section 2149	**Notification and Subsequent Action**
Article 3	
Surveillance Testing	
Section 2150	**Assembly-Line Surveillance**
Section 2151	**New Motor Vehicle Dealer Surveillance**
Chapter 4	
Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Fuel Additives	
Article 2	

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Aftermarket Parts	
Section 2221	**Replacement Parts**
Section 2222	**Add-On Parts and Modified Parts**
Chapter 4.4	
Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks	
Section 2235	**Requirements**
California Vehicle Code	
Division 12	
Equipment of Vehicles	
Chapter 5	
Other Equipment	
Article 2	
Exhaust Systems	
Section 27156.2	
Section 27156.3	

(f) For purposes of applying the incorporated sections of the CCR and California Vehicle Code, unless otherwise specified in this subchapter or the application is clearly inappropriate, “California" means "New Jersey," "Air Resources Board (ARB)" or "California Air Resources Board (CARB)" means “Department of Environmental

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Protection," and "Executive Officer" means the "Commissioner of the Department" or the Commissioner's designee. For example, "delivered for sale in California" and "placed in service in California" shall mean vehicles "delivered for sale in New Jersey" or "placed in service in New Jersey."

(g) At 13 CCR 1962.4(l), Definitions, in the definition of "community-based clean mobility program," replace "serves a community in which at least 75 percent of the census tracts in the project area (where community residents live and services operate) are: a disadvantaged community, as defined in California by Health and Safety Code section 39711, a low-income community as defined in California by Health and Safety Code section 39713, or a tribal community regardless of federal recognition" with "serves a community in which at least 75 percent of the census tracts in the project area (where community residents live and services operate) are: an overburdened community subject to adverse cumulative stressors, as determined by the Department pursuant to N.J.A.C. 7:1C, a low-income community where at least 35 percent of the households qualify as low-income households as determined by the Department pursuant to N.J.A.C. 7:1C, or a tribal community regardless of Federal recognition."

SUBCHAPTER 31. ADVANCED CLEAN TRUCKS PROGRAM

7:27-31.3 Applicability

(a) (No change.)

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(b) The requirements at (a) above do not apply to:

1. An emergency vehicle, pursuant to California's Vehicle Code Sec. 27156.2 and 27156.3, as incorporated by reference at N.J.A.C. 7:27-31.4; or

2. A military tactical vehicle, pursuant to 13 CCR 1905, as incorporated by reference at N.J.A.C. 7:27-31.4.

7:27-31.4 Incorporation by reference

(a)-(e) (No change.)

(f) The following provisions of the CCR are incorporated by reference with this subchapter, except as provided at (g), (h), (i), and (j) below:

Table 1

Provisions Incorporated by Reference

California Code of Regulations (CCR)

Title 13

Chapter 1

Motor Vehicle Pollution Control Devices

Article 1

General Provisions

Section 1905 Exclusion and Exemption of Military Tactical Vehicles and Equipment

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Article 2

Approval of Motor Vehicle Pollution Control Devices (New Vehicles)

...

Provisions Incorporated by Reference

California Vehicle Code

Division 12

Equipment of Vehicles

Chapter 5

Other Equipment

Article 2

Exhaust Systems

Section 27156.2

Section 27156.3

(g)-(j) (No change.)

CHAPTER 27A

AIR ADMINISTRATIVE PROCEDURES AND PENALTIES

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SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a) - (l) (No change.)

(m) The violations of N.J.A.C. 7:27, whether the violation is minor or non-minor in accordance with (q) through (t) below, and the civil administrative penalty amounts for each violation are as set forth in the following Civil Administrative Penalty Schedule. The numbers of the following subsections correspond to the numbers of the corresponding subchapter at N.J.A.C. 7:27. The rule summaries for the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.

1. –29. (No change.)

29A. The violations of N.J.A.C. 7:27-29A, New Jersey Advanced Clean Cars II Program, and the civil administrative penalty amounts for each violation, per vehicle, are as set forth in the following table:

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-29A.3(a)	Delivery of non-certified vehicle	NM	$2,500	$5,000	$12,500	$30,000

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N.J.A.C. 7:27-29A.4(a)	**Failure to report production volume**	**M**	**$500**	**$1,000**	**$2,500**	**$7,500**
N.J.A.C. 7:27-29A.4(b)	**Failure to pay an annual fee**	**M**	**$500**	**$1,000**	**$2,500**	**$7,500**
N.J.A.C. 7:27-29A.6(b)	**Failure to provide reports upon request**	**M**	**$500**	**$1,000**	**$2,500**	**$7,500**
N.J.A.C. 7:27-29A.7 incorporating by reference 13 CCR 1961.4	**Failure to meet fleet-wide average**	**NM**	**$5,000**	**$10,000**	**$25,000**	**$50,000**
N.J.A.C. 7:27-29A.7 incorporating by reference 13 CCR 1962.4	**Failure to meet ZEV sales requirement**	**NM**	**$5,000**	**$10,000**	**$25,000**	**$50,000**
N.J.A.C. 7:27-29A.7 incorporating by reference 13 CCR 1962.4	**Failure to comply with ZEV reporting requirements**	**M**	**$500**	**$1,000**	**$2,500**	**$7,500**

30.-34. (No change.)

(n)-(w) (No change.)