

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO CALIFORNIA'S EMISSION WARRANTY INFORMATION REPORTING AND RECALL REGULATIONS AND EMISSION TEST PROCEDURES

Staff's Suggested Modifications to the Original Proposal

Shown below are the staff's suggested modifications to the originally proposed amendments and adoptions set forth in Appendix A to the Staff Report: Initial Statement of Reasons released October 20, 2006. The originally proposed amendments to title 13, of the California Code of Regulations are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Changes to the proposed regulations and test procedures made since the January 23, 2007 workshop notice are **highlighted**. All proposed substantive modifications will be made available to the public for a fifteen-day comment period prior to final adoption.

§ 1956.8. Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Diesel-Engine and Vehicles.

Introduction. [No change.]

Section (a). [No change.]

(b) *Test Procedures.* The test procedures for determining compliance with standards applicable to 1985 and subsequent model heavy-duty diesel engines and vehicles and the requirements for participation in the averaging, banking and trading programs, are set forth in the "California Exhaust Emission Standards and Test Procedures for 1985 through 2003 Model Heavy-Duty Diesel Engines and Vehicles," adopted April 8, 1985, as last amended December 12, 2002, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," adopted December 12, 2002, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes," adopted ~~October 24, 2002~~, [insert date of amendment for this rulemaking] which are incorporated by reference herein.

Section (c). [No change.]

(d) *Test Procedures.* The test procedures for determining compliance with standards applicable to 1987 and subsequent model heavy-duty Otto-cycle engines and vehicles are set forth in the "California Exhaust Emission Standards and Test Procedures for 1987 through 2003 Model Heavy-Duty Otto-Cycle Engines and Vehicles," adopted April 25, 1986, as last amended December 27,

2000, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," adopted December 27, 2000, as last amended December 12, 2002, the "California Non-Methane Organic Gas Test Procedures," adopted July 12, 1991, as last amended July 30, 2002, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes," adopted ~~October 24, 2002~~, [insert date of amendment for this rulemaking] which are incorporated by reference herein.

Section (e). [No change.]

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, 43106 and 43806 Health and Safety Code and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43806, Health and Safety Code.

§ 1958. Exhaust Emission Standards and Test Procedures – Motorcycles, motorcycle engines Manufactured on or After January 1, 1978

Introduction. [No change.]

Sections (a) through (c)(4). [No change.]

Amend (c) by adding (5) below:

(5) Amend: 86.408-78 (b) as follows: No change, except to add the following sentences to the paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment ~~and information available at that time~~, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly and are in compliance with all applicable requirements for the full useful life of the vehicles or engines in actual use. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims

rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105, and 43106 Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Set forth below are the proposed amendments to title 13 of the California Code of Regulations. Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Amendments to § 1961 that were adopted by the Board on June 22, 2006 as part of a rulemaking for evaporative emissions, but which have not yet been approved by the Office of Administrative Law are indicated in double underline to indicate additions and ~~double strikeout~~ to indicate deletions.

§ 1961. Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

Introduction. [No change.]

Sections (a) through (c). [No change.]

(d) *Test Procedures.* The certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” as amended June 22, 2006, ~~August 4, 2005~~ insert date of amendment for the June 22, 2006 evaporative emissions rulemaking, ~~insert date of amendment for this rulemaking~~, and the “California Non-Methane Organic Gas Test Procedures,” as amended July 30, 2002, which are incorporated herein by reference. In the case of hybrid electric vehicles and on-board fuel-fired heaters, the certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and

Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” incorporated by reference in section 1962.

Section (e). [No change.]

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106 , Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Set forth below are the proposed amendments to title 13, of the California Code of Regulations. Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions.

§ 1976. Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions.

(c) The test procedures for determining compliance with the standards in subsection (b) above applicable to 1978 through 2000 model year vehicles are set forth in “California Evaporative Emission Standards and Test Procedures for 1978-2000 Model Motor Vehicles,” adopted by the state board on April 16, 1975, as last amended August 5, 1999, which is incorporated herein by reference. The test procedures for determining compliance with standard applicable to 2001 and subsequent model year vehicles are set forth in the “ California Evaporative Emission Standards and Test Procedu4es for 2001 and Subsequent Model Motor Vehicles, “ adopted by the state board on August 5, 1999, and amended on *****, which is incorporated herein by reference.

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

§ 1978. Standards and Test Procedures for Vehicle Refueling Emissions.

(b) The test procedures for determining compliance with standards applicable to 1998 through 2000 gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty trucks, and medium-duty vehicles are set forth in the: "California Refueling Emissions Standards and Test Procedures for 1998-2000 Model Year Motor Vehicles," as amended August 5, 2000, which is incorporated herein by reference. The test procedures for determining compliance with standards applicable to 2001 and subsequent gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty truck, and medium-duty vehicles are set forth in the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and amended *****, which is incorporated herein by reference.

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Section 2111. Applicability.

(a) These procedures shall apply to:

(1) California-certified 1982 ~~and subsequent~~ through the 2009 model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, motorcycles, and California-certified 1997 and subsequent model-year off-road motorcycles and all-terrain vehicles, including those federally certified vehicles which are sold in California pursuant to Health and Safety Code section 43102,

(2) California-certified motor vehicle engines used in such vehicles,

(3) California-certified 2000 and subsequent model-year off-road compression-ignition engines, and

(4) California-certified 2009 and subsequent model-year spark-ignition inboard and sterndrive marine engines.

(b) These procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code section 44201.

(c) The Executive Officer may waive any or all of the requirements of these procedures if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer without a corresponding emission reduction.

Note: Authority cited: Sections 39600, 39601, 43013, 43018 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2122. General Provisions.

The provisions regarding applicability of the ordered recall procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112. The provisions of this Article shall apply to the vehicles and engines specified in section 2111 manufactured up to and including the 2009 model year, plus their useful lives. This Article shall apply not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2136. General Provisions.

The provisions regarding applicability of the enforcement test procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112- and beginning with the 2010 model year, Sections 2166 and 2166.1. If the executive officer determines that an emissions violation exists under Health and Safety Code 43105, he/she may order a recall or corrective action to correct the affected vehicles.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2141. General Provisions.

(a) The provisions regarding applicability of the failure reporting procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112, except that this Section 2141 does not apply to off-road compression-ignition engines, as defined in Section 2421. The provisions of this Article shall apply to the vehicles and engines specified in section 2111 manufactured up to and including the 2009 model year, plus their useful lives. This Article shall apply not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

(b) The requirement to file emission warranty information reports and field information reports for a given class or category of vehicles or engines shall be applicable for the warranty period but not to exceed the useful-life period of the vehicles or engines beginning with the 1990 model-year vehicles or engines.

(c) The requirement to file an emissions information report for a given class or category of vehicles or engines shall be applicable for the useful-life period of the vehicles or engines.

(d) In the case of motor vehicles or engines for which certification of the exhaust and evaporative emission control systems is granted to different manufacturers, the information reporting responsibility in subsections (b) and (c) above shall be assigned to the certifying manufacturer.

Note: Authority cited: Sections 39600, 39601, 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Adopt New Regulations To Read:

Article 5. Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action

Section 2166. General Provisions.

(a) The provisions of this article apply to:

(1) California-certified 2010 and subsequent model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and motorcycles.

(2) California-certified engines used in such vehicles.

(b) For the purposes of this article, the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Section 2035 (c) and Section 2166.1.

(c) This procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code 44201.

(d) The Executive Officer may waive any or all of the requirements of this Article if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer.

(e) This article contains procedures for reporting emissions warranty information and procedures for determining, and the facts constituting, compliance or failure of compliance with and violations of test procedures based on emissions warranty information. This article also contains procedures for requiring recalls or other corrective action based on such information. Nothing in this article shall limit the Executive Officer's authority pursuant to Health and Safety Code section 43105 to require recalls or other corrective action in other types of situations.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2166.1. Definitions.

For purposes of this article, the following definitions apply.

(a) "Capture rate" means the percentage of in-use vehicles subject to recall which must be corrected to bring the class or category of vehicles into

compliance. The number of vehicles subject to recall shall be based on the actual number of vehicles in use as verified by the Department of Motor Vehicles registration records, or vehicle or engine registration records compiled and prepared by R. L. Polk and Company or a comparable source at the time a recall is initiated.

(b) "Corrective Action" refers to any action taken by the manufacturer to remedy a violation of emission standards or test procedures. Corrective action may include recall, extended warranty, or other action ordered by the Executive Officer. The Executive Officer may order direct notification of corrective action to vehicle or engine owners.

(c) "Correlation factor" means a pollutant-specific multiplicative factor calculated by a manufacturer for an engine family or test group which establishes a relationship between chassis exhaust emission data, as determined from the test procedures specified in section 1960.1 or 1961, Title 13, California Code of Regulations, and engine exhaust emission data, as determined from the test procedures specified in section 1956.8, Title 13, California Code of Regulations.

(d) "Days", when computing any period of time, means normal working days on which a manufacturer is open for business, unless otherwise noted.

(e) "Defective emission-control component" or "defective emission-related component" means any component that is installed on a California-certified vehicle or engine that is considered to be a "warranted part" pursuant to Section 2035 that has a mechanical defect or does not perform according to the manufacturer's specifications during the applicable useful life period of the affected vehicle or engine, excluding any part is not replaced or repaired solely for customer relations reasons or due to misdiagnosis. and does not have a mechanical defect, will not fail to operate properly within the manufacturer's specifications during its certified useful life and will not increase emissions under any conceivable circumstance if it is not replaced.

(f) "Emission-control component" or "emission-related component" means a device, system or assembly described in the manufacturer's approved application for certification which is considered to be a "warranted part" pursuant to Section 2035 and subject to this Article.

(g) "Emission Warranty Claim" means an adjustment, inspection, repair or replacement of a specific emission-related component for which the vehicle or engine manufacturer is invoiced or solicited by a repairing agent for compensation pursuant to warranty provisions, regardless of whether compensation is actually provided.

(h) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(i) "Exhaust after-treatment device" means any device or system designed to oxidize, reduce or trap post-combustion exhaust emissions, including those components that transport the exhaust emissions from the engine to the after-treatment device, described in the manufacturer's application for certification, and installed on a vehicle or engine certified for sale in California.

(j) "Extended Warranty" means corrective action required by the Executive Officer that extends the warranty time and mileage periods for a specific emissions-related component pursuant to this article. For passenger cars, light-duty trucks, medium-duty vehicles and engines, and heavy-duty vehicles and engines used in such vehicles, the extended warranty shall be equal to the applicable certified useful life period of that vehicle or engine. The Executive Officer may order direct notification of corrective action to vehicle or engine owners. The extended warranty on a hybrid electric vehicle battery packs used for vehicle propulsion shall be limited to the lesser of 1) the applicable useful life of the vehicle or 2) 10 years or 150,000 miles (whichever first occurs).

(k) "Influenced Emission Recall" means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer or its agent or representative as a result of any evidence of noncompliance to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(l) "Nonconformity" or "noncompliance" exists whenever an engine family, test group or subgroup of vehicles are determined to be in violation of test procedures pursuant to this article.

(m) "Ordered Recall" or "recall" means an inspection, repair, adjustment, or modification program required by the Board and conducted by the manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners may be required.

(n) "Quarterly reports" refer to the following calendar periods: January 1- March 31, April 1-June 30, July 1-September 30, October 1-December 31.

(o) "Systemic Failure" means any emission-control component as defined in this article or warranted part as defined in Section 2035 (c) (2) (b), found to have valid failures meeting or exceeding four percent or 50 vehicles or engines (whichever is greater) within a specific engine family or test group, pursuant to this article.

(p) "Ultimate purchaser" has the same meaning as defined in section 39055.5 of the Health and Safety Code.

(q) "Useful life" means, for the purposes of this article:

(1) For Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) For Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) For Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever first occurs.

(4) For light-duty and medium-duty vehicles certified under the Optional 100,000 Mile Certification Procedure, and motor vehicle engines used in such vehicles, a period of use of ten years or 100,000 miles, whichever first occurs.

(5) For 2001 and subsequent-model year medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the primary standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For all other 1995 and subsequent model-year medium-duty vehicles and motor vehicle engines used in such vehicles, and 1992 through 1994 model-year medium-duty low-emission and ultra-low-emission vehicles certified to the standards in Section 1960.1(h)(2), and motor vehicle engines used in such vehicles, a period of use of eleven years or 120,000 miles, whichever occurs first.

(6) For all other light-duty and medium-duty vehicles, and motor vehicle engines used in such vehicles, a period of use of five years or 50,000 miles, whichever first occurs. For those passenger cars, light-duty trucks and medium-duty vehicles certified pursuant to section 1960.1.5, Title 13, California Code of Regulations, the useful life shall be seven years, or 75,000 miles, whichever first occurs; however, the manufacturer's reporting and recall responsibility beyond 5 years or 50,000 miles shall be limited, as provided in section 1960.1.5. For those passenger cars and light-duty trucks certified pursuant to Title 13, California Code of Regulations, section 1960.1 (f) and section 1960.1(g), the useful life shall be ten years or 100,000 miles, whichever first occurs; however, for those vehicles certified under section 1960.1(f), the manufacturer's warranty failure and defects reporting and corrective action responsibility shall be subject to the conditions and standards specified in section 1960.1 (f).

(7) For 1997 and subsequent model year off-road motorcycles, all-terrain vehicles, and engines used in such vehicles, a period of use of five years or 10,000 kilometers (6,250 miles), whichever first occurs.

(8) For those passenger cars and light-duty trucks certified to the primary standards in section 1961(a)(1), the useful life shall be ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent passenger car and light-duty truck low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first.

(9) For 2004 and subsequent model-year light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(10) For 2004 and subsequent model-year medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(11) For 2004 and subsequent model-year heavy heavy-duty diesel engines, 2004 and subsequent model-year heavy-duty diesel urban buses, 2004 and subsequent model-year heavy-duty diesel engines to be used in urban buses, and 2004 and subsequent model year hybrid-electric urban buses for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, or any alternative useful life period approved by the Executive Officer, except as provided in paragraphs (11)(i) and (11)(ii).

(i) The useful life limit of 22,000 hours in paragraph (11) of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(ii) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d) (42 U.S.C. 7521(d)).

(12) For 2004 and subsequent model-year heavy-duty Otto-cycle engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 110,000 miles,

whichever first occurs.

(13) For 2000 and later model year off-road compression-ignition engines, for oxides of nitrogen, hydrocarbon, oxides of nitrogen plus hydrocarbon (when applicable), carbon monoxide, particulate emission standards, and for smoke opacity:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, a period of use of five years or 3,000 hours of operation, whichever first occurs.

(B) For all other engines rated above 19 kilowatts and under 37 kilowatts, a period of use of seven years or 5,000 hours of operation, whichever first occurs.

(C) For engines rated at or above 37 kilowatts, a period of use of ten years or 8,000 hours of operation, whichever first occurs.

(14) For 2009 and subsequent model year spark-ignition inboard and sterndrive marine engines, a period of ten years or 480 hours, whichever first occurs.

(r) "Valid failure" or "valid failure rate" means an emission-control component or emission-related component that was properly diagnosed and replaced under warranty by an authorized warranty station and represents the true and accurate failures of a specific component after legitimate screening (as specified in Section 2168) of the applicable warranty data authorized and acceptable to the Executive Officer, pursuant to this Article.

(s) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine.

(t) "Violation of test procedures" means violation of any portion of any test procedure made applicable to motor vehicles by Division 26, Part 5 of the Health and Safety Code or by Division 3 of Title 13 of the California Code of Regulations or any test procedure violation determined pursuant to this article.

(u) "Voluntary Recall" means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners may be necessary.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43105, 43106 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204-43205.5 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

Section 2167. Emission Warranty Information Report.

(a) A manufacturer shall:

(1) Review warranty claim records for each engine family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components. The data compiled shall be based on all warranty claims, without any prescreening of data as to the validity of the claims. In the case of heavy-duty vehicles or engines, a manufacturer may use nationwide data for monitoring warranty claims of a California-certified engine family or test group which is also certified by the United States Environmental Protection Agency.

(2) Categorize warranty claims for each engine family or test group by the specific emission control component replaced or repaired.

(3) On the basis of data obtained subsequent to the effective date of these regulations, file an emission warranty information report for each calendar year when the cumulative number of unscreened warranty claims for a specific emission-related component or repair represent at least four percent or fifty (whichever is greater) of the vehicles or engines of a California-certified engine family or test group.

(4) The filing of an emission warranty information report for a partial zero emission vehicle shall be limited to exhaust after treatment devices, computer related repairs including calibration updates, **battery cells used for vehicle propulsion**, and any emission-control device not subject to the 15 year, 150,000 emission control warranty provisions for such vehicles. **A zero emission energy storage device used for traction power (such as battery, ultracapacitor, or other electric storage device) is not required to be reported.** The Executive Officer may add emission-related components to this list as technology changes.

(b) The emission warranty information report shall be submitted in an electronic format as specified by the ARB. The file must be structured so that the test group or engine family name and the part number are the primary file keys. These two data fields are unique and cannot be duplicated within the data file **or changed in subsequent Emission Warranty Information Report submissions unless approved by the ARB database administrator.** The electronic file shall include the following information:

(1) The California-certified test group or engine family.

(2) Part number, labor operation code or some other nomenclature that uniquely identifies a given component within a test group or engine family.

(3) The name of the specific emission-related component being replaced or repaired. **The component name may not be changed in subsequent Emission**

Warranty Information Reports unless approved by the ARB database administrator.

- (4) A repair code to indicate if the emission-related component was repaired or replaced.
- (5) The warranty coverage for each reported component.
- (6) The California sales volume, the number of cumulative claims and percentage of vehicles or engines in each engine family or test group for which a warranty replacement or warranty repair of a specific emission-related component was identified. The sales volume may not be changed in subsequent Emission Warranty Information Reports unless approved by the ARB database administrator.
- (7) Time frame of the EWIR being submitted.
- (8) The models of the test group or engine family for each component being repaired or replaced.
- (9) An further action status report code as dictated by the ARB database administrator to indicate if corrective action or no action is required or in process.

(c) Emission warranty information reports shall be submitted not more than 25 days after the end of each calendar year unless a recall for specific components has been implemented. The Executive Officer may request that a manufacturer file quarterly emission warranty information reports for a specific emission-related component(s) for a specified period of time. Emission warranty information reports and updates shall be submitted and provided on electronic media to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731 and/or can be emailed to a designated ARB staff.

(d) The records described in this section shall be made available to the Executive Officer upon request.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2168. Supplemental Emissions Warranty Information Report.

(a) A manufacturer shall file a Supplemental Emissions Warranty Information Report at least within 60 days after when an emission warranty information report as specified in Section 2167 indicates that a cumulative total of unscreened warranty claims for a specific emission-related component exceeds ten percent or 100 components (whichever is greater) of the vehicles or engines of an engine

family or test group. The Supplemental Emissions Warranty Information Report shall be submitted in an electronic format similar to the Emissions Warranty Information Report as required in Section 2167. The manufacturer must continue to update and report the Supplemental Emissions Warranty Information Report on a quarterly basis. A manufacturer shall submit an updated Supplemental Emissions Warranty Information Report **at least within** 60 days after each calendar quarter until the warranty reporting requirements for the given warranty item ends or corrective action is launched for the reported emission component.

(b) **If a manufacturer demonstrates to the satisfaction of the Executive Officer that an infant mortality case exists on a systemic emission component failure, then the manufacturer is not required to perform corrected action on the affected vehicles or engines. To prove that an infant mortality case exists, the manufacturer must demonstrate in the** Additionally, a Supplemental Emissions Warranty Information Report ~~shall be required if the manufacturer demonstrates, to the Executive Officer's satisfaction,~~ that a systemic defect exists on a specific subgroup of vehicles and has been corrected under warranty within 18 months after the last vehicle or engine of the affected engine family or test group was manufactured. In such a case, the manufacturer would not be subject to corrective action but must establish the upper limits of the defect failure rate. However, should the emission component defect exceed this defect rate by an additional **valid** four percent or 50 vehicles (whichever is greater) the manufacturer must re-file a Supplemental Emissions Warranty Information Report pursuant to this Article or launch the appropriate corrective action.

(c) A Supplemental Emissions Warranty Information Report shall not be required if the manufacturer has committed to perform a recall to correct a defective emission control component by notifying the ARB of its intent in writing. In such a case, the manufacturer may eliminate only these components from the Emission Warranty Information Report. However, if the recall applies to a subgroup of vehicles, the non-affected vehicles are still subject to reporting requirements pursuant to this Article. Also, if the components replaced under recall fail within the warranty period exceeding four percent or 50 vehicles (whichever is greater) the manufacturer must report these defects pursuant to this Article.

(d) **If a manufacturer demonstrates to the satisfaction of the Executive Officer that a systemic emission component failure will not have an emissions impact under any conceivable circumstance, then no corrective action shall be required for the affected vehicles or engines.**

(e) **If a manufacturer demonstrates to the satisfaction of the Executive Officer that a computer OBD recalibration or update is not being performed to correct an emissions exceedance or an OBD compliance issue, then no corrective action shall be required for the affected vehicles or engines.**

(f) All Supplemental Emissions Warranty Information Reports shall be submitted to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue Suite No. 4, El Monte, CA 91731 and shall contain the following information in substantially the format outlined below.

(g) Upon the manufacturer's request and with the approval of the executive officer, any reported emission component that is replaced as part of a corrective action may be waived from further reporting requirements.

(h) The Supplemental Emission Warranty Information report shall be submitted in an electronic format as specified by the ARB. The Supplemental Emissions Warranty Information Report shall be an extension of the Emission Warranty Information Report data file and shall include only those data fields from the Emissions Warranty Information Report for which the Supplemental Emission Warranty Information report is being filed. Supplemental Emissions Warranty Information Reports shall contain the following fields for each data file:

(1) The manufacturer's corporate name.

(2) Each Supplemental Emissions Warranty Information Report shall be filed individually for each defective emission-related component. Manufacturers shall designate a unique supplemental emissions warranty information report number to assist in tracking individual emission-related component problems. The nomenclature format for assigning a tracking number shall follow the sequence using the manufacturer's four digit name designation followed by the letters SEWIR, the calendar year filed and then a three digit sequential number. An example of this format would be as follows: MFRX-SEWIR-2010-001.

(3) A description of each class or category of California-certified vehicles or engines affected including make, model, model-year, engine family or test group and such other information as may be required to identify the vehicles or engines affected. The description shall include those engine families or test groups related to the affected engine family or test group through common certification test data allowed under Title 40, Code of Federal Regulations, Section 86.085-24(f), as amended December 10, 1984 or Title 40 Code of Federal Regulations, Section 86.1839-01, as adopted May 4, 1999 ("carry-over" and "carry-across" engine families).

(4) A description of the emission-related component that failed, the failure, the probable cause of failure and the emission-related component part number. A description of all other vehicles that contain the failing component. A description of whether the failure has been detected by the On-Board Diagnostic system in the affected vehicles or engines as required by title 13 CCR sections 1968.1-1968.5.

(5) Manufacturers conducting computer recalibrations or reflashes shall explain the vehicle conditions/parameters that are being changed by the recalibration

action. The manufacturer must also indicate if OBD compliance requirements are being remedied and/or affected.

(6) Any information necessary to demonstrate that the defective emissions-related component will not, under any conceivable circumstance, result in an increase in emissions over that of a properly operating vehicle or engine without the defective emissions-related component.

(7) A statement whether the cumulative total of valid warranty claims for a specific emission-related component meets or exceeds 4 percent or 50 (whichever is greater) for any engine family, test group or subgroup. On the basis of data obtained and reported pursuant to this article, a manufacturer may determine that a cumulative total of valid warranty claims for a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater). If this is the case, the manufacturer must supply the following information:

(i) The number and percentage of vehicles or engines in each engine family or test group for which a failure of a specific emission-related component was identified.

(ii) The total number and percentage of unscreened warranty claims and failures of a specific emission-related component projected to occur during the engine family's or test group's useful life and a description of the method used to project this number.

(iii) An estimated date when the failure of a specific emission-related component will reach 4 percent or 50 (whichever is greater).

(iv) If the failure of a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater), provide a brief explanation why the vehicles with this specific component replacement or repair are being repaired.

(v) If the failure of a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater), the manufacturer must re-evaluate this failure as stated in this section in the following calendar year until warranty reporting is no longer required.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2169. Recall and Corrective Action for Failures of Exhaust After-Treatment Devices

(a) A manufacturer shall recall an engine family, test group or subgroup of vehicles or engines to correct the systemic failure of an exhaust after-treatment device, as defined in Section 2166.1 when valid warranty claims in the engine family, test group, or subgroup meet or exceed four percent or 50 (whichever is greater) for the device.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or in addition to the recall specified in (a).

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2170. Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines)

(a) A In the case of any vehicle or engine equipped with an ARB approved on-board diagnostic (OBD) system in accordance with Section 1968.1-1968.5, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, to correct the systemic failure of emission control components other than exhaust after-treatment devices, when valid warranty claims in the engine family or test group meet or exceed four percent or 50 (whichever is greater) for any emission control component.

(b) At the sole discretion of the Executive Officer, the manufacturer shall conduct a recall for the circumstances specified in (a), either as an alternative to or in addition to the corrective action specified in (a).

(c) Manufacturers that warrant their vehicles, engines or components as defined in Section 2035 for the full useful life period may not, at the sole discretion of the Executive Officer, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2171. Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction

(a) If vehicles or engines not equipped with on-board diagnostic (OBD) systems, or OBD-equipped vehicles or engines that do not detect emission-control failures as required by title 13 CCR sections 1968.1-1968.5, have systemic failures of emission-control components (including exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup the required corrective action will be the recall of all vehicles in the engine family or test group. If vehicles or engines have systemic failures of on-board computers, found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group the required corrective action will also be the recall of all affected vehicles.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or in addition to the recall specified in (a).

(c) Manufacturers that warrant their vehicles, engines or components as defined in Section 2035 for the full useful life period may not, at the sole discretion of the Executive Officer, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172. Notification of Required Recall or Corrective Action by the Executive Officer.

The Executive Officer shall notify the manufacturer when recall or corrective action is required. The Executive Officer's notification shall include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date at least within 45 days from the date of receipt of such notification (at least within 90 days for recalls) by which the

manufacturer shall submit a plan to remedy the nonconformity unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.1. Ordered or Voluntary Corrective Action Plan.

(a) Unless a public hearing is requested by the manufacturer, the manufacturer shall submit a recall or corrective action plan to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731, within the time limit specified in the notification. The Executive Officer may grant the manufacturer an extension upon good cause shown.

(b) The recall or corrective action plan shall contain the following:

(1) A description of each class or category of vehicles or engines to be recalled or subject to corrective action, including the engine family, test group or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity with the requirements of this article including a brief summary of the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made.

~~Nonconformities shall be addressed by replacing a non-conforming component with an improved, conforming component.~~

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the method by which they will be notified.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the vehicle or engine for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(6) A copy of the letter of notification to be sent to vehicle or engine owners.

(7) A description of the system by which the manufacturer will ensure that an adequate supply of parts will be available to perform the repair under the recall or corrective action plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(8) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall or corrective action plan.

(9) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan or other corrective action.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.2. Approval and Implementation of Corrective Action Plan.

If the Executive Officer finds that the recall or corrective action plan is designed effectively to correct the nonconformity and complies with the provisions of Section 2172.1, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners and the implementation of repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.3. Notification of Owners.

(a) Manufacturers shall notify vehicle or engine owners of a recall or other corrective action by first class mail or by such other means as approved by the

Executive Officer provided, that for good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(b) The manufacturer shall use all reasonable means necessary to locate vehicle or engine owners provided, that for good cause, the Executive Officer may require the manufacturer to use motor vehicle registration lists available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure effective notification.

(c) The Executive Officer may require subsequent notification by the manufacturer to vehicle or engine owners by first class mail or other reasonable means provided, that for good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(d) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "the California Air Resources Board has determined that your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and Federal) standards, or that the manufacturer violated emissions test procedures. These standards and test procedures were established to protect your health and welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines will be remedied at the expense of the manufacturer.

(3) A statement that eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle or engine manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the recall or other corrective action and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity, if not repaired, may cause the vehicle or engine to fail an emission inspection or Smog Check test when such tests are required under State law.

(6) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or driveability of the vehicle or engine or to the function of other engine components.

(7) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities at

which the nonconformity can be remedied.

(8) A statement that a certificate showing that the vehicle has been repaired under the recall program shall be issued by the service facilities and that such a certificate may be required as a condition of vehicle registration or operation, as applicable.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (vehicle or engine)." **This statement is not required for off-road motorcycles or all-terrain vehicles.**

(11) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(e) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the recall action cannot be performed without additional cost.

(f) No notice sent pursuant to Section 2172(b)(8), above, nor any other communication sent to vehicle or engine owners or dealers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.

(g) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.4. Repair Label.

(a) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each vehicle or engine repaired or, when required,

inspected under the recall plan.

(b) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.

(c) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.5. Proof of Correction Certificate.

The manufacturer shall require those who perform the recall repair to provide the owner of each vehicle or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.6. Preliminary Tests.

The Executive Officer may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.7. Communication with Repair Personnel.

The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.8. Recordkeeping and Reporting Requirements.

(a) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall or corrective action campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

- (1) Engine family involved and recall or corrective action campaign number as designated by the manufacturer.
- (2) Date owner notification was begun, and date completed.
- (3) Number of vehicles or engines involved in the recall or corrective action campaign.
- (4) Number of vehicles or engines known or estimated to be affected by the nonconformity.
- (5) Number of vehicles or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.
- (6) Number of inspected vehicles or engines.
- (7) Number of vehicles or engines receiving repair under the recall plan.
- (8) Number of vehicles or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).
- (9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.
- (10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this submittal, as specified in subsection (c) below, may be changed by the Executive Officer depending on the needs of recall enforcement.
- (11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(12) All communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that the original responses to subsections (a)(3) and (4) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) shall be cumulative totals.

(c) Unless otherwise directed by the Executive Officer, the information specified in subsection (a) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.

(d) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of vehicle or engine owners:

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the recall plan; and

(3) Who were denied eligibility for repair due to removed or altered components.

(e) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines involved, or one year beyond the reporting time frame specified in subsection (c) above, whichever is later.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.9. Extension of Time.

The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2173. Penalties.

Failure by a manufacturer to carry out all recall or corrective action campaigns ordered by the Executive Officer pursuant to this article shall constitute a violation of this article and Health and Safety Code Section 43105. Civil penalties may be assessed for that violation and for any other violation of any other requirement of this article.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2174. Availability of Public Hearing.

(a) The manufacturer may request a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations to contest the finding of nonconformity and the necessity for or the scope of any ordered recall, or other ordered corrective action. Notwithstanding any other provision in title 13 or title 17 of California Code of Regulations, the record in any public hearing conducted pursuant a request made under this section shall be limited to the information provided to the Executive Officer under sections 2167-2171 prior to the date the Executive Officer's notification is issued pursuant to section 2172, or to information referenced in the Executive Officer's notification.

(b) If a manufacturer requests a public hearing pursuant to subsection (a) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit a recall or corrective action plan identical to the one required by Section 2172.1 within 30 days after receipt of the Board's decision.

Note: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Attachment B

Emission Test Procedure Changes

California Environmental Protection Agency
AIR RESOURCES BOARD

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES
FOR 2001 AND SUBSEQUENT MODEL

PASSENGER CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES

Adopted: August 5, 1999
Amended: December 27, 2000
Amended: July 30, 2002
Amended: September 5, 2003 (corrected February 20, 2004)
Amended: May 28, 2004
Amended: August 4, 2005
Amended: June 22, 2006
Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board on June 22, 2006. Amendments to this document as adopted on June 22, 2006 are indicated by double underline to indicate additions and ~~double strikeout~~ to indicate deletions compared to the test procedures as amended on August 2, 2005. Existing intervening test that is not amended is indicated by “* * *”.

**CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES
FOR 2001 AND SUBSEQUENT MODEL
PASSENGER CARS, LIGHT-DUTY TRUCKS AND MEDIUM-DUTY VEHICLES**

The provisions of Subparts B, C, and S, Part 86, Title 40, Code of Federal Regulations, as adopted or amended on May 4, 1999 or as last amended on such other date set forth next to the 40 CFR Part 86 section title listed below, and to the extent they pertain to exhaust emission standards and test procedures, are hereby adopted as the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," with the following exceptions and additions.

**PART I: GENERAL PROVISIONS FOR CERTIFICATION AND IN-USE
VERIFICATION OF EMISSIONS**

F.Requirements and Procedures for Durability Demonstration

4.§86.1823 Durability demonstration procedures for exhaust emissions

- 4.1 §86.1823-01 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly and are in compliance with all applicable requirements for the full useful life of the vehicles or engines in actual use. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have

warranty claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

State of California
AIR RESOURCES BOARD

**CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES
FOR 2004 AND SUBSEQUENT MODEL
HEAVY-DUTY DIESEL-ENGINES AND VEHICLES**

Adopted: December 12, 2002
Amended: July 24, 2003
Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by

“* * * *”

**CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES
FOR 2004 AND SUBSEQUENT MODEL
HEAVY-DUTY DIESEL-ENGINES AND VEHICLES**

The following provisions of Subparts A, I, and N, Part 86, Title 40, Code of Federal Regulations, as adopted or amended by the U.S. Environmental Protection Agency on the date set forth next to the 40 CFR Part 86 section listed below, and only to the extent they pertain to the testing and compliance of exhaust emissions from heavy-duty diesel engines and vehicles, are adopted and incorporated herein by this reference as the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," except as altered or replaced by the provisions set forth below.

**Part I. GENERAL PROVISIONS FOR CERTIFICATION AND IN-USE
VERIFICATION OF EMISSIONS.**

26. **§86.004-26 Mileage and service accumulation; emission measurements. October 6, 2000**

§86.004-26 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly and are in compliance with all applicable requirements for the full useful life of the vehicles or engines in actual use. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or fifty

(whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

**State of California
AIR RESOURCES BOARD**

**CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES
FOR 2004 AND SUBSEQUENT MODEL
HEAVY DUTY OTTO CYCLE ENGINES**

Adopted:December 27, 2000

Amended:December 12, 2002

Amended:[INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by

“* * * *”

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY DUTY OTTO CYCLE ENGINES

The following provisions of Subparts A, N, and P, Part 86, Title 40, Code of Federal Regulations (“CFR”), as adopted or amended by the U.S. Environmental Protection Agency on the date set forth next to the 40 CFR Part 86 section listed below, and only to the extent they pertain to the testing and compliance of exhaust emissions from heavy-duty Otto-cycle engines, are adopted and incorporated herein by this reference as the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines,” with the following exceptions and additions.

Part I. GENERAL PROVISIONS FOR CERTIFICATION AND IN-USE VERIFICATION OF EMISSIONS.

26. §86.004-26 Mileage and service accumulation; emission measurements. October 6, 2000

§86.004-26 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly and are in compliance with all applicable requirements for the full useful life of the vehicles or engines in actual use. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the

same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

State of California
AIR RESOURCES BOARD

**CALIFORNIA REFUELING EMISSION STANDARDS AND TEST
PROCEDURES
FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES**

Adopted: August 5, 1999
Amended: September 5, 2003
Amended:[INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by

“* * * *”

**CALIFORNIA REFUELING EMISSION STANDARDS AND TEST
PROCEDURES
FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES**

The provisions of Title 40, Code of Federal Regulations (CFR), Part 86, Subparts B (as adopted or amended by the U.S. Environmental Protection Agency (U.S. EPA) on the date listed) and S (as adopted on May 4, 1999, or as last amended on such other date set forth next to the 40 CFR Part 86 section title listed below) to the extent they pertain to the testing and compliance of vehicle refueling emissions for passenger cars, light-duty trucks and medium-duty vehicles, are hereby adopted as the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles" with the following exceptions and additions.

Subpart S Requirements

I.General Certification Requirements for Refueling Emissions

G. §86.1825-01 Durability Demonstration procedures for refueling emissions.

§86.1825-01 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment ~~and information available at that time~~, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly ~~and are in compliance with all applicable requirements~~ for the full useful life of the vehicles or engines ~~in actual use~~. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects,

substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

State of California
AIR RESOURCES BOARD

**CALIFORNIA EVAPORATIVE EMISSION STANDARDS AND TEST
PROCEDURES
FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES**

Adopted: August 5, 1999
Amended:[INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by

“* * * *”.

CALIFORNIA EVAPORATIVE EMISSION STANDARDS AND TEST PROCEDURES

FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES

The provisions of Title 40, Code of Federal Regulations (CFR), Part 86, Subparts A and B as adopted or amended as of July 1, 1989, and Subpart S as adopted or amended on May 4, 1999, insofar as those subparts pertain to evaporative emission standards and test procedures, are hereby adopted as the California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Years, with the following exceptions and additions:

PART I. GENERAL CERTIFICATION REQUIREMENTS FOR EVAPORATIVE EMISSIONS

PART II. DURABILITY DEMONSTRATION

2. Durability Demonstration Procedures for Evaporative Emissions

Add new section 2.0: Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly and are in compliance with all applicable requirements for the full useful life of the vehicles or engines in actual use. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty

claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and, while subsequent applications for certification that employ that same part may not be delayed, it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.
