

## Administrative Procedures – Proposed Rule Filing

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rule.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

\_\_\_\_\_, on 9/11/2018.  
(signature) (date)

Printed Name and Title:

Julie Moore, Secretary, Agency of Natural Resources

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Filing Confirmed

1. TITLE OF RULE FILING:  
**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

2. ADOPTING AGENCY:  
Agency of Natural Resources

3. PRIMARY CONTACT PERSON:  
(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Megan O'Toole

Agency: Vermont Dept of Environmental Conservation

Mailing Address: 1 National Life Dr, Davis 2

Montpelier VT 05620

Telephone: 802 249 - 9882 Fax: 802 828 - 1250

E-Mail: megan.otoole@vermont.gov

Web URL(WHERE THE RULE WILL BE POSTED):

<http://dec.vermont.gov/air-quality/laws/recent-regs>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Tom Moye

Agency: Vermont Dept of Environmental Conservation

Mailing Address: 1 National Life Dr, Davis 2

Montpelier VT 05620

Telephone: 802 279 - 5327 Fax: 802 828 - 1250

E-Mail: tom.moye@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) **No**

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

10 V.S.A. §§ 554, 558, 567, and 579

**7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

ANR has general authority pursuant to 10 VSA §§554 and 558 to promulgate rules that reduce emissions of air contaminants in Vermont. ANR has authority pursuant to 10 VSA §§567 and 579 to promulgate rules to reduce emissions from motor vehicles that are consistent with the federal Clean Air Act and by extension the California emission standards (pursuant to sections 209 and 177 of the Clean Air Act).

**8. CONCISE SUMMARY (150 WORDS OR LESS):**

The Agency is proposing an amendment to its low emission vehicle (LEV) rules, which incorporate by reference California's motor vehicle emission standard regulations. Vermont first adopted California's vehicle emission standards in 1996, and the Agency periodically amends its LEV rules to remain consistent with California's emission standards. California is amending its rules to clarify that vehicle manufacturers may not substitute compliance with federal greenhouse gas (GHG) emissions standards in order to comply with California GHG emissions standards. These amendments will incorporate this change into the Vermont LEV rules.

**9. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Under the federal Clean Air Act (CAA), California is the only state authorized to establish its own, stricter, automobile emissions standards, but the CAA allows other states to adopt emission standards that are identical to California's. Vermont first adopted California's standards in 1996 and periodically adopts amendments to maintain consistency with the California standards and the CAA's identity requirement.

**10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

These amendments serve to update the incorporation by reference date by which Vermont's LEV rules are consistent with California's rules. The Vermont amendments are identical to California's rules per Section 177 of the Clean Air Act.

**11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

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Vehicle manufacturers

All Vermonters that will benefit from the health and environmental benefits of reducing GHG emissions

12. BRIEF SUMMARY OF ECONOMIC IMPACT (**150 WORDS OR LESS**):

Because this amendment does not change the GHG emissions standards vehicle manufacturers are already required to comply with, there is no economic impact.

13. A HEARING IS SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 10/22/2018

Time: 10:00 AM

Street Address: Vermont Dept of Environmental Conservation,  
1 National Life Drive

Montpelier, Vermont

Zip Code: 05620

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 10/29/2018

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16. **KEYWORDS** (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

motor vehicle

low emission vehicle (LEV)

air pollution

greenhouse gas (GHG)

Clean Air Act

## Administrative Procedures – Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:  
**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**
  2. ADOPTING AGENCY:  
Agency of Natural Resources
  3. AGENCY REFERENCE NUMBER, IF ANY:
  4. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
    - **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
    - **NEW RULE** - A rule that did not previously exist even under a different name.
    - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

5. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):  
September 15, 2018; #18-039.

# Administrative Procedures – Economic Impact Analysis

## **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

### 2. ADOPTING AGENCY:

Agency of Natural Resources

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

This proposed amendment affects vehicle manufacturers in that it clarifies that vehicle manufacturers may not substitute compliance with federal greenhouse gas (GHG) emissions standards in order to comply with California GHG emissions standards. Because this proposed amendment does not change the California GHG emissions

## Economic Impact Analysis

standards vehicle manufacturers are already required to comply with, there is no economic impact.

### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

This proposed amendment will have no impact on schools.

### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Because this proposed amendment will have no impact on schools, there is no need for consideration of alternatives to this proposed amendment.

### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

This proposed amendment does not impose any requirements on small businesses, and will have no economic impact on small businesses.

### 7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

This proposed amendment does not impose any requirements on small businesses, and will have no economic impact on small businesses.

### 8. COMPARISON:

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

This proposed amendment does not impose any requirements on small businesses, and will have no economic impact. Because this proposed amendment will have no impact on small businesses, there is no need for consideration of alternatives to this proposed amendment.

### 9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

This analysis is sufficient because it it explains that



Economic Impact Analysis

there will be no economic impact to schools or small businesses.

# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

### 2. ADOPTING AGENCY:

Agency of Natural Resources

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

This proposed amendment retains the California vehicle GHG emissions standards adopted by Vermont in 2012, and is projected to reduce passenger car and light duty truck GHG emissions by approximately one third by 2025.

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No effect

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No effect

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No effect

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

The transportation sector accounts for nearly half of Vermont's GHG emissions that contribute to climate change. The California vehicle GHG emissions standards adopted by Vermont in 2012 are the most effective way to reduce the largest source of GHG emissions that contribute to the effects of climate change, which include more frequent extreme heat and weather events, increase in vector-borne and infectious disease, foodborne and water pathogens, harmful algae blooms, decrease in air quality, and negative impacts to fall foliage and the ski industry in Vermont.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S*

*ENVIRONMENT:*

No effect

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

This analysis is sufficient because it explains how the rule is reducing emissions from the transportation sector, which is the sector that contributes the most to greenhouse gas emissions in Vermont.

## Administrative Procedures – Public Input

### **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

ICAR agreed with ANR's proposed approach, which includes maximizing access to rulemaking documents and reaching out to those listed below.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

ANR will notify the public of the proposed rule in accordance with the Vermont APA. A public hearing will also be held.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

California Air Resources Board

Vermont Attorney General's office

Environmental and public interest non-government organizations

Original Equipment Manufacturers

## Administrative Procedures – Scientific Information

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the Scientific Information Statement, an agency shall provide a brief summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

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1. TITLE OF RULE FILING:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

This proposed amendment continues to implement the California vehicle GHG emissions standards adopted by Vermont in 2012. Below is a list of the scientific information upon which the California vehicle GHG emissions standards adopted by Vermont in 2012 were based.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

California Air Resources Board, Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Rulemaking, Public Hearing to Consider the "LEV III" Amendments (Dec. 7, 2011), available at <http://www.arb.ca.gov/regact/2012/leviiighg2012/levisor.pdf>

IPCC. (2007a). Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press,

available at [http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf)

IPCC. (2007b). Technical Summary: Climate Change 2007: The Physical Science Basis, Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press, available at [https://www.ipcc.ch/publications\\_and\\_data/publications\\_ipcc\\_fourth\\_assessment\\_report\\_wg1\\_report\\_the\\_physical\\_science\\_basis.htm](https://www.ipcc.ch/publications_and_data/publications_ipcc_fourth_assessment_report_wg1_report_the_physical_science_basis.htm)

U.S. Environmental Protection Agency, Ground Level Ozone Health Effects, available at <https://www.epa.gov/ozone-pollution>

U.S. Environmental Protection Agency, Pollutants: Particulate Matter, available at <https://www.epa.gov/pm-pollution>

Vermont Agency of Natural Resources, Resilience: A Report on the Health of Vermont's Environment (2011), available at <http://anr.vermont.gov/sites/anr/files/aboutus/documents/Resilience%202011.pdf>

Vermont Climate Change Indicators , available at <http://alanbetts.com/understanding-climate-change/topic/vermont-climate-change-indicators/>

Vermont Greenhouse Gas Emissions Inventory Update 1990-2008, available at [http://dec.vermont.gov/sites/dec/files/aqc/climate-change/documents/Vermont\\_GHG\\_Emissions\\_Inventory\\_Update\\_1990-2008\\_Sept.pdf](http://dec.vermont.gov/sites/dec/files/aqc/climate-change/documents/Vermont_GHG_Emissions_Inventory_Update_1990-2008_Sept.pdf)

## 5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

All of the source documents listed above are available online and an <http://> address is provided above for each source. Hard copies may also be obtained by contacting the Agency's Air Quality and Climate Division by calling (802)828-1288.

## Administrative Procedures – Incorporation by Reference

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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#### 1. TITLE OF RULE FILING:

**Amendments to Subchapter XI, Low Emission Vehicle Program, Vermont Air Pollution Control Regulations**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Materials incorporated by reference include all sections of the California Code of Regulations (CCR) that implement California's low emission vehicle program. Vermont has adopted California's low emissions vehicles program in Subchapter XI of the Vermont Air Pollution Control Regulations (APCR), and the specific sections of the CCR that are incorporated by reference are listed in Table F of the Vermont APCR.

#### 4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

Title 13, California Code of Regulations (CCR) 1900, 1903, 1904, 1956.8(c), (g), and (h), 1960.1, 1960.5, 1961, 1961.1, 1961.2, 1961.3, 1962, 1962.1, 1962.2, 1962.3, 1964, 1965, 1968.1, 1968.2, 1976, 1978, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2046, 2047, 2062, 2101, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124,

Incorporation By Reference Statement

2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2222, 2235, and Appendix A to Article 2.1.

5. **OBTAINING COPIES:** (*EXPLAIN HOW THE MATERIAL(S) CAN BE OBTAINED BY THE PUBLIC, AND AT WHAT COST*):

The sections of the CCR that are incorporated by reference can be obtained by the Vermont Air Quality and Climate Division digitally/online at no cost, or in paper copy at a cost consistent with the cost of obtaining paper copies under the Vermont Public Records Act. Call (802)828-1288 to obtain a hard-copy.

6. **MODIFICATIONS** (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

The California Air Resources Board periodically modifies the sections of the CCR that implement the LEV regulations. Any changes made to the CCR and adopted by the California Air Resources Board after January 15, 2014 and before adoption of the proposed rules will be incorporated into the Vermont APCR. Under federal law, Vermont must adopt vehicle emission standards that are identical to California's.