

State of California
AIR RESOURCES BOARD

Resolution 82-67

December 9, 1982

Agenda Item No.: 82-27-3

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules, and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Sections 43013, 43101, and 43104 of the Health and Safety Code authorize the Board to adopt emissions standards and test procedures to control air pollution caused by motor vehicles;

WHEREAS, Section 43100 of the Health and Safety Code authorizes the Board to certify new motor vehicles, and Section 43102 provides that no new motor vehicle shall be certified unless it meets the emissions standards and test procedures adopted by the Board;

WHEREAS, the certification procedures require a demonstration that the vehicle complies with the applicable emission standards throughout the vehicle's certified useful life;

WHEREAS, manufacturers of new motor vehicles intended for sale in California have demonstrated, through the certification procedure, compliance with the applicable emissions standards throughout the useful life of the motor vehicle;

WHEREAS, Section 43106 of the Health and Safety Code requires that each new motor vehicle required to meet the emissions standards established pursuant to Section 43101 be, in all material respects, substantially the same in construction as the test motor vehicle certified by the Board;

WHEREAS, Section 43105 of the Health and Safety Code authorizes the Board, pursuant to regulations adopted by the Board, to require a manufacturer to recall vehicles which violate applicable emissions standards or test procedures;

WHEREAS, the Board has adopted recall regulations, contained in Title 13, California Administrative Code, Section 2109; however, manufacturers have asserted that these regulations apply only to new vehicles and cannot be used by the Board to order recall of in-use vehicles;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project having significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code; and

WHEREAS, the Board finds that:

Although test vehicles comply with the applicable emissions standards throughout the certification period, in-use vehicles often fail to meet emissions standards during their certified useful lives, despite proper use and maintenance;

Failure of a vehicle to meet emissions standards is often not apparent to the vehicle owner;

The failure of in-use vehicles to comply with applicable emissions standards during their useful lives results in a substantial increase in emissions;

Monitoring motor vehicles in the hands of consumers is an effective procedure for determining compliance with applicable laws and regulations;

Procedures for emissions-related defects reporting, in-use vehicle recall, and in-use vehicle enforcement testing will enable the Board to effect emission reductions in noncomplying in-use vehicles;

A recall program is both an effective emissions control strategy and an incentive to manufacturers to design and build durable emissions control systems;

The regulations approved herein are necessary to clarify the procedures for recall of in-use vehicles; and

The regulations approved herein will have no significant adverse environmental impacts but will have significant beneficial environmental impacts.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves:

Title 13, Sections 2100 through 2113, California Administrative Code, as set forth in Attachment A;

"California Vehicle Emissions-Related Defects Reporting Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles", as set forth in Attachment B; and

"California In-Use Vehicle Emissions-Related Recall Procedures and In-Use Vehicle Enforcement Test Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles", as set forth in Attachment C.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt Attachments A, B, and C after making them available to the public for a period of 15 days.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations and procedures approved herein are individually and in the aggregate at least as protective of public health and welfare as comparable federal regulations and are consistent with Sections 202(a) and (b) of the Clean Air Act.

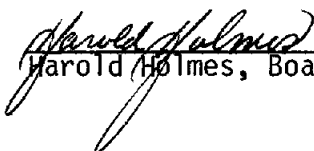
BE IT FURTHER RESOLVED that, to the extent a waiver is necessary, the Executive Officer shall forward the adopted and amended regulations to the Environmental Protection Agency with a request for a waiver of federal preemption or for confirmation that they are within the scope of an existing waiver, pursuant to Section 209(b)(1) of the Clean Air Act.

BE IT FURTHER RESOLVED that each part of the regulations and procedures approved herein shall be deemed severable, and in the event that any part of these regulations and procedures is held to be invalid, the remainder of the regulations and procedures shall continue in full force and effect.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to work with other state agencies, especially the Department of Motor Vehicles and Bureau of Automotive Repair, to coordinate and integrate in-use vehicle recall campaigns with the state's vehicle registration and inspection and maintenance programs.

BE IT FURTHER RESOLVED that the Board delegates authority to the Executive Officer to develop and adopt appropriate procedures for the conduct of any necessary adjudicatory proceedings under the Board's programs, regulations, or other statutory authority.

I hereby certify that the above is a true and correct copy of Resolution 82-67, as adopted by the Air Resources Board.


Harold Holmes, Board Secretary

Article 2. ENFORCEMENT OF NEW AND IN-USE VEHICLE STANDARDS

2100. Purpose.

(a) It is the purpose of this article to implement authority granted the Board in Part 5, Division 26 of the Health and Safety Code in order to monitor vehicles from manufacture through distribution, to and in the hands of consumers, to determine compliance with applicable laws.

(b) This section shall apply to 1977 and subsequent model-year vehicles.

2100.5 Purpose.

(a) It is the purpose of this article to implement authority granted the Board in Part 1, Division 26 of the Health and Safety Code in order to monitor motor vehicles from manufacture through distribution, to and in the hands of consumers, to determine compliance with applicable laws.

(b) This section shall apply to 1976 and previous model-year vehicles only.

NOTE: Authority cited: Section 39601, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

2100.6. Purpose.

(a) It is the purpose of this article to implement authority granted the Board in Part 5, Division 26 of the Health and Safety Code in order to monitor motor vehicles that, although properly maintained and used, are not in compliance with applicable laws and regulations.

(b) This section shall apply to 1978 and subsequent model-year passenger cars, light-duty trucks, medium and heavy-duty vehicles, and motorcycles.

NOTE: Authority Cited: Sections 39601, 43105, 43213, Health and Safety Code. Reference: Sections 43000, 43105, 43106, 43211 - 43213, Health and Safety Code.

2101. Compliance Testing and Inspection - New Vehicle Selection, Evaluation, and Enforcement Action.

(a) The Executive Officer may, with respect to any new vehicle engine family or subgroup being sold, offered for sale, or manufactured for sale in California, order a vehicle manufacturer to make available for compliance testing and/or inspection a reasonable number of vehicles, and may direct that the vehicles be delivered to the Board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California. Vehicles shall be selected at random from sources specified by the Executive Officer according to a method approved

by him or her, which insofar as practical shall exclude (1) vehicles manufactured pursuant to the specific order of an ultimate purchaser or (2) vehicles, the selection of which, if not excluded, would result in an unreasonable disruption of the manufacturer's distribution system.

A subgroup may be selected for compliance testing only if the Executive Officer has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family as a whole.

(b) If the vehicles are selected for compliance testing, the selection and testing of vehicles and the evaluation of data shall be made in accordance with the "California New Vehicle Compliance Test Procedures", adopted by the Board on June 24, 1976, and amended May 9, 1979. Motorcycles scheduled for compliance testing shall be selected, tested, and evaluated in accordance with the "California New Motorcycle Compliance Test Procedures," adopted by the Board on June 30, 1977 and amended November 24, 1981.

(c) If the Executive Officer determines, in accordance with the "California New Vehicle Compliance Test Procedures" or the "California New Motorcycle Compliance Test Procedures", that an engine family, or any subgroup within an engine family, exceeds the emission standards for one or more pollutants, the Executive Officer shall notify the manufacturer and may invoke Section 2109. Prior to invoking Section 2109, the Executive Officer shall consider quality audit test results, if any, and any additional test data or other information provided by the manufacturer.

(d) Vehicles selected for inspection shall be checked to verify the presence of those emissions-related components specified in the manufacturer's application for certification, and for the accuracy of any adjustments, part numbers and labels specified in that application. If any vehicle selected for inspection fails to conform to any applicable law in Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the Board pursuant thereto, other than an emissions standard applied to new vehicles to determine "certification" as specified in Subchapter 1, Article 2 of this Chapter, the Executive Officer shall notify the manufacturer and may invoke Section 2109. Prior to invoking Section 2109, the Executive Officer shall consider any information provided by the manufacturer.

NOTE: Authority cited: Section 39601, Health and Safety Code. Reference: Sections 43000, 43106 and 43210, Health and Safety Code.

2102. Selection of Vehicles.

(a) The Executive Officer may, with respect to any vehicle being sold, offered for sale, or manufactured for sale in California, order a vehicle manufacturer to make available inspection up to three vehicles, and may direct that the vehicles be delivered to the Board at its laboratory. If the vehicles are selected for evaluation pursuant to Section 2103, the Executive Officer shall select three vehicles from each engine family to be evaluated.

Vehicles shall be selected at random from sources specified by the Executive Officer according to a method approved by him which insofar as practical shall exclude (1) vehicles manufactured pursuant to the specific order of an ultimate purchaser or (2) vehicles the selection of which, if not excluded, would result in an unreasonable disruption of manufacturer's distribution system.

The vehicles shall not receive any mechanical, electrical or other adjustment or alteration of any kind after their selection, without the written consent of the Executive Officer, which consent shall not be unreasonably withheld where such adjustment or alteration is required to conform the vehicle to the manufacturer's written instructions for predelivery preparation.

(b) This section shall apply to 1976 and previous model-year vehicles only.

2103. Evaluation

(a) If the Executive Officer determines, by tests of three vehicles of the same engine family selected pursuant to Section 2102, that two of such vehicles exceed one or more individual standards per vehicle by 15% or that one vehicle exceeds all standards for each pollutant by 15%, he shall promptly notify the manufacturer. The manufacturer may at that time supply the Board with two additional vehicles of the same engine family which have been selected in accordance with Section 2102. The Executive Officer shall then conduct the same tests on the two additional vehicles. In determining whether a vehicle exceeds a standard, three or more official approval tests shall be performed on the vehicle and the average of the emissions obtained shall be used. Manufacturer's representatives shall be permitted to observe all tests and may, for good cause shown, request one retest of each of the original three vehicles, which retest shall be averaged with the other tests.

(b) This shall apply to 1976 and previous model-year vehicles only.

2104. Action 2103.

(a) Pursuant to Section 2103, if (a) a majority of the vehicles tested exceeds by 15% one or more individual standards or (b) one vehicle where only three were tested or two vehicles where five were tested each exceeds by 15% all standards for each pollutant, the Executive Officer shall notify the manufacturer and may invoke Section 2109.

(b) This section shall apply to 1976 and previous model-year vehicles only.

2105. Compliance With Applicable Laws.

(a) With respect to any applicable law, other than a standard as defined in subdivision (f) of Section 2100 and an assembly-line test procedure specified in Article 1 of Subchapter 2, the Executive Officer shall evaluate vehicles selected pursuant to Section 2102 to determine their compliance. If any vehicle selected fails to comply with any applicable law other than a standard or an assembly-line test procedure, the Executive Officer shall notify the manufacturer and may invoke Section 2109.

(b) This section shall apply to 1976 and previous model-year vehicles only.

2106. New Vehicle Assembly-Line Inspection Testing. If reports required by an assembly-line test procedure under Article 1 of Subchapter 2 are not in accordance with reporting requirements or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly-line inspection testing is being improperly performed, or that vehicles are being manufactured which do not comply with the assembly-line emission standards or functional test requirements, the Executive Officer may order corrections of reporting or test procedures, and may, in accordance with Section 2109 or 2110, as applicable, order correction of vehicles not in compliance with applicable laws, emission standards, or test procedures.

2107. Assembly-Line Quality Audit Testing. If any official test procedure adopted by the Board specifies that the Board may find a violation of Section 43105 or 43106, of the Health and Safety Code or of this Article when a specified percentage of assembly-line vehicles exceeds a standard and when data submitted by the manufacturer indicates such percentage is being exceeded or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly-line quality audit testing is being improperly performed, the Executive Officer may invoke the provisions of Section 2109 or 2110, as applicable.

2108. Order of Executive Officer. Failure to comply with any order of the Executive Officer issued pursuant to this article may result in the revocation or conditioning of certification in the manner specified in Section 2109 or 2110, as applicable.

2109. New Vehicle Recall Provisions.

(a) When this section is invoked pursuant to other sections of this Article or Health and Safety Code Section 43105, the Executive Officer shall require the manufacturer to submit a plan within 30 calendar days of receipt of the invocation order to bring all vehicles into compliance. The Executive Officer shall order execution of the plan with such changes and additions as he or she determines to be necessary. The plan may include measures to identify the cause of vehicle noncompliance and to correct noncomplying

conditions, correction of vehicles under manufacture, correction of vehicles in the possession or control of the manufacturer and dealers, and correction of vehicles in the possession of consumers (by correction upon service whether or not by warranty, by correction following notification of recall by mail, or by correction following efforts actively to locate and correct all such vehicles). The plan may include the temporary cessation of sales to dealers by the manufacturer and efforts by the manufacturer to prevent the sale of vehicles in possession or control of dealers, until the vehicles are corrected. The Executive Officer may order any one or more of the foregoing actions, or any other action reasonably necessary to bring all vehicles into compliance.

(b) The plan shall specify the percentage of vehicles subject to recall which must actually be corrected.

If, after good faith efforts, the manufacturer cannot correct the percentage of vehicles specified in the plan by the applicable deadlines, the manufacturer may request the Executive Officer to modify the percentage of vehicles specified in the plan, setting out in full the good faith efforts of the manufacturer to comply with the original plan, and the reasons it has been unable to comply. The Executive Officer shall, on the basis of this request, modify the percentage of vehicles which must actually be corrected if he or she finds in writing that the manufacturer has made a good faith effort and has shown good cause for the modification. If the manufacturer so requests, the plan shall specify the maximum incentives (such as a tune-up or specified quantity of gasoline), if any, the manufacturer must offer to vehicle owners to induce them to present their vehicles for repair, as a condition of showing that the manufacturer has made a good faith effort to repair the percentage of vehicles specified in the plan. The plan shall also include a schedule for implementing actions to be taken including, identified increments of progress towards implementation, and deadlines for completing each such increment.

(c) If a vehicle is recalled pursuant to this section, the manufacturer shall make all necessary corrections specified in the plan without charge to the registered owner of the vehicle or, at the manufacturer's election, shall reimburse the registered owner for all costs (except incidental and consequential damages) of making such necessary corrections.

The term "all costs" shall not include incidental or consequential damages, except that the manufacturer shall reimburse the registered owner for any damage to the vehicle's emissions control system proximately caused by a defect subject to a recall action under this subsection or an action by a manufacturer taken pursuant to a plan under this subsection.

(d) If the plan ordered by the Executive Officer pursuant to this subsection includes a recall, the manufacturer may, within 20 calendar days of its receipt of the plan ordered by the Executive Officer, notify the Executive Officer of its desire to contest the necessity for or scope of that order. Any such notification shall specify the basis of the manufacturer's objections. Upon receipt of such notification, the Executive Officer shall

stay the recall until the Board affords the manufacturer the opportunity, at a public hearing to be scheduled no less than 30 calendar days and no more than 60 calendar days after receipt of such notification, to present evidence in support of its objections.

A stay of a recall shall not, unless otherwise ordered, stay any other portion of a plan required herein or any other order issued pursuant to this Article.

The manufacturer may, within 20 calendar days of its receipt of the plan ordered by the Executive Officer, request a public hearing of the Board on the necessity for or scope of any other corrective action ordered by the Executive Officer. Such a hearing shall be held by the Board not less than 30 and no more than 60 calendar days after receipt of the manufacturer's request for such a hearing. The plan ordered by the Executive Officer shall remain in effect pending such hearing, unless otherwise ordered by the Executive Officer.

(e) Failure by a manufacturer to carry out all corrective actions or recall actions ordered by the Executive Officer pursuant to Section 2106 or to subsection (a) of this section according to the schedule included in the plan ordered by the Executive Officer shall constitute a violation of that order and of Health and Safety Code Section 43105. The Executive Officer shall extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

If the manufacturer fails to correct the percentage of vehicles subject to recall specified in the recall plan issued by the Executive Officer (including any modifications made by him or her), by the deadline(s) included in that plan, each vehicle included in the number of vehicles by which the manufacturer falls short of such percentage shall constitute a separate violation of the order and of Health and Safety Code Section 43016.

The Board may hold a public hearing to consider whether approval of such vehicles shall be suspended or conditioned. The Board shall hold such a hearing if requested to do so by either the affected manufacturer or the Executive Officer.

After the hearing, the Board may suspend or condition approval if it finds that the corrective action ordered by the Executive Officer was reasonable and that the manufacturer failed to comply or to comply within the specified time period.

NOTE: Authority cited: Sections 39600, 39601, 43105, Health and Safety Code. Reference: Sections 43000, 43016, 43100-43102, 43104 and 43106, Health and Safety Code.

2110. Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production.

(a) When this section is invoked pursuant to other sections of this Article or Health and Safety Code Section 43105, the Executive Officer shall order the manufacturer to submit a remedial action plan to bring all vehicles in possession of the manufacturer into compliance. The manufacturer shall submit the plan within 30 calendar days after it receives the order. The Executive Officer may order execution of the plan with such changes and additions as he or she determines are necessary, including additional testing and reporting, consistent with the applicable assembly-line test procedures, to verify acceptability of the plan. The plan shall include a schedule for implementing actions to be taken, including identified increments of progress towards implementation, and deadlines for completing each such increment. The Executive Officer may not order a recall pursuant to this section.

(b) The manufacturer may, within 20 calendar days of its receipt of order for remedial action, request a public hearing of the Board on the necessity for or scope of any corrective action ordered by the Executive Officer. Such a hearing shall be held by the Board not less than 30 nor more than 60 calendar days after receipt of the manufacturer's request for such a hearing. The plan ordered by the Executive Officer shall remain in effect pending such hearing, unless otherwise ordered by the Executive Officer.

(c) Failure by a manufacturer to carry out all corrective actions ordered by the Executive Officer shall constitute a violation of that order and of Health and Safety Code Section 43105. The Executive Officer shall extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension. Each vehicle required by the plan issued by the Executive Officer (including any modifications made by him or her) to receive remedial action which does not receive such action by the deadline(s) included in the plan shall constitute a separate violation of the order and of Health and Safety Code Section 43106.

The Board may hold a public hearing to consider whether approval of such vehicles shall be suspended or conditioned.

The Board shall hold such a hearing if requested to do so by either the affected manufacturer or the Executive Officer.

After such hearing, the Board may suspend or condition approval if it finds that the corrective action ordered by the Executive Officer was reasonable and that the manufacturer failed to comply or to comply within the specified time period.

NOTE: Authority cited: Sections 39600, 39601, and 43105, Health and Safety Code. Reference: Sections 43000, 43016, 43100-43102, 43104 and 43106, Health and Safety Code.

2111. In-Use Vehicle Emissions-Related Defects Reporting Procedures.

All 1978 and subsequent model-year passenger cars, light-duty trucks, medium and heavy-duty vehicles, and motorcycles, certified for sale and registered in California, shall be subject to the "California Vehicle Emissions-Related Defects Reporting Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles", adopted . Failure-to-report-as-required-in-these-procedures-shall-subject-the-manufacturer-to-the-penalties-provided-in-Health-and-Safety-Code-Section-43016.

NOTE: Authority Cited: Sections 39601, 43105, 43213, Health and Safety Code. Reference: Sections 43000, 43016, 43105, 43106, 43211 - 43213, Health and Safety Code.

2112. In-Use Vehicle Emissions-Related Recall Regulations.

All 1978 and subsequent model-year passenger cars, light-duty trucks, medium and heavy-duty vehicles, and motorcycles, certified for sale and registered in California, shall be subject to the "California In-Use Vehicle Emissions-Related Recall Procedures and In-Use Vehicle Enforcement Test Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles", adopted .

NOTE: Authority Cited: Sections 39601, 43105, 43213, Health and Safety Code. Reference: Sections 43000, 43105, 43106, 43211 - 43213, Health and Safety Code.

2113. In-Use Vehicle Recall Provisions.

A manufacturer shall be subject to Section 2112 and to all appropriate penalties whenever:

(a) a substantial number of a class or category of vehicles or engines contain a defect in an emissions-related component within their useful lives which is likely to result in increased emissions and which, if uncorrected, may is likely to result in failure to meet applicable standards; or

(b) a class or category of vehicles or engines, within their useful lives, does not conform to the applicable emission standards, on average.

NOTE: Authority Cited: Sections 39601, 43105, 43213, Health and Safety Code. Reference: Sections 43000, 43105, 43106, 43211 - 43213, Health and Safety Code.

2114. Severability.

Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE:--Authority Cited:--Section 39601, Health and Safety Code;--Reference: Sections 43000, 43100--43102, 43104--43106, 43210--43213, Health and Safety Code.

State of California
AIR RESOURCES BOARD

CALIFORNIA VEHICLE EMISSIONS-RELATED DEFECTS REPORTING PROCEDURES FOR 1978 AND
SUBSEQUENT MODEL-YEAR PASSENGER CARS, LIGHT-DUTY TRUCKS, MEDIUM AND HEAVY-DUTY
VEHICLES, AND MOTORCYCLES

A. GENERAL PROVISIONS

(1) These procedures shall apply to:

(a) California certified 1978 and subsequent model-year passenger cars, light-duty trucks, medium-duty and heavy-duty vehicles, and motorcycles.

(b) California certified motor vehicle engines used in such vehicles.

(2) The requirement to report emissions-related defects affecting a given class or category of vehicles or engines shall remain applicable for the useful life of the vehicles or engines.

(3) For the purposes of these procedures, the following definitions shall apply:

(a) "Useful Life" means:

(i) In the case of 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.

(ii) In the case of 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.

(iii) In the case of 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.

(iv) In the case of diesel-powered heavy-duty vehicles (except medium-duty vehicles), and motor vehicle engines used in such vehicles, a period of use of five years, 100,000 miles, or 3000 hours of operation, whichever first occurs.

(v) In the case of 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.

(vi) In the case of all other light-duty, medium-duty and heavy-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 Title 13, California Administrative Code, Section 1960.15, 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 1960.15.

(b) "Emissions-Related Defect" shall mean a defect in design, materials, or workmanship in a device, system, or assembly described in the approved application for certification which affects any parameter, specification, or component enumerated in Appendix A. Excepted are defects in devices, systems and assemblies which the Executive Officer has deleted from the manufacturer's list of warranted parts pursuant to Section 2036(f), Title 13, California Administrative Code.

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

(d) "Days" shall mean normal working days when computing any period of time, unless otherwise noted.

(e) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine. In the case of motor vehicles for which certification of the exhaust and evaporative emission control systems is granted to different manufacturers, the defect reporting responsibility shall be assigned accordingly.

(f) "Voluntary Emissions Recall" shall mean an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emissions-related defect or nonconformity for which direct notification of vehicle or engine owners has been provided.

(g) "Ordered Emissions Recall" shall mean an inspection, repair, adjustment, or modification program required by the Board and conducted by the manufacturer to remedy any emissions-related defect or nonconformity for which direct notification of vehicle or engine owners has been provided.

(h) "Ultimate purchaser" shall be defined as provided in Section 39055.5 of the Health and Safety Code.

B. DEFECT INFORMATION REPORTS

(1) A manufacturer shall file a defect information report whenever:

(a) On the basis of data obtained subsequent to the effective date of these regulations, the manufacturer determines in accordance with procedures established by the manufacturer to identify safety-related defects (pursuant to 15 U.S.C. 1381 et seq., as amended) that a specific emissions-related defect exists in twenty-five or more vehicles or engines of the same model year; or

(b) The Executive Officer, with cause, requests such report, irrespective of when the defects were detected.

(2) No report shall be filed under these procedures for any emissions-related defect corrected prior to the sale of the affected vehicles or engines to an ultimate purchaser.

(3) Defect information reports required under subsection B.(1)(a) of these procedures shall be submitted not more than 15 working days after an emissions-related defect is found to affect twenty-five vehicles or engines of the same model year. Defect information reports requested under subsection B.(1)(b) of these procedures shall be submitted not more than 30 working days after the request is received. Items of information required by subsection B.(4) of these procedures that are either not available within that period or are significantly revised shall be submitted as they become available.

(4) Except as provided in subsection B.(3) of these procedures, each defect report shall contain the following information in substantially the format outlined below:

(a) The manufacturer's corporate name.

(b) A description of the defect.

(c) A description of each class or category of vehicles or engines potentially affected by the defect including make, model, model year, and such other information as may be required to identify the vehicles or engines affected.

(d) For each class or category of vehicle or engine described in response to subsection B.(4)(c) of these procedures, the following shall also be provided:

(i) The number of vehicles or engines known or estimated to have the defect and an explanation of the means by which this number was determined.

(ii) The address of the plant(s) at which the potentially defective vehicles or engines were produced.

(e) An evaluation of the emissions impact of the defect and a description of any driveability problems which a defective vehicle might exhibit.

(f) Available emissions data which relate to the defect.

(g) An indication of any anticipated manufacturer follow-up.

C. VOLUNTARY EMISSIONS-RELATED RECALL

(1) When any manufacturer initiates a voluntary emissions recall campaign involving twenty-five or more vehicles or engines, the manufacturer shall submit a report describing the manufacturer's voluntary emissions recall plan as prescribed by these procedures within 15 working days of the date owner notification was begun. The report shall contain the following:

(a) A description of each class or category of vehicle or engine recalled including the number of vehicles to be recalled, the model year, the make, the model, and such other information as may be required to identify the vehicles or engines recalled.

(b) A description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the vehicles or engines affected by the emissions-related defect.

(c) 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.

(d) A description of the procedure to be followed by vehicle or 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 defect, and the designation of facilities at which the defect can be remedied.

(e) 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 the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the defect.

(f) Three copies of the letters of notification to be sent to vehicle or engine owners.

(g) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(h) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(i) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled.

{j} (2) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong and 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 ~~rendered unrepairable~~ altered so that the remedial action cannot be performed without additional cost.

{k} (3) The manufacturer shall require those who perform the repair under the voluntary recall to affix a label to each vehicle or engine repaired, or, when required, inspected under the voluntary recall.

{1} (a) The label shall be placed in such location as approved by the Executive Officer consistent with State law and shall be fabricated of a material suitable for the location in which it is installed and which is not readily removable intact.

{m} (b) The label shall contain:

(i) the voluntary recall campaign number; and

(ii) A code designating the campaign facility at which the repair, or inspection for repair, was performed.

{n} (4) The notification of vehicle or engine owners shall contain the following statement, "Your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and federal) standards. These standards were established to protect your health and welfare from the dangers of air pollution," will be included in the owner notification letter.

{2} (5) Unless otherwise specified by the Executive Officer, the manufacturer shall report on the progress of the voluntary recall campaign by submitting subsequent reports for six consecutive quarters commencing with the quarter after the voluntary emissions recall campaign actually begins. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter. For each class or category of vehicle or engine subject to the voluntary emissions recall campaign, the quarterly report shall contain the:

(a) Emissions recall campaign number designated by the manufacturer.

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

(c) Number of vehicles or engines involved in the voluntary emissions recall campaign.

(d) Number of vehicles or engines known or estimated to be affected by the emissions-related defect and an explanation of the means by which this number was determined.

(e) Number of vehicles or engines inspected pursuant to the voluntary emissions recall plan.

(f) Number of inspected vehicles found to be affected by the emissions-related defect.

(g) Number of vehicles actually receiving repair under the remedial plan.

(h) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping, or for other reasons (specify).

(i) Number of vehicles or engines determined to be ineligible for remedial action due to ~~a failure to properly maintain or use such vehicles or engines~~ removed or altered components.

(j) Three copies of any service bulletins transmitted to dealers which relate to the defect to be corrected and which have not previously been reported.

(k) Three copies of all communications transmitted to vehicle or engine owners which relate to the defect to be corrected and which have not previously been submitted.

~~(3)~~ (6) If the manufacturer determines that any of the information requested in B (4) of these procedures has changed or was incorrect, revised information and an explanatory note shall be submitted. Answers to paragraphs C.(5)(c), (d), (e), (f), (g), (h), and (i) of these procedures shall be cumulative totals.

~~(4)~~ (7) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, the names and addresses of vehicle or engine owners:

(a) To whom notification was given;

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

(c) Who were determined not to qualify for such remedial action when eligibility is ~~conditioned on proper maintenance or use~~ denied due to removed or altered components.

~~(5)~~ (8) The records described in subsection C.(7) of these procedures shall be made available to the Executive Officer or his or her authorized representative upon request.

~~(6)~~ (9) The reports required by these procedures shall be sent to: Chief, Mobile Source Control Division, 9528 Telstar Avenue, El Monte, California 91731.

~~(7)~~ (10) The information gathered by the manufacturer to compile the reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines and shall be made available to authorized personnel of the Air Resources Board upon request.

~~(8)~~ (11) The filing of any report under the provisions of these procedures shall not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provisions of law.

(i) Number of vehicles or engines determined to be ineligible for remedial action due to ~~a-failure-to-properly-maintain-or-use-such-vehicles-or-engines~~ removed or altered components.

(j) Three copies of any service bulletins transmitted to dealers which relate to the defect to be corrected and which have not previously been reported.

(k) Three copies of all communications transmitted to vehicle or engine owners which relate to the defect to be corrected and which have not previously been submitted.

~~(3)~~ (6) If the manufacturer determines that any of the information requested in B (4) of these procedures has changed or was incorrect, revised information and an explanatory note shall be submitted. Answers to paragraphs C.(2)(c), (d), (e), (f), (g), (h), and (i) of these procedures shall be cumulative totals.

~~(4)~~ (7) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, the names and addresses of vehicle or engine owners:

(a) To whom notification was given;

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

(c) Who were determined not to qualify for such remedial action when eligibility is ~~conditioned-on-proper-maintenance-or-use~~ denied due to removed or altered components.

~~(5)~~ (8) The records described in subsection C.(4) of these procedures shall be made available to the Executive Officer or his or her authorized representative upon request.

~~(6)~~ (9) The reports required by these procedures shall be sent to: Chief, Mobile Source Control Division, 9528 Telstar Avenue, El Monte, California 91731.

~~(7)~~ (10) The information gathered by the manufacturer to compile the reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines and shall be made available to authorized personnel of the Air Resources Board upon request.

~~(8)~~ (11) The filing of any report under the provisions of these procedures shall not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provisions of law.

APPENDIX A

CALIFORNIA VEHICLE EMISSIONS-RELATED DEFECT REPORTING PROCEDURES
FOR 1978 AND SUBSEQUENT MODEL-YEAR PASSENGER CARS,
LIGHT-DUTY TRUCKS, MEDIUM AND HEAVY-DUTY VEHICLES,
AND MOTORCYCLES

Vehicle and Engine Parameters,
Components, and Specifications

A. Passenger Car, Light-Duty Truck, Medium-Duty Vehicle and Motorcycle
Parameters and Specifications

I. Basic Engine Parameters--Reciprocating Engines.

1. Compression ratio.
2. Cranking compression pressure.
3. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
4. Turbocharger calibrations.
5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).

II. Basic Engine Parameters--Rotary Engines.

1. Intake port(s).
 - a. Timing and overlap if exposed to the combustion chamber.
2. Exhaust port(s).
 - a. Timing and overlap if exposed to the combustion chamber.
3. Cranking compression pressure.
4. Compression ratio.

III. Air Inlet System

1. Temperature control system calibration.

IV. Fuel System.

1. General
 - a. Engine idle speed.
 - b. Engine idle mixture.
2. Carburetion.
 - a. Air-fuel flow calibration.
 - b. Transient enrichment system calibration.
 - c. Starting enrichment system calibration.
 - d. Altitude compensation system calibration.
 - e. Hot-idle compensation system calibration.

3. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Fuel shutoff system calibration.
 - c. Starting enrichment system calibration.
 - d. Transient enrichment system calibration.
 - e. Air-fuel flow calibration.
 - f. Altitude compensation system calibration.
 - g. Operating pressure(s).
 - h. Injector timing calibrations.

V. Ignition System.

1. Control parameters and calibrations.
2. Initial timing setting.
3. Dwell setting.
4. Altitude compensation system calibration.
5. Spark plug voltage.

VI. Engine Cooling System.

1. Thermostat calibration.

VII. Exhaust Emission Control System.

1. Air injection system.
 - a. Control parameters and calibrations.
 - b. Pump flow rate.
2. EGR system.
 - a. Control parameters and calibrations.
 - b. EGR valve flow calibration.
3. Catalytic converter system.
 - a. Active surface area.
 - b. Volume of catalyst.
 - c. Conversion efficiency.
 - d. Leaded fuel restrictor or constricted fuel filler neck.
4. Backpressure.

VIII. Evaporative Emission Control System.

1. Control parameters and calibrations.
2. Fuel tank.
 - a. Pressure and vacuum relief settings.
 - b. Fuel fill pipe and opening specifications (Reference Section 2290, Title 13, C.A.C.).

IX. Crankcase Emission Control System.

1. Control parameters and calibrations.
2. Valve calibration(s).

X. Auxiliary Emission Control Devices (AECD).

1. Control parameters and calibrations.
2. Component calibration(s).

XI. Emission Control Related Warning Systems.

1. Control parameters and calibrations.
2. Component calibration(s).

XII. Driveline Parameters.

1. Axle ratio(s).

B. Heavy-Duty Gasoline Engine Parameters and Specifications

I. Basic Engine Parameters.

1. Compression ratio.
2. Cranking compression pressure.
3. Supercharger/turbocharger calibration.
4. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).

II. Air Inlet System.

1. Temperature control system calibration.

III. Fuel System.

1. General.
 - a. Engine idle speed.
 - b. Engine idle mixture.
2. Carburetion.
 - a. Air-fuel flow calibration.
 - b. Transient enrichment system calibration.
 - c. Starting enrichment system calibration.
 - d. Altitude compensation system calibration.
 - e. Hot-idle compensation system calibration.
3. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Fuel shutoff system calibration.
 - c. Starting enrichment system calibration.
 - d. Transient enrichment system calibration.
 - e. Air-fuel flow calibration.
 - f. Altitude compensation system calibration.
 - g. Operating pressure(s).
 - h. Injector timing calibration.

IV. Ignition System.

1. Control parameters and calibrations.
2. Initial timing setting.
3. Dwell setting.
4. Altitude compensation system calibration.
5. Spark plug voltage.

V. Engine Cooling System.

1. Thermostat calibration.

VI. Exhaust Emission Control System.

1. Air injection system.
 - a. Control parameters and calibrations.
 - b. Pump flow rate.
2. EGR system.
 - a. Control parameters and calibrations.
 - b. EGR valve flow calibration.
3. Catalytic converter system.
 - a. Active surface area.
 - b. Volume of catalyst.
 - c. Conversion efficiency.
 - d. Leaded fuel restrictor or constricted fuel filler neck.
4. Backpressure.

VII. Evaporative Emission Control System.

1. Control parameters and calibrations.
2. Fuel tank.
 - a. Pressure and vacuum relief settings.
 - b. Fuel fill pipe and opening specifications (Reference Section 2290, Title 13, C.A.C.).

VIII. Crankcase Emission Control System.

1. Control parameters and calibrations.
2. Valve calibration(s).

IX. Auxiliary Emission Control Devices (AECD).

1. Control parameters and calibrations.
2. Component calibration(s).

X. Emission Control Related Warning Systems.

1. Control parameters and calibrations.
2. Component calibration(s).

C. Heavy-Duty Diesel Engine Parameters and Specifications

I. Basic Engine Parameters--Four Stroke Cycle Reciprocating Engines.

1. Compression ratio.
2. Cranking compression pressure.
3. Supercharger/turbocharger calibration.
4. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).

II. Basic Engine Parameters--Two-Stroke Cycle Reciprocating Engine.

- 1-5. Same as Section C.I.
6. Intake port(s).
 - a. Timing in combustion cycle.
7. Exhaust port(s).
 - a. Timing in combustion cycle.

III. Air Inlet System.

1. Temperature control system calibration.
2. Maximum allowable air inlet restriction.

IV. Fuel System.

1. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Transient enrichment system calibration.
 - c. Air-fuel flow calibration.
 - d. Altitude compensation system calibration.
 - e. Operating pressure(s).
 - f. Injector timing calibration.

V. Exhaust Emission Control System.

1. Maximum allowable backpressure.

VI. Crankcase Emission Control System.

1. Control parameters and calibrations.
2. Valve calibration(s).

VII. Auxiliary Emission Control Device (AECDD).

1. Control parameters and calibrations.
2. Component calibration(s).

State of California
AIR RESOURCES BOARD

CALIFORNIA IN-USE VEHICLE EMISSIONS-RELATED RECALL PROCEDURES AND IN-USE VEHICLE ENFORCEMENT TEST PROCEDURES FOR 1978 AND SUBSEQUENT MODEL-YEAR PASSENGER CARS, LIGHT-DUTY TRUCKS, MEDIUM AND HEAVY-DUTY VEHICLES, AND MOTORCYCLES.

A. GENERAL PROVISIONS

Section A, "GENERAL PROVISIONS", of the "California Emissions-Related Defects Reporting Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles" is hereby incorporated in these procedures.

B. IN-USE VEHICLE RECALL PROCEDURES

(1) A manufacturer will be notified whenever the Executive Officer has determined that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, contain a defect in an emissions-related component within their useful lives which is likely to result in increased emissions and which, if uncorrected, may result in failure to meet applicable standards, or a class or category of vehicles or engines within their useful lives, on average, do not conform to the standards prescribed under Part 5, Division 26 of the Health and Safety Code and applicable to the model year of such vehicles. The notification will include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, will give the factual basis for the determination of nonconformity (except information previously provided the manufacturer by the Air Resources Board), and will designate a date, no sooner than 45 days from the date of receipt of such notification, by which the manufacturer shall have submitted a plan to remedy the nonconformity.

(2) Unless a public hearing is requested by the manufacturer, the remedial plan shall be submitted to the Executive Officer within the time limit specified in the notification, provided that the Executive Officer may grant the manufacturer an extension upon good cause shown.

(3) If the manufacturer disagrees with the Executive Officer's finding of nonconformity he may request a public hearing to contest the necessity for or the scope of any ordered corrective action. Requests for such a hearing shall be filed with the Executive Officer not later than 45 days after the receipt of the notification of nonconformity unless otherwise specified by the Executive Officer. Such a hearing shall be held by the Board not less than 30 and no more than 60 calendar days after receipt of the manufacturer's request for such a hearing.

(4) If a manufacturer requests a public hearing pursuant to subsection B.(3) of these procedures, unless as a result of such hearing the Executive Officer withdraws his determination of nonconformity, the manufacturer shall submit the remedial plan within 30 days ~~of the end of such hearing~~ after receipt of Executive Officer's decision.

(5) When a manufacturer is notified by the Executive Officer of a defect or nonconformity, the manufacturer shall submit a remedial plan to the Executive Officer which contains the following:

(a) A description of each class or category of vehicle or engine to be recalled including the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(b) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision as to the particular remedial changes to be used in correcting the nonconformity.

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

(d) A description of the procedure to be followed by vehicle or 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 required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied: Provided, that repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner first tenders his vehicle or engine after the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(e) 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 the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity, and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(f) The percentage of vehicles subject to recall which must actually be corrected. If, after good faith efforts, the manufacturer cannot correct the percentage of vehicles specified in the plan by the applicable deadlines, the manufacturer may request the Executive Officer to modify the percentage of vehicles specified in the plan, setting out in full the good faith efforts of the manufacturer to comply with the original plan, and the reasons it has been unable to comply. The Executive Officer shall, on the basis of this request, modify the percentage of vehicles which must actually be corrected if he or she finds in writing that the manufacturer has made a good faith effort and has shown good cause for the modification. If the manufacturer so requests, the plan shall specify the maximum incentives (such as a tune-up or specified quantity of gasoline), if any, the manufacturer must offer to vehicle owners to induce them to present their vehicles for repair, as a condition of showing that the manufacturer has made a good faith effort

to repair the percentage of vehicles specified in the plan. The plan shall also include a schedule for implementing actions to be taken including identified increments of progress towards implementation and deadlines for completing each such increment.

(g) Three copies of the letters of notification to be sent to vehicle or engine owners.

(h) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(i) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(j) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these conclusions.

(k) Any other information, reports, or data which the Executive Officer may reasonably determine is necessary to evaluate the remedial plan.

(6) (a) Notification to vehicle or engine owners shall be made by first class mail or by such 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 as available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure an effective notification.

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

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

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

(c) The label shall contain:

(i) the recall campaign number; and

(ii) a code designating the campaign facility at which the repair, or inspection for repair, was performed.

(d) The Executive Officer reserves the right to waive any or all of the requirements of these procedures if he or she determines that they constitute an unwarranted burden to the manufacturer.

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

(9) If the Executive Officer finds that the remedial plan is designed and effective to correct the nonconformity, he or she will so notify the manufacturer in writing. If the remedial plan is not approved as submitted, the Executive Officer will provide the manufacturer notice of the disapproval and the reasons for the disapproval in writing. The Executive Officer shall order modification of the plan with such changes and additions as he or she determines to be necessary.

(10) Upon receipt of notice from the Executive Officer that the remedial plan has been approved, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners shall be in accordance with requirements of these procedures and shall proceed as follows:

(a) When no public hearing is requested by the manufacturer, notification of ~~vehicles~~ vehicle or engine owners shall commence within 15 working days of the receipt by the manufacturer of the Executive Officer's approval unless otherwise specified by the Executive Officer.

(b) When a public hearing is held, unless as a result of such hearing the Executive Officer withdraws the determination of nonconformity, the Executive Officer shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity.

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

(a) 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. These standards were established to protect your health and welfare from the dangers of air pollution."

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

(c) 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 manufacturer's franchised dealers.

(d) A clear description of the components which will be affected by the remedy and a general statement of the measures to be taken to correct the nonconformity.

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

(f) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance or driveability of the vehicle or engine.

(g) A description of the adverse effects, if any, that such nonconformity would have on the function of other engine components.

(h) A description of the procedure which the vehicle or engine owner should follow 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 required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(i) 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 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.

(j) 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 legally be determined to be a lack of proper maintenance of your (vehicle or engine)."

(12) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong and 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 ~~rendered unrepairable~~ altered so that the remedial action cannot be performed without additional cost.

(13) No notice sent pursuant to subsection B (5) (g) of these procedures nor any other communication sent to vehicle or engine owners or dealers shall contain any statement or implication that the nonconformity does not exist or that the nonconformity will not degrade air quality.

(14) 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.

(15) The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the remedial plan directed to dealers and other persons who are to perform the repair under the remedial plan. 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 remedial plan.

(16) The manufacturer shall provide for the establishment and maintenance of records to enable the Executive Officer to conduct a continuing analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

- (a) Recall campaign number as designated by the manufacturer.
- (b) Date owner notification was begun, and date completed.
- (c) Number of vehicles or engines involved in the recall campaign.
- (d) Number of vehicles or engines known or estimated to be affected by the nonconformity.
- (e) Number of vehicles or engines inspected pursuant to the remedial plan found to be affected by the nonconformity.
- (f) Number of inspected vehicles.
- (g) Number of vehicles actually receiving repair under the remedial plan.
- (h) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping, or for other reasons (specify).
- (i) Number of vehicles or engines determined to be ineligible for remedial action due to a-failure-to-properly-maintain-or-use-such-vehicles-or-engines removed or altered components.

(17) If the manufacturer determines that the original answers for subsections B.(16)(c) and (d) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Answers to subsections B.(16)(e), (f), (g), (h), and (i) of these procedures shall be cumulative totals.

(18) Unless otherwise directed by the Executive Officer, the information specified in subsection B.(16) of these procedures shall be included in quarterly reports, with respect to each recall campaign, for six consecutive quarters 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 working days after the close of each calendar quarter.

(19) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, lists of the names and addresses of vehicle or engine owners:

(a) To whom notification was given;

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

(c) When eligibility for repair is ~~conditioned on proper maintenance or use that were determined not to qualify for such remedial action~~ denied due to removed or altered components.

(20) The records described in subsection B.(19) of these procedures shall be made available to the Executive Officer or his or her authorized representative upon request.

(21) 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.

(22) Failure by a manufacturer to carry out all corrective actions or recall actions ordered by the Executive Officer pursuant to these procedures shall constitute a violation of that order and of Health and Safety Code Section 43105. The penalty for violation of an order or regulation or of Section 43105 is provided in Health and Safety Code Section 43016. In addition, a manufacturer is subject to the penalties provided in Health and Safety Code Sections 43211 and 43212 for violations of emission standards or test procedures.

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

C. IN-USE VEHICLE ENFORCEMENT TEST PROCEDURES

1. NONCOMPLIANCE

A vehicle's engine family is not in compliance with the applicable standards, rules and regulations when such engine family fails to pass the in-use vehicle enforcement test procedures. Corrective action, including recall of the affected vehicles, may be ordered by the Executive Officer based on the results of the enforcement testing.

2. ENFORCEMENT TEST PROCEDURES

a. Vehicle Selection

Any group or sub-group of vehicles, manufactured for sale in California and still within their useful lives, ~~are~~ is subject to these test procedures. Typically, an engine family, whose certification or New Vehicle Compliance Testing emissions levels, warranty repair history, in-use

performance, etc., are suspect, would be a proper candidate for such testing. Ten (10) in-use vehicles of a suspect engine family, determined by ARB staff to be properly maintained and used, would be tested to represent the emissions characteristics of that engine family. Up to twenty (20) additional vehicles may be tested if the initial testing is not conclusive.

b. The basic criteria for acceptance as a representative vehicle for enforcement testing are:

- i. California certified and registered.
- ii. Odometer indication of less than certified useful life mileage and within applicable time limit.
- iii. No indication of abuse (e.g., racing, overloading, or other misuse), neglect, improper maintenance or other factors that would have a permanent effect on emissions performance and render the vehicle unrepresentative.
- iv. No major repair to engine or major repair of vehicle resulting from collision.
- v. Lead content of fuel sample meets applicable standards.
- vi. No indication of any problem that might jeopardize the safety of ARB personnel.

c. Enforcement Testing

Upon acceptance as a test vehicle, the fuel will be replaced with Indolene Clear or appropriate certification test fuel. Cold soak periods shall be at least 12 hours but less than 36 hours prior to testing. The following diagnosis/restorative maintenance will be performed prior to enforcement testing:

- i. Identify the part numbers of all essential emission control system components.
- ii. Check air filter, all drive belts, all fluid levels, radiator cap, all vacuum hoses and electrical wiring related to emissions control for integrity; check ignition, carburetion and emission control system components for maladjustments and/or tampering. Record all discrepancies.
- iii. Check ignition system with oscilloscope and replace any defective components; i.e., spark plugs, wires, etc.
- iv. Check compression, if indicated.
- v. Check and adjust engine parameters to manufacturer's specifications.

vi. If the vehicle is within 500 miles of a scheduled maintenance service, that maintenance may be performed.

d. Restorative Maintenance Tests

After the vehicles have been accepted and restorative maintenance, if any, has been performed, the ~~following tests shall be performed~~ CVS-75 or appropriate certification test shall be performed. In addition, the following tests shall be performed as applicable:

- i. ~~CVS-75~~
- ii. i. Highway Fuel Economy Test (HFET).
- iii. ii. Three-Mode Loaded Mode Test.
- iv. iii. MVIP Test.

e. Enforcement Testing Results

If the CVS-75 test results (after restorative maintenance) indicate that the average emissions for any pollutant of the test vehicles are exceeding the applicable emissions standards, the entire vehicle population so represented will be presumed not to be in compliance with those standards. The Executive Officer will notify the manufacturer of the results and allow the manufacturer to submit a voluntary remedial plan within ~~30~~ 45 days to bring the affected vehicle population into compliance. If no such voluntary remedial plan is submitted, the Executive Officer may order corrective action including recall of the affected vehicles per Section B. above.

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Amendments to Title 13, California Administrative Code, Sections 2100 through 2110 and Adoption of Sections 2111 through 2113, and Related Procedures Regarding Emissions-Related Defects Reporting, In-Use Vehicle Recall, and In-Use Vehicle Enforcement Testing.

Agenda Item No.: 82-27-3

Public Hearing Date: December 8, 1982.

Response Date: December 9, 1982.

Issuing Authority: Air Resources Board.

Comment: No comments were received identifying any significant adverse environmental impacts associated with this item. The staff report identified no significant adverse environmental effects.

Response: N/A

CERTIFIED: *David Holmes*
Board Secretary

Date: 12/13/82

State of California
AIR RESOURCES BOARD

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Response: N/A

CERTIFIED:


Board Secretary

Date:

12/13/82