# PROPOSED REGULATION ORDER, PART 3

Amend the title and dates of applicability of incorporated “California Exhaust Emission Standards and Test Procedures for New 2001 and Later Off-Road Large Spark-Ignition Engines” and adopt incorporated “California Exhaust Emission Standards and Test Procedures for New 2007 and Later Off-Road Large Spark-Ignition Engines.”

# Test Procedures

PROPOSED CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2007 AND LATER OFF-ROAD LARGE SPARK-IGNITION ENGINES
PART I

PROPOSED CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2007 AND LATER OFF-ROAD LARGE SPARK-IGNITION ENGINES
PART II

State of California
AIR RESOURCES BOARD

# PROPOSED CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2007 AND LATER OFF-ROAD LARGE SPARK-IGNITION ENGINES

## PART I

Adopted: [insert date of adoption]

NOTE: This document incorporates by reference Title 40, Code of Federal Regulations (CFR), Part 1065 - Test Procedures and Equipment, Subparts A, B, C, D, E, F, G, H, I, J, and K as noticed on November 8, 2002 (Federal Register, Volume 67, Friday, November 8, 2002, pages 68409 through 68427). Sections that have been included in their entirety are set forth with the section number and title. California provisions that replace specific federal provisions are denoted by the words "DELETE" for the federal language and "REPLACE WITH" or "ADD" for the California regulations. The symbols "* * * * *" and "..." mean that the remainder of the CFR text for a specific section, which is not shown in these regulations, has been included by reference, with only the printed text changed. Federal regulations that are not listed are not part of the California regulations.

This document is all newly adopted text.

# PART 1065 – TEST PROCEDURES AND EQUIPMENT

## Subpart A – Applicability and General Provisions



## Subpart B – Equipment and Analyzers



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(a) (6) DELETE, REPLACE WITH:
The general CVS sample system consists of a dilution air filter (optional) and mixing assembly, cyclone particulate separator (optional), a sample line for the bag sample or other sample lines a dilution tunnel, and associated valves and sensors for pressure and temperature. The temperature of heated sampling line should be maintained within the following ranges:

(A) For non-methanol-fueled engines: If the temperature of the exhaust gas at the sampling probe is equal to or below 463 K (190 °C), maintain a wall temperature of 463 K ± 10 K (190 °C ± 10 °C) as measured at every separately controlled heated section. If the temperature of the exhaust gas at the sampling probe is above 463 K (190 °C), maintain a wall temperature greater than 453 K (180 °C).

(B) For methanol-fueled engines: If the temperature of the exhaust gas at the sampling probe is equal to or below 385 K (112 °C), maintain a wall temperature of 385 K ± 10 K (112 °C ± 10 °C) as measured at every separately controlled heated section. If the temperature of the exhaust gas at the sampling probe is above 385 K (112 °C), maintain a wall temperature greater than 375 K (102 °C).

A general schematic of the SI sampling system is shown in Figure 1065.110-1.

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§1065.125 Analyzers (overview/general response characteristics).

§1065.130 Hydrocarbon analyzers.

§1065.135 $NO_x$ analyzers.

§1065.140 CO and $CO_2$ analyzers.

§1065.150 Flow meters.

§1065.155 Temperature and pressure sensors.

**Subpart C – Test Fuels and Analytical Gases**

§1065.201 General requirements for test fuels.

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(e) DELETE, REPLACE WITH:
If the engine is tested using the EPA test fuel, consistent with the fuel specifications as outlined in Title 40 CFR, Part 86, the manufacturer shall demonstrate that the emission test results complies with these Test Procedures.

§1065.210 Test fuel specifications for gasoline.

§1065.215 Test fuel specifications for natural gas.

§1065.220 Test fuel specifications for liquefied petroleum gas.

§1065.240 Lubricating oils.

§1065.250 Analytical gases.

**Subpart D – Analyzer and Equipment Calibrations**

§1065.301 Overview.

§1065.305 International calibration standards.

§1065.315 Torque calibration.

**Subpart E – Engine Selection, Preparation, and Service Accumulation**

§1065.401 Selecting a test engine.

* * * * *

ADD:

(d) Emission-data engines.

(1) Engines will be chosen to be run for emission data based upon engine family groups. Within each engine family group, the requirements of this paragraph must be met.

(2) Engines of each engine family group will be divided into groups based upon their exhaust emission control systems. One engine of each system combination shall be run for gaseous emission data. The complete gaseous emission test must be conducted. Within each combination, the engine that features the highest horsepower, primarily at or near the rated speed, will usually be selected. The engine manufacturer may elect to test the worst-case emissions engine within each combination with prior approval from the Executive Officer. The engine with the highest horsepower will usually be selected. For engine families that contain multiple fuel systems, the engine manufacturer shall conduct separate individual gaseous emission test based on the

worst-case emissions configuration for each different fuel system within the engine family's engine configuration.

(3) The Executive Officer may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Executive Officer will consider such features as the injection system, fuel system, engine control system, rated speed, rated horsepower, peak torque speed, and peak torque.

(4) Within an engine family control system combination, the manufacturer may alter any emission-data engine (or other engine including current or previous model year emission-data engines and development engines provided they meet the emission-data engines' protocol) to represent more than one selection under paragraph (d)(2) and (3) of this section.

(e) In lieu of testing an emission-data engine selected under paragraph (d) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Executive Officer, submit exhaust emission data as applicable on a similar engine, for which certification has previously been obtained or for which all applicable data required under Section 10 has previously been submitted.

(f) Durability-data Engine

(1) The engine manufacturer shall select the engine configuration that best represents the entire engine family or groups of engine families to demonstrate engine and emission durability. The duration of the engine durability demonstration for the purpose of generating deterioration factors for the emission calculation shall be equivalent to the emissions durability period as defined in these Test Procedures.

(2) (i) The engine manufacturer shall use good engineering practice to determine engine and emission durability.

(ii) The engine manufacturer shall provide the Executive Officer with a written plan of the method used to determine engine and emission durability. The Executive Officer shall approve the plan if it demonstrates, according to good engineering judgement, the development of reasonable deterioration factors. The engine manufacturer shall not proceed with testing until the Executive Officer has approved the plan.

(iii) In the absence of a manufacturer's specific service accumulation cycle, engine durability demonstration shall be conducted using multiple runs of the ISO 8178, Part IV, test cycle C-2, or for constant speed engines using multiple runs of the ISO 8178, Part IV, D-2 test cycle. The engine manufacturer may

request, with the advanced approval of the Executive Officer, to reduce the total amount of service accumulation hours for any durability / service accumulation engine. The engine manufacturer may make such request only after an engine has accumulated at a minimum one half of the engine's defined useful life period. The Executive Officer shall base such approval on engine's durableness, maintenance events, emission test results, and the stability of engine out emissions.

(3) Regardless of which service accumulation cycle is used for generating the deterioration factors for emissions certification, the Executive Officer shall accept the manufacturer?s deterioration factors for certification the first year; but, may deny the use of the manufacturer's deterioration factors for subsequent certification based on incorrect or inaccurate representativeness of actual in-use emissions test results.

§1065.405 Preparing and servicing a test engine

§1065.410 Service limits for stabilized test engines.

§1065.415 Durability demonstration.

**Subpart F – Running an Emission Test**

§1065.501 Overview of the engine dynamometer test procedures.

§1065.510 Engine mapping procedures.

§1065.515 Test cycle generation.

§1065.520 Engine starting, restarting, and shutdown.

§1065.525 Engine dynamometer test run.

§1065.530 Test cycle validation criteria.

**Subpart G – Data Analysis and Calculations**



**Subpart H – Particulate Measurements [Reserved]**

**Subpart I – Testing with Oxygenated Fuels**



**Subpart J – Field Testing**

**Subpart K – Definitions and Other Reference Information**

State of California
AIR RESOURCES BOARD

# PROPOSED CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2007 AND LATER OFF-ROAD LARGE SPARK-IGNITION ENGINES

## PART II

Adopted: [insert date of adoption]

NOTE: This document incorporates by reference Title 40, Code of Federal Regulations (CFR), Part 1068 - Test Procedures and Equipment, Subparts A, B, C, D, E, F, and G as noticed on November 8, 2002 (Federal Register, Volume 67, Friday, November 8, 2002, pages 68427 through 68447). Sections that have been included in their entirety are set forth with the section number and title. California provisions that replace specific federal provisions are denoted by the words "DELETE" for the federal language and "REPLACE WITH" or "ADD" for the California regulations. The symbols "* * * * *" and "..." mean that the remainder of the CFR text for a specific section, which is not shown in these regulations, has been included by reference, with only the printed text changed. Federal regulations that are not listed are not part of the California regulations.

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# PART 1068 – GENERAL COMPLIANCE PROVISIONS FOR NONROAD PROGRAMS

## Subpart A – Applicability and Miscellaneous Provisions

§1068.1 Does this part apply to me?

§1068.5 How must manufacturers apply good engineering judgment?

§1068.10 How do I request EPA to keep my information confidential

§1068.15 Who is authorized to represent the Agency?

§1068.20 May EPA enter my facilities for inspections?

§1068.25 What information must I give to EPA?

* * * * *

ADD:
(c) (1) Upon request of the Executive Officer, the manufacturer of any off-road large spark-ignition engine covered by an Executive Order shall, within 30 days, identify by engine identification number or alternative tracking method, the engine(s) covered by the Executive Order.

(2) The manufacturer of any off-road large spark-ignition engine covered by an Executive Order shall provide to the Executive Officer, within 60 days of the issuance of an Executive Order, an explanation of the elements in any engine identification coding system in sufficient detail to enable the Executive Officer to identify those engines that are covered by an Executive Order.

(d) Any off-road LSI engine manufacturer obtaining certification under this part shall notify the E.O., on a yearly basis, of the number of engines of such engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in California during the preceding year.

§1068.30 What definitions apply to this part?

**Subpart B – Prohibited Actions and Related Requirements**



**Subpart C – Exemptions and Exclusions**

§1068.225 What are the provisions for exempting engines for national security?

DELETE [Reserve]

§1068.230 What are the provisions for exempting engines for export?

DELETE [Reserve]

§1068.235 What are the provisions for exempting engines used solely for competition?

DELETE [Reserve]

§1068.240 What are the provisions for exempting new replacement engines?

DELETE, REPLACE WITH:

(a) Beginning in 2004, a new off-road large spark-ignition engine intended solely to replace an engine in a piece of off-road equipment that was originally produced with an engine manufactured prior to the applicable implementation date as described in section 1048.101, shall not be subject to the emissions requirements of section 1048.101 provided that:

(i) The engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this article, is available with the appropriate physical or performance characteristics to repower the equipment; and

(ii) Unless an alternative control mechanism is approved in advance by the Executive Officer, the engine manufacturer or its agent takes ownership and possession of the engine being replaced; and

(iii) The replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Executive Officer:

THIS ENGINE DOES NOT COMPLY WITH CALIFORNIA OFF-ROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE IN AN OFF-ROAD VEHICLE OR PIECE OF OFF-ROAD EQUIPMENT WHOSE ORIGINAL ENGINE WAS NOT CERTIFIED IS A VIOLATION OF CALIFORNIA LAW SUBJECT TO CIVIL PENALTY.

(b) At the beginning of each model year, the manufacturer of replacement engines must provide, by engine model, an estimate

of the number of replacement engines it expects to produce for California for that model year.

(c) At the conclusion of the model year, the manufacturer must provide, by engine model, the actual number of replacement engines produced for California during the model year, and a description of the physical or performance characteristics of those models that indicate that certified replacement engine(s) were not available as per paragraph (a).

§1068.245 What temporary provisions address hardship due to unusual circumstances?

DELETE [Reserve]

§1068.250 What are the provisions for extending compliance deadlines for small-volume manufacturers under hardship?

DELETE [Reserve]

§1068.255 What are the provisions for exempting engines for hardship for equipment manufacturers and secondary engine manufacturers?

DELETE [Reserve]

**Subpart D – Imports**

§1068.301 Does this subpart apply to me?

DELETE [Reserve]

§1068.305 How do I get an exemption or exclusion for imported engines?

DELETE [Reserve]

§1068.310 What are the exclusions for imported engines?

DELETE [Reserve]

§1068.315 What are the permanent exemptions for imported engines?

DELETE [Reserve]

§1068.320 How must I label an imported engine with a permanent exemption?

DELETE [Reserve]

§1068.325 What are the temporary exemptions for imported engines?

DELETE [Reserve]

§1068.330 How do I import engines to modify for other applications?

DELETE [Reserve]

§1068.335 What are the penalties for violations?

DELETE [Reserve]

**Subpart E – Selective Enforcement Auditing**

§1068.401 What is a selective enforcement audit?

DELETE [Reserve]

§1068.405 What is in a test order?

DELETE [Reserve]

§1068.410 How must I select and prepare my engines?

DELETE [Reserve]

§1068.415 How do I test my engines?

DELETE [Reserve]

§1068.420 How do I know when my engine family fails an SEA?

DELETE [Reserve]

§1068.425 What happens if one of my production-line engines exceeds the emission standards?

DELETE [Reserve]

§1068.430 What happens if an engine family fails an SEA?

DELETE [Reserve]

§1068.435 May I sell engines from an engine family with a suspended certificate of conformity?

DELETE [Reserve]

§1068.440 How do I ask EPA to reinstate my suspended certificate?

DELETE [Reserve]

§1068.445 When may EPA revoke my certificate under this subpart and how may I sell these engines again?

DELETE [Reserve]

§1068.450 What records must I send to EPA?

DELETE [Reserve]

§1068.455 What records must I keep?

DELETE [Reserve]

**Subpart F – Reporting Defects and Recalling Engines**

§1068.501 How do I report engine defects?

§1068.505 How does the recall program work?

(a) DELETE, REPLACE WITH:
A manufacturer shall be notified whenever the Executive Officer has determined, based on production-line test results or in-use test results, enforcement testing results, or any other information, that a substantial number of a class or category of equipment or engines produced by that manufacturer, although properly maintained and used, contain a failure in an emission-related component which, if uncorrected, may result in the equipment's or engines' failure to meet applicable standards over their useful lives; or whenever a class or category of equipment or engines within their useful lives, on average, do not conform to the emission standards prescribed pursuant to Part 5 (commencing with Section 43000) of Division 26 of the HSC or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, as applicable to the model year of such equipment or engines.

* * * * *

ADD:

(f) It shall be presumed for purposes of this section that an emission-related failure will result in the exceedance of emission standards unless the manufacturer presents evidence in accordance with the procedures set forth in subsections (1), (2), and (3) which demonstrates to the satisfaction of the Executive Officer that the failure will not result in exceedance of emission standards within the useful life of the equipment or engine.

(1) In order to overcome the presumption of noncompliance set forth in paragraph (f) above, the average emissions of the equipment and engines with the failed emission-related component must comply with applicable emission standards. A manufacturer may demonstrate compliance with the emission standards by following the procedures set forth in either paragraphs (f)(2) or (f)(3) of this section.

(2) A manufacturer may test properly maintained in-use equipment with the failed emission-related component pursuant to the applicable certification emission tests specified in Section 2433, Title 13 of the California Code of Regulations. The emissions shall be projected to the end of the equipment's or engine's useful life using in-use deterioration factors. The in-use deterioration factors shall be chosen by the manufacturer from among the following:

(A) "Assigned" in-use deterioration factors provided by the ARB on a manufacturer's conditions; request and based on ARB in-use testing; or,

(B) deterioration factors generated during certification, provided adjustments are made to account for equipment aging, customer hour usage-accumulation practices, type of failed component, component failure mode, effect of the failure on other emission-control components, commercial fuel and lubricant quality, and any other factor which may affect the equipment's or engine's operating or,

(C) subject to approval by the Executive Officer, a manufacturer-generated deterioration factor. Such deterioration factor must based on in-use data generated from certification emission tests performed on properly maintained and used equipment in accordance with the procedures set forth in Section 2433 of Title 13 of the California Code of Regulations, and the equipment from which it was derived must be representative of the in-use fleet with regard to emissions performance and equipped with similar emission control technology as equipment with the failed component.

(3) In lieu of the equipment or engine emission testing described in subsection (2) above and subject to approval by the Executive Officer, a manufacturer may perform an engineering analysis, laboratory testing or bench testing, when appropriate, to demonstrate the effect of the failure.

(g) Penalties. Failure by a manufacturer to carry out all recall actions ordered by the Executive Officer pursuant to Sections 1068.510 of these procedures is a violation of Health and Safety Code Section 43013 and 43105 and shall subject the manufacturer, on a per engine basis, to any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

§1068.510 How do I prepare and apply my remedial plan?

* * * * *

ADD:
(a) (14) The capture rate required for each class or category of equipment or engine to be recalled. Under recalls based o exceedance of emission standards, the capture rate shall be at a minimum 80 percent of the equipment or engine within the subject engine family.

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(c) DELETE, REPLACE WITH:
A description of the impact of the proposed changes on the average emissions of the equipment or engines to be recalled based on noncompliance described in this section above. The description shall contain the following:

(1) Average noncompliance emission levels.

(2) Average emission reduction or increase per pollutant resulting from the recall repair. These averages shall be verified by the manufacturer by applying the proposed recall repairs to two or more in-use equipment or engines representing the average noncompliance emission levels. Only those equipment or engines with baseline emission levels within 25 percent of the average emission levels of noncomplying pollutant(s) established under the in-use enforcement test program may be used by manufacturers to verify proposed recall repairs. The Executive Officer may allow the use of equipment or engines exceeding these upper averaging noncompliance limits if none which meet the limits can be reasonably procured.

* * * * *

(g) DELETE

(h) DELETE, REPLACE WITH:

(1) If the Executive Officer finds that the recall plan is designed effectively to correct the nonconformity and complies with the provisions of this Section, 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 equipment or engine owners and the implementation of recall 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.

(2) If the Executive Officer does not approve the recall plan or the mitigation measures provided in this Section as submitted, the Executive Officer shall order modification of the plan or mitigation measures with such changes and additions as he or she determines to be necessary. The Executive Officer shall notify the manufacturer in writing of the disapproval and the reasons for the disapproval.

(3) The manufacturer may content the Executive Officer's disapproval by requesting a public hearing pursuant to the procedures set forth in Subchapter 1.25, Division 3, Chapter 1, Title 17, California Code of Regulations. As a result of the hearing, the Board may affirm, overturn or modify the Executive Officer's action. In its decision, affirming or modifying, the Board shall specify the date by which the manufacturer shall commence notifying equipment or engine owners and implementing the required recall repairs.

(4) If no public hearing is requested in accordance with (3) above, the manufacturer shall incorporate the changes and additions required by the Executive Officer and shall commence notifying equipment or engine owners and implementing the required recall repairs within 60 days of the manufacturer's receipt of the Executive Officer's disapproval.

ADD:

(i) The manufacturer shall comply with the capture rate specified in the recall plan as determined pursuant to this Section, above, by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated. If, after good faith efforts, the manufacturer cannot correct the percentage of equipment specified in the plan by the applicable

deadlines and cannot take other measures to bring the engine family into compliance with the standards, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired equipment within 45 days from the last report filed pursuant to Section 1068.525, below. The Executive Officer shall approve such measures provided that:

(1) The emission reductions from the recalled and repaired equipment or engines and the mitigation measures are equivalent to achieving the capture rate; and

(2) The emission reductions from the mitigation measures are real and verifiable; and

(3) The mitigation measures are implemented in a timely manner.

(j) 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.

(k) 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.

§1068.515 How do I mark or label repaired engines?

* * * * *

ADD:

(e) Proof of Correction Certificate. The manufacturer shall require those who perform the recall repair to provide the owner of each equipment or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying equipment or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of the recall enforcement program referred to in this section, above.

§1068.520 How do I notify affected owners?

* * * * *

(a) (3) DELETE, REPLACE WITH:

A statement that eligibility may not be denied solely on the basis that the equipment or engine owner used parts not manufactured by the original equipment manufacturer, or had repairs performed

by outlets other than the equipment or engine manufacturer's franchised dealers.

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§1068.525 What records must I send to EPA?

§1068.530 What records must I keep?

§1068.535 How can I do a voluntary recall for emission-related problems?

DELETE, REPLACE WITH:

(a) When any manufacturer initiates a voluntary emission recall, the manufacturer shall notify the Executive Officer of the recall at least 30 days before owner notification is to begin. The manufacturer shall also submit to the Executive Officer a voluntary recall plan for approval, as prescribed in the following:

(1) (A) a description of each class or category of engines to recall, including the number of engines to be recalled, the engine family or a sub-group thereof, the model year, and such other information as may be required to identify the engines:

(B) a description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the engines affected by the nonconformity;

(C) a description of the method by which the manufacturer will notify engine owners including copies of any letters of notification to be sent to engine owners;

(D) a description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the recall plan, and a description of the proof to be required of an engine owner to demonstrate compliance with any such conditions;

(E) a description of the procedure to be followed by engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the nonconformity, and the designation of facilities at which the nonconformity can be remedied;

(F) a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity;

(G) a description of the system by which the manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan; or

(2) (A) a description of each class or category of engines subject to recall, including the number of engines subject to being recalled, the engine family or a sub-group thereof, the model year, and such other information as may be required to identify the engines;

(B) a description of the method by which the manufacturer will use the in-use emissions credit, averaging, banking, and trading program, as described in Section 2438(e), to remedy the nonconformity.

(b) Voluntary Recall Progress Report. A manufacturer who initiates a voluntary emission recall campaign pursuant to paragraph (a)(1) of this section must submit at least one report on the progress of the recall campaign. This report shall be submitted to the Executive Officer by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated, and include the following information:

(1) Engine family involved and recall campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of equipment or engines involved in the recall campaign.

(4) Number of equipment or engines known or estimated to be affected by the nonconformity.

(5) Number of equipment or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.

(6) Number of inspected equipment or engines.

(7) Number of equipment or engines receiving repair under the recall plan.

(8) Number of equipment 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 equipment or engines determined to be ineligible for recall action due to removed or altered components.

(10) A listing of the identification numbers of equipment 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.

(11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

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

(c) The information gathered by the manufacturer to compile the reports must be retained for not less than seven years from the date of the manufacture of the engines and must be made available to the Executive Officer or designee of the Executive Officer upon request.

(d) A voluntary recall plan shall be deemed approved unless disapproved by the Executive Officer within 20 business days after receipt of the recall plan.

(e) Under a voluntary recall program, initiated and conducted by a manufacturer or its agent or representative as a result of in-use enforcement testing or other evidence of noncompliance provided or required by the Board to remedy any nonconformity, the capture rate shall be at a minimum 55 percent of the equipment or engine within the subject engine family or a sub-group thereof. The manufacturer shall comply with the capture rate by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated. If the manufacturer cannot correct the percentage of equipment specified in the plan by the applicable deadlines, the manufacturer must use good faith efforts through other measures, subject to approval by the Executive Officer, to bring the engine family into compliance with the standards. If the Executive Officer does not approve the manufacturer's efforts, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired equipment within 45 days from the last report filed pursuant to paragraph (b), above. The Executive Officer shall approve such measures provided that:

(1) The emission reductions from the recalled and repaired equipment or engines and the mitigation measures are equivalent to achieving the capture rate; and

(2) The emission reductions from the mitigation measures are real and verifiable; and

(3) The mitigation measures are implemented in a timely manner.

§1068.540 What terms do I need to know for this subpart?

## Subpart G – Hearings

§1068.601 What are the procedures for hearings?

DELETE, REPLACE WITH:
Parties affected by an Executive Officer's determination may file a request for an adjudicatory hearing under Title 17, Division 3, Chapter 1, California Code of Regulations Subchapter 1.25. If, after reviewing the request and supporting data, the Executive Officer finds that the request raises a substantial issue of fact, a hearing in accordance with Subchapter 1.25 shall be granted.