

Cross Border Sales Policy for 2004 and Later Model Year Vehicles

Why is the Cross-Border Sales Policy still necessary for 2004 and later model years?

Under federal law, vehicles introduced into commerce in the U.S. must be certified to meet all applicable federal emission requirements. Vehicles certified to California-only requirements (“California vehicle”) are not necessarily meeting each and every federal requirement. Historically, EPA’s Cross Border Sales (CBS) Policy has been developed to address two issues:

- (1) allow manufacturers to introduce into commerce “California vehicles” in California and the “Section 177 states” (states that have adopted and placed into effect California requirements under authority of Section 177 of the Clean Air Act.) Manufacturers and their dealers located in California and any “Section 177 state” may sell “California vehicles” to any person from any state.
- (2) take no enforcement action to against dealers located in the states that are contiguous to California and any “Section 177 states” if they sell “California vehicles” to people from any state”. Without the CBS policy, dealers in those contiguous states would only be allowed to sell “California vehicles” to a resident from California or a “Section 177 state”, while dealers located across the border in California and the “Section 177 states” may sell “California vehicles” to anyone.

The Federal Tier 2 emission standards, which will take effect in the 2004 MY, do not remove all of the differences between the federal and California programs; there are California requirements which are less stringent than comparable federal requirements. Because 2004 and later model year “California vehicles” do not necessarily meet each and every federal emission requirement (which would be necessary to allow the sale of the California certified vehicles everywhere), manufacturers must follow EPA’s CBS policy to direct their sales of “California vehicles” for 2004 and later MY. Due to possible changes in both federal and California emission requirements in the future, EPA may revise this policy whenever it is necessary.

Automotive manufacturers may choose to certify their vehicles to meet both federal and California requirements to avoid the issues addressed by this policy. The vehicles which meet both federal and California requirements are called “50 states vehicles,” such vehicles are allowed to be delivered and sold to anyone in any state.

You may visit the 1993-1995 CBS Policy (www.epa.gov/otaq/consumer.htm#CrossborderSales) to read more about the history of the CBS policy.

In which areas do the differences between federal and California requirements exist during and after 2004 model year?

Examples of federal standards that are more stringent or different than comparable California ones during and after 2004 model year include: Supplemental Federal Test Procedure (SFTP) standards, cold temperature testing requirements, altitude testing requirements, some tailpipe standards and evaporative standards, fleet average requirements, fuel controls and the standards applicable to different vehicle weight classes, etc.

Which states have adopted and placed in effect California standards?

See Table: Section 177 States Vehicle Emissions Control Requirements – Status on California Rules Adoption (www.epa.gov/otaq/consumer.htm#CrossborderSales)

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

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

What language will appear on the certificates of conformity issued to manufacturers?

The certificate language for the 2004 and later model years “California vehicles” will appear identical as for 2003 model year:

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

the Clean Air Act, has adopted and placed into effect the California standards to which this test group has been certified or a state contiguous to such a state; and (4) are labeled as belonging to said test group and evaporative/refueling family.

What is restricted?

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

Does this policy only apply to new vehicles?

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

What about medium-duty vehicles certified to California standards?

The California Air Resources Board defines a medium-duty vehicle for purposes of California emissions requirements as any vehicle having a manufacturer’s gross vehicle weight rating (GVW) of 8,500 to 14,000 pounds*. New York, Vermont Maine and Massachusetts have adopted California standards for medium-duty vehicles at this time. Consequently, these vehicles are permitted to be introduced into commerce in California, New York, Vermont Maine and Massachusetts, and EPA will take no action if manufacturers sell MDVs in the contiguous states of those states. (*Vehicles certified to the LEV I California emission standards are defined as a medium duty vehicle if they are between 6000 and 14000# GVWR.)

What are the contiguous states?

| State Name | Contiguous States |
|---------------|--|
| California | Oregon, Nevada and Arizona |
| Massachusetts | Rhode Island, Connecticut, New York, Vermont, New Hampshire, and Maine |
| Maine | New Hampshire and Massachusetts |
| Vermont | New Hampshire, Massachusetts and New York |
| New York | New Jersey, Connecticut, Massachusetts, Vermont and Pennsylvania |

May manufacturers deliver “California vehicles” to these contiguous states?

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

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

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

What about “drop shipments”?

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

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

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

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

How does the CBS policy affect warranty requirements?

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

Are there any records keeping requirements?

There are no record keeping requirements for cross-border sales themselves. Manufacturers are responsible for all information and record keeping regarding California vehicles as described in Advisory Circular 86.

Where can I get further information regarding the 2004 and Later Model Years Cross Border Sales Policy?

You may visit our web site at:

www.epa.gov/otaq/consumer.htm#CrossborderSales

or, contact us by Email:

omsceis@epa.gov