

Attachment 1

Multi-Manufacturer Situations for Small and Intermediate Volume Manufacturers

Small Volume Manufacturers

There are four areas in which a “small volume manufacturer” receives different treatment under the ARB’s programs for passenger cars, light-duty trucks and medium-duty vehicles. The first such area is the optional durability demonstration requirement for small volume manufacturers in the certification test procedures. The second is the application of the fleet average NMOG requirements for passenger cars and light-duty trucks, and the required emissions category mix for medium-duty vehicles (MDVs). Third, a small volume manufacturer is not subject to the percentage ZEV requirements that start in the 2003 model year. Finally, a small volume manufacturer is not subject to the percentage phase-in requirements for the LEV II exhaust standards, the LEV II evaporative emissions standards, and the SFTP standards until the year in which 100% compliance with the new standard is required for larger manufacturers.

Common ownership situations – certification testing. U.S. EPA’s durability demonstration regulations have historically allowed less durability testing for vehicles produced by a small volume manufacturer, as defined. In determining whether a manufacturer’s U.S. sales were less than EPA’s 10,000 unit per year cutoff (for all vehicles and engines combined, except motorcycles), EPA aggregated sales of two or more firms in four situations: (i) where one held a 10% or greater equity interest in the other, (ii) where each was 10% or greater owned by a third party, (iii) where the firms had one or more common corporate officers who were responsible for the overall direction of the companies, and (iv) where the firms import or distribute vehicles manufactured by the same entity and the importers or distributors are authorized agents of the entity. (40 CFR sec. 86.092-14(b)(2).) These aggregation provisions were not incorporated by the California procedures (sec. 7.a.2 of the California Exhaust Emission Standards and Test Procedures for 1988-2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles (“1988-2000 LDV/MDV TPs”)) and accordingly were not applied by the ARB prior to the LEV II/ CAP 2000 rulemaking.

The small volume manufacturer certification procedures in EPA’s CAP 2000 regulations retain the sales aggregation provisions. (40 CFR sec. 86.1838-01(a)(3).) The sales cutoff has been increased to 15,000 units per year. If the aggregated U.S. sales for a small volume manufacturer are fewer than 15,000 units, the small volume manufacturer provisions for the durability demonstration and in-use verification testing will apply. If the aggregated U.S. sales are 15,000 units per year or more, the manufacturer will not be permitted to use the small volume *manufacturer* provisions but will still be able to certify a number of units

under the small volume *test group* provisions in accordance with 40 CFR sec. 86.1838-01(b)(2).

ARB's CAP 2000 test procedures incorporate all of the EPA's CAP 2000 small volume manufacturer certification procedures – including the aggregation provisions – except that the California cut-off is 4500 units in the state. (2001+ LDV/MDV TPs sec. G.12.) Accordingly, the ARB is applying the EPA aggregation provisions for small volume manufacturers in determining the certification procedures for all 2001 and later light and medium-duty vehicles, and for 2000 model year vehicles certified under CAP 2000.

Common ownership situations – Fleet average NMOG and ZEV requirements and phase-in of new standards. A small volume manufacturer is exempt from the fleet average NMOG requirements through the 1999 model year, and is subject to a fleet average requirement of 0.075 g/mi for 2000 and subsequent passenger cars and LDTs from 0-3750 lbs. LVW. The fleet average requirement is 0.100 g/mi for heavier LDTs for the 2001-2003 model years, and 0.075 starting in the 2004 model year. (13 CCR secs. 1960.1(g)(2) note (6) and 1961(b)(1)(C)). A small volume manufacturer does not have to certify its vehicles to the LEV II exhaust, LEV II evaporative, or SFTP standards until the first year that 100% of a large manufacturer's fleet must be certified to the standard. A small volume manufacturer is also exempt from the percentage ZEV requirements. (13 CCR sec. 1962(b)(1)(C)).

Neither the ARB's definition of small volume manufacturer for the 2001 and subsequent model years (13 CCR sec. 1900(b)(17)), nor the ARB's small volume manufacturer provisions in the fleet average NMOG and ZEV requirements or standards phase-in, contain aggregation provisions. Accordingly, the ARB is continuing its past practice that, in determining whether a particular manufacturer is a small volume manufacturer for fleet average NMOG and ZEV purposes, that manufacturer's sales need not be aggregated with the sales of other manufacturers having an ownership interest in the manufacturer being evaluated – as long as the manufacturer is operationally independent. Under this practice, the following manufacturers have been treated as small volume manufacturers in the 1997-1999 model years:

American General	Jaguar	Rolls-Royce
Aston Martin	Lamborghini	Rover
Baytech	Larforza	Saab
Ferrari	Panoz	Saleen
Impco	Porsche	Shelby

Determining what vehicles are attributable to a small volume manufacturer. The definition of small volume manufacturer for the 2001 and subsequent model years in section 1900(a)(17) refers to a manufacturer with California sales of

fewer than 4,500 units based on the average for the three previous consecutive model years. It further provides that:

A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. For purposes of compliance with the zero-emission vehicle requirements, heavy-duty vehicles and engines shall not be counted as part of a manufacturer's sales.

Thus with the one stated exception, all vehicles produced by the potential small volume manufacturer and delivered for sale in California are attributed to that manufacturer. The sort of responsibility-shifting agreements that are generally available in multi-manufacturer situations may *not* be used to change a manufacturer's count for purposes of applying the small volume manufacturer provisions, since they could change the applicable standard.

Intermediate volume manufacturers

The only instance in which an intermediate volume manufacturer receives differential treatment is that such a manufacturer is permitted to satisfy 100% (rather than 60%) of its percentage ZEV requirement with partial ZEV allowance vehicles or credits generated by such vehicles. (13 CCR sec. 1962(b)(1)(B)). Since there are no aggregation provisions pertaining to intermediate volume manufacturers, ARB plans to apply the same principles as described for small volume manufacturers.