

STATE OF CALIFORNIA
AIR RESOURCES BOARD

Resolution 85 - 80

December 19, 1985

Agenda Item No.: 85-16-2
85-18-1

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, in Section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in the state and, in Sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility for systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, Sections 43013 and 43101 of the Health and Safety Code authorize the Board to adopt and implement vehicle emission standards in order to control air pollution caused by motor vehicles and Section 43104 directs the Board to adopt test procedures to determine whether new motor vehicles are in compliance with the emission standards adopted by the Board;

WHEREAS, Section 43102 of the Health and Safety Code provides that no new motor vehicle shall be certified by the Board unless it meets the emission standards adopted by the Board pursuant to Section 43101 under the test procedures adopted by the Board pursuant to Section 43104;

WHEREAS, on November 29, 1984, the Board, at a duly noticed public meeting, considered a report from its staff and public comment regarding nonconforming import vehicles and adopted Resolution 84-59, in which the Board found that a large and growing number of nonconforming vehicles are unlawfully imported for use and registration in this state in violation of California law;

WHEREAS, in Resolution 84-59 the Board further found that the Environmental Protection Agency's (EPA) nonconforming import vehicle program is ineffective in ensuring that such vehicles comply with applicable emission standards and other requirements;

WHEREAS, at the November 29, 1984, hearing the Board determined to support legislative changes which would allow California to prevent the importation and sale of nonconforming import vehicles and further directed staff to consider development of regulations to allow new noncomplying import vehicles to be legally and effectively converted and certified to meet California standards;

WHEREAS, Senate Bill 1118 (SB 1118; Stats 1985, ch. 1235) effective January 1, 1986, directs the Board to adopt, by regulation, a certification program for new light-duty vehicles manufactured outside the United States and not certified for sale in this state;

WHEREAS, the Board has adopted the following certification and compliance requirements for passenger cars, light-duty trucks, and medium-duty vehicles: exhaust standards and test procedures (Sections 1960.1 and 1960.1.5, Title 13, California Administrative Code ("13 CAC")), evaporative emission standards and test procedures (Section 1976, 13 CAC), fill pipes and fuel tank openings (Section 2290, 13 CAC), tune-up label specifications (Section 1965, 13 CAC), assembly-line test procedures (Section 2061, 13 CAC), new and in-use vehicle recall requirements, including provisions for in-use vehicle defects reporting and enforcement testing (Sections 2109 and 2111 through 2113, 13 CAC), and emission control system warranty requirements (Sections 2035 et seq., 13 CAC);

WHEREAS, the Board has determined that the existing certification standards and test procedures applicable to vehicles certified by original manufacturers are necessary and technologically feasible for the purposes of controlling motor vehicle emissions;

WHEREAS, the Staff has proposed certification and compliance procedures for new direct import vehicles based on the existing certification and compliance programs for vehicles produced and certified by original vehicle manufacturers with modifications necessary in recognition of the "small business" nature of the direct import industry and its unproven ability to produce durable complying vehicles;

WHEREAS, SB 1118 provides for a bonding requirement not to exceed one thousand dollars (\$1,000) per modified vehicle and further requires that all costs of the certification and compliance program for new direct import vehicles including enforcement costs, be borne by the modifiers;

WHEREAS, the California Environmental Quality Act (CEQA) 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;

WHEREAS, the Board finds that:

The number of new motor vehicles manufactured outside the United States and not certified for sale in California ("direct import" vehicles) which are being sold and used in this state is increasing

at an accelerated rate with the approximately 500 such vehicles reaching California in 1980 increasing to approximately 15,000 in 1984;

The importation and use in California of direct import vehicles contributes significantly to the serious air pollution problem in this state;

The adoption of an effective certification and compliance program for direct import vehicles will result in a decrease in the number of higher polluting vehicles unlawfully imported for sale and use in California;

The certification program for direct import motor vehicles will benefit consumers because it will result in a wider selection of legally available vehicles and, possibly, lower vehicle costs;

WHEREAS, the Board further finds that:

It is technologically feasible for direct import vehicles to comply with the certification requirements set forth in Attachments A and B hereto and the requirements are necessary to ensure that direct import vehicles meet the California emission standards applicable to new vehicles;

The certification requirements for direct import vehicles (referred to in the regulations as "modifier certified motor vehicles") including provisions for a 25,000 mile (or 50,000 mile, as applicable) durability demonstration and durability carryover/carry-across, are necessary to meet the unique characteristics of the modification industry;

Increased requirements for new production (assembly-line) and in-use vehicle testing over existing requirements which are applicable to original vehicle manufacturers are necessary to ensure that each modifier certified motor vehicle will meet the applicable certification standards and maintain those standards throughout the vehicle's certification period;

The bonding and insurance requirements of the certification program are necessary to ensure the modifier's continuing financial ability to provide for completing any necessary recall campaign and honoring warranty obligations throughout the applicable vehicle certification period in order to ensure compliance with these requirements even if the modifier ceases to do business during this period;

The requirement that modifiers demonstrate driveability of new modifier certified motor vehicles is necessary to ensure that the emission control system of a modified vehicle will not be altered or tampered with in-use to improve driveability and performance and thereby increase vehicle emissions;

Requirements for service establishment and parts availability, provision of shop manuals, free of charge warranty repairs of the emission control system and recall are necessary to ensure that modifier certified motor vehicles comply with the applicable emission standards throughout the vehicle certification period;

The certification and recertification fees specified in the regulations are necessary to cover the costs to the Board for administering and enforcing the certification and compliance program for new modifier certified motor vehicles.

WHEREAS, the Board further finds that the certification standards and procedures for new direct import vehicles will not have a significant adverse impact on the environment and may have a significant beneficial impact.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves Section 1964 of Title 13, California Administrative Code as set forth in Attachment A hereto, and the incorporated "California Certification and Compliance Test Procedures for Modifier Certified New Motor Vehicles" as set forth in Attachment B hereto.

BE IT FURTHER RESOLVED THAT the Board directs the Executive Officer to adopt Section 1964, Title 13, California Administrative Code, and the incorporated certification and compliance procedures, as set forth in Attachments A and B, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Executive Officer is directed to monitor efforts to comply with the requirements regarding bonding and recall insurance contained in Section I.D.3. of the certification and compliance procedures and to propose to the Board changes to the procedures if the Executive Officer determines that insurance or a bond to comply with the requirements in the procedures is unavailable.

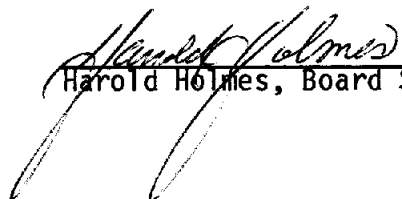
BE IT FURTHER RESOLVED THAT the Board directs the Executive Officer to take all necessary and reasonable steps to ensure that only lawfully imported and modified direct import vehicles are sold and used in this state and that appropriate enforcement action is taken against those entities which continue to illegally import, modify, offer for sale or sell new direct import vehicles which have not been certified to meet California standards.

BE IT FURTHER RESOLVED that the Board hereby determines that the amendments and adoption approved herein will not cause the California emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards, and will not cause the California requirements to be inconsistent with Section 202(a) of the Clean Air Act, and raise no new

issues affecting previous waiver determinations of the Administrator of the Environmental Protection Agency pursuant to Section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon their adoption, forward the regulation and incorporated certification and compliance procedures to the Environmental Protection Agency with a request for a waiver or for confirmation that the amendments are within the scope of an existing waiver, as appropriate, pursuant to Section 209(b) of the Clean Air Act.

I hereby certify that the above is a true and correct copy of the Resolution 85-80, as adopted by the Air Resources Board.


Harold Holmes, Board Secretary

Adopt a new Section 1964, Title 13, California Administrative Code to read as follows:

1964. Special Test Procedures For Certification and Compliance - New Modifier Certified Motor Vehicles. The emission standards and test procedures for new vehicle certification, warranty, assembly-line testing, and recall for modifier certified motor vehicles are set forth in "California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles", as adopted by the Air Resources Board on _____.

NOTE: Authority: Sections 39600, 39601, 43013, 43101, 43104, 43105, 43203.5, 43210 and 43835, Health and Safety Code Reference: Sections 43000, 43012, 43100-43106, and 43200, 43202, 43203, 43203.5, 43204, 43210-43213 and 43835 Health and Safety Code.

State of California
AIR RESOURCES BOARD

California Certification and Compliance Test Procedures for
New Modifier Certified Motor Vehicles

Adopted: _____

NOTE: The proposed certification and compliance procedures as originally made available are shown in normal type. Subsequent modifications to the procedures are shown in underline to indicate additions and strikeout to indicate deletions from the original proposal.

California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles

I. The provisions of the "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," incorporated by reference in Title 13, California Administrative Code (CAC), Section 1960.1(h), shall apply to new modifier certified motor vehicles, with the following exceptions and additions.

A. Definitions

1. "Modifier certified motor vehicle" means any passenger car, light-duty truck, and medium-duty vehicle which was manufactured outside of the United States for which the original manufacturer did not obtain California certification and which is subsequently modified by persons other than the original vehicle manufacturer to meet California motor vehicle emission standards.
2. "Modifier" means any person or entity who applies for a California certification of a new modifier certified motor vehicle. For the purpose of requiring remedial action or imposing sanctions and penalties specified in Division 26 of the Health and Safety Code and Title 13, CAC, the Modifier shall be the same as a manufacturer. If remedial actions, sanctions or penalties are sought, the Modifier shall have the same rights of appeal and protections provided a manufacturer.
3. "Model Year" - The model year designation for new modifier certified motor vehicles shall be determined on the same basis as vehicles in the same engine family which are offered for sale in ~~California~~ the United States by the original vehicle manufacturer or its authorized ~~importer~~ distributor. For purposes of this paragraph, a modifier certified motor vehicle is in the same engine family as a vehicle certified for sale in the United States by the original vehicle manufacturer if the configuration of the vehicle and engine, with the exception of the emission control system, and the engine displacement are the same. (The model year assigned must be consistent with the year model designated in the vehicle identification number of the U.S. certified vehicle.)

The model year for any new modifier certified motor vehicle in an engine family which the original vehicle manufacturer does not offer for sale in ~~California~~ the United States shall be determined by the ANNUAL/PRODUCTION/PERIOD/DESIGNATED/BY/THE/MODIFIER///IF/THE/MODIFIER/DOES/NOT/DESIGNATE/AN/ANNUAL/PRODUCTION/PERIOD//THE/MODEL/YEAR/SHALL/BE/DETERMINED/TO/BE/THE/CALENDAR/YEAR/OF/CERTIFICATION/ following, in descending order of preference:

- a) Model year as encoded in the VIN by the original vehicle manufacturer, or
- b) The date the vehicle was initially delivered by the original vehicle manufacturer to the non-U.S. dealer, or
- c) The model year shown on the foreign title document, or
- d) The production dates as provided by the original vehicle manufacturer to the Modifier and/or to the Department of Motor Vehicles.
- e) When the model year is to be determined from either (b) or (d) above, if the original vehicle manufacturer has established a specified annual production period for its U.S. certified vehicles of the same make, the model year shall coincide with the production year for the U.S. certified vehicles.

B. Test Procedures

1. If the complete ~~exhaust~~ emission control system from a California-certified vehicle required to meet the same emission standards is installed in a modifier certified motor vehicle equipped with an engine having the same basic parameters as specified in Title 40 Code of Federal Regulations (CFR) 86.085-24(a)(2) (October 19, 1983) or Environmental Protection Agency (EPA) Advisory Circular (AC) No. 20 B. (see Appendix A), no durability-data vehicle will be required provided the Executive Officer determines that the carry-across criteria of Environmental Protection Agency (EPA) Advisory Circular (AC) 17F (see Appendix B) are satisfied. The deterioration factors (DF's) shall be assigned by the Executive Officer based on ~~typical~~ DF values obtained from ~~similar~~ vehicles manufactured by original vehicle manufacturers which are representative of the emissions characteristics of the engine family to be certified. For the purposes of this paragraph "complete emission control system from a California-certified vehicle" means all of those parts included on the Air Resources Board Warranty Parts List, as specified in Section 2036(c), Title 13, California Administrative Code, and which are installed on a motor vehicle which has been certified under the "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles"; provided that the parts as installed on the modifier certified motor vehicle are identical to those parts in terms of manufacturer, specifications, and production quality control procedures.
2. For all other cases, a durability-data vehicle shall be tested.

- (a) For engine families certifying to the 50,000 mile emission standards, the durability-data vehicle shall be emissions tested for exhaust and, if applicable, evaporative emissions every 5,000 + 250 miles from 5,000 miles to 25,000 miles following the driving schedule shown in Title 40 CFR, Part 86, Appendix IV (June 28, 1977) or an equivalent driving schedule. The driving schedule may be met by on-road mileage accumulation following a route approved by the Executive Officer, or by chassis dynamometer. Emission tests shall be performed before and after scheduled maintenance. Driving schedules other than that set out in Title 40 CFR, Part 86, Appendix IV (June 28, 1977) and other testing intervals which provide an equivalent demonstration of vehicle durability may be approved by the Executive Officer. A regression line for each pollutant shall be calculated by the method of least squares using all test data. Exhaust hydrocarbon, carbon monoxide and oxides of nitrogen, and evaporative emission DF's shall be calculated in accordance with the procedures as stated in Title 40 CFR 86.085-28 (a)(4)(i)(B) (January 24, 1984) except that the exhaust emissions DF shall be the exhaust emissions extrapolated to 50,000 miles divided by the exhaust emissions extrapolated to 4,000 miles. The evaporative emissions DF shall be the evaporative emission level extrapolated to 50,000 miles minus the evaporative emission level extrapolated to 4,000 miles, following the procedures stated in Title 40 CFR 86.085-28 (a)(4)(i)(C) (January 24, 1984).
- (b) For engine families certifying to the 100,000 mile emission standards, the durability-data vehicle shall be emissions tested for exhaust and, if applicable, evaporative emissions every 5,000 + 250 miles from 5,000 miles to 50,000 miles following the driving schedule shown in Title 40 CFR, Part 86, Appendix IV (June 28, 1977) or an equivalent driving schedule. The driving schedules may be met by on-road mileage accumulation following a route approved by the Executive Officer, or by chassis dynamometer. Emission tests shall be performed before and after scheduled maintenance. Driving schedules other than that set out in Title 40 CFR, Part 86, Appendix IV (June 28, 1977) and other testing intervals which provide an equivalent demonstration of vehicle durability may be approved by the Executive Officer. Hydrocarbon, carbon monoxide, oxides of nitrogen and evaporative emission DF's shall be calculated in accordance with the methodology stated in Paragraph 6.a. of the "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" except that the exhaust emissions DF shall be

the exhaust emissions extrapolated to 100,000 miles divided by the exhaust emissions extrapolated to 4,000 miles. The evaporative emissions DF shall be the evaporative emission level extrapolated to 50,000 miles minus the evaporative emission level extrapolated to 4,000 miles.

3. In lieu of the mileage accumulation required pursuant to Paragraphs I.B. 2(a) and I.B. 2.(b) above, the Executive Officer may authorize other means of demonstrating durability based on good engineering practice including, but not limited to, bench testing and engine mapping. A proposed alternate method of demonstrating durability shall be submitted to the Executive Officer for approval prior to testing. The submittal must demonstrate that the alternative method provides an assurance of durability equivalent to mileage accumulation. Carryover/carry-across of DF's within the Modifier's product line shall be allowed provided the Executive Officer determines the criteria of EPA AC 17F (see Appendix B) are satisfied.
4. An emission-data vehicle shall be tested for each engine family. The mileage on the test vehicle shall be 4,000 miles plus or minus 250 miles. At the discretion of the Modifier, the durability-data vehicle may be also tested at 4,000 miles and used as the emission-data vehicle. The emission-data vehicle may be submitted by the Modifier to EPA for confirmatory testing for certification under applicable federal regulations, and the Modifier may submit the Executive Order of Certification to EPA for purposes of seeking federal certification.

C. Standards

The exhaust emission standards for modifier certified motor vehicles shall be the same as specified for California motor vehicles in Title 13, California Administrative Code, Sections 1960.1 and 1960.1.5.

D. Other Requirements

1. Modifications made to modifier certified motor vehicles for the purpose of emission control shall not significantly degrade the driveability of the modified vehicle as compared to an original vehicle manufacturer's California-certified version of the same model vehicle equipped with an engine of the same basic parameters as defined in Paragraph I.B.1., if such a configuration exists. In those cases where the original vehicle manufacturer has not certified a particular engine family in California, the driveability shall be

comparable (as defined below) to California-certified vehicles of similar cost, engine type, displacement, inertia weight and purpose ("Comparable Vehicle"), as determined by the Executive Officer. The Modifier shall submit a written statement in accordance with the requirements of Paragraph 5.g. of the "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" which states that the vehicle driveability and performance characteristics satisfy the Modifier's customary driveability and performance requirements. Prior to the issuance of an Executive Order granting certification, the Executive Officer may require driveability evaluations, at the Modifier's expense, of both the modified vehicle and California-certified or comparable vehicle, as applicable, by an ~~ARB/approved~~ independent testing laboratory selected by the Modifier. The driveability evaluation shall be performed using the Board's "Driveability Procedure" (Appendix C). Each vehicle's engine shall be set to the Modifier's or original vehicle manufacturer's specifications, as applicable, and fueled with the recommended fuel. Demerits in excess of ten points for the modified vehicle compared to the California-certified or comparable vehicle shall constitute significant degradation of driveability and non-compliance with this provision and shall be cause for denial of certification.

2. The Modifier shall submit with the application for certification a written statement that the production vehicles shall be in all material respects the same as those for which certification is granted. In addition, the Modifier shall:
 - (a) Demonstrate to the satisfaction of the Executive Officer that it has knowledge that basic vehicle parameters (e.g., weight, axle ratio, etc.) and all parts and calibration of parts on the Emissions-Related Parts List for each vehicle sold are in all material respects identical to the certification vehicle. This requirement may be satisfied by demonstrating at the time of certification that the Modifier has an adequate, timely, and reliable means of knowing when changes to emissions-related parts are made by the original vehicle manufacturer, and by the emission control system parts suppliers.
 - (b) If the conditions of Paragraph I.D.2.(a) ~~1/E/2/AA~~ of this procedure cannot be met, stipulate in writing to demonstrate compliance with the emission standards by performing the Federal Test Procedure (FTP) exhaust emission test on every other production vehicle of an engine family in the first year of certification; and every fourth production vehicle in subsequent years, if

certification for the engine family is carried over. An initial evaluation shall be made after the first five vehicles of an engine family are tested. Compliance will be demonstrated if the average deteriorated emissions for the tested vehicles are equal to or less than the applicable emission standards. If a non-compliance condition occurs, the Modifier shall notify the Executive Officer within 10 working days. Based on such non-compliance, the Executive Officer may invoke Section 2109 of Title 13, California Administrative Code. Subsequent evaluations shall be made on a calendar monthly basis by evaluating data from all vehicles tested since the start of that model-year's production. These monthly evaluations shall continue throughout the model year and shall be reported to the Chief, Mobile Source Division. Non-compliance based upon the monthly evaluations shall be reported to the Executive Officer within 10 working days. Based on such non-compliance, the Executive Officer may invoke Section 2109 of Title 13, California Administrative Code. The Executive Officer may order resumption of every other vehicle testing of an engine family if a condition of non-compliance occurs.

- (c) Except as otherwise provided in Paragraph ~~Section~~ I.D.2.(d) below, the Modifier shall provide an engineering analysis which shows that emissions will not be increased for each design or specification change to an emissions-related part or calibration. In lieu of the report, or if the Executive Officer rejects the report as being inconclusive regarding the emissions effect of the change, before and after configuration change FTP exhaust emission tests will be required to demonstrate that emissions have not exceeded the standards due to the change. If as a result of a change made by the original manufacturer or the Modifier to an engine family's emission control system or related specifications, the changed vehicle is not in all material respects identical to the test vehicle, that engine family shall require recertification. Notification by the original manufacturer of a design, specification or part number change to an emission-related part, or of a calibration change shall not be deemed cause for recertification without supporting engineering or emissions data which could reasonably lead the Executive Officer to conclude that an engine family would not comply with emission standards. The Modifier shall be obligated to designate the date and/or chassis number after which such change became effective or was identified.

(d) With respect to changes in design or specifications of emissions-related parts or calibrations requiring that the engine family be recertified, the Executive Officer may authorize the use of an engineering evaluation of the subject part rather than ordering a new durability vehicle test if such testing provides equivalent assurance of durability.

3. The ability of the Modifier to correct emissions defects and perform emissions recalls and the Modifier's methods of performing service and parts distribution shall be evaluated by the Executive Officer.

The Modifier shall post a prepaid five, seven or ten year surety bond, as applicable based on the recall period, from a source and in a form approved by the Executive Officer, payable to the Air Pollution Control Fund, of \$1,000 for each vehicle offered for sale in California prior to delivery to a sales outlet, sale, or offer for sale, whichever occurs first. The surety bond shall be subject to the payment and forfeiture provisions of Paragraph VI.B.4.

The Executive Officer may accept, in lieu of the required surety bond, proof that the engine family to be certified is covered by a prepaid independent insurance policy with a liability limit of no less than \$3,000 per vehicle ~~WYUWNY~~ to provide for the execution of a recall, either voluntary or ordered, pursuant to Sections 2111, 2112 and 2113, Title 13 of the California Administrative Code at any time during the entire recall period for that engine family. The insurance policy shall cover the entire cost of executing any recall and shall be subject to review and approval by the Executive Office prior to certification to determine the adequacy of the insurer's ability to provide for or carry out any recall, including the source and amount of the policy and other relevant factors.

4. The Modifier shall submit to the state board with the application for certification the name(s) and location(s) of assembly-line(s), fabrication facility(ies) and test facility(ies).
5. The Modifier shall comply with the Emission Control System (ECS) Warranty provisions set forth in Sections 2035 through 2046 of Title 13, California Administrative Code. This warranty shall be effective from the date of modification for 2 yrs/24,000 miles and 5 yrs/50,000 miles, 5 yrs/50,000 miles, or 10 yrs/100,000 miles, as applicable, as set forth in Section 2035 of Title 13, California Administrative Code. The Modifier itself shall comply with the ECS warranty requirements, including the requirements of Paragraphs I.D.5(a) and I.D.5(b); or in the alternative, the Modifier may

provide for compliance with these provisions through an insurer. In addition, the Modifier shall submit with the certification application proof of coverage by a prepaid independent insurance policy which guarantees reimbursement to the vehicle owner for all repairs required by the ECS warranty, including Section I.D.5.(b), in the event the Modifier, or its agent, fails to complete such repairs and which shall remain in effect for the entire warranty period of the vehicle. The insurance policy or policies shall be subject to review and approval by the Executive Officer to ensure that all warranty obligations will be met. In addition, the Modifier shall:

- (a) Establish and maintain a statewide network of service centers to provide "free of charge" warranty service. The names and locations of such service establishments shall be submitted with the certification application and included in the owner's service manual. Any agreements between contract service establishments and the Modifier shall be retained by the Modifier. Upon request from the Executive Officer, copies of the agreements shall be submitted to the Air Resources Board (ARB) within 10 days. As used herein, the term "statewide network" shall mean at least one service center located in each of the seven major urban areas* in California. In the event the Modifier changes a designated service center, the Modifier shall notify all vehicle owners and the Executive Officer within thirty (30) days of such change.
- (b) Provide reimbursement for warranty repairs provided by service establishments other than the modifier's designated service centers for vehicle owners permanently residing more than 50 miles from a contract service establishment.

THE MODIFIER SHALL SUBMIT PROOF OF COVERAGE BY AN INSURANCE POLICY WHICH GUARANTEES ALL REPAIRS COVERED BY THE VEHICLE EMISSION CONTROL SYSTEM DEFECTS WARRANTY AND WHICH SHALL REMAIN IN EFFECT FOR THE ENTIRE WARRANTY PERIOD OF THE VEHICLE. THE INSURANCE POLICIES FOR COVERING WARRANTY REPAIRS IN THIS EVENT SHALL BE REVIEWED AND APPROVED BY THE EXECUTIVE OFFICER TO ENSURE THAT ALL WARRANTY OBLIGATIONS WILL BE MET.

- (c) Furnish with each vehicle a replacement parts list of the added and emissions-related parts, including part numbers, the name(s) of added part manufacturer(s), its address(es), and location(s) of retail outlet(s) in California where the added part(s) can be procured. The Modifier will not be required to divulge proprietary information or trade secrets in the parts list, but part descriptions shall be sufficient for procurement of the correct parts.

If the emissions-related part(s), including the original vehicle manufacturer's, are not available to the consumer within 10 working days, the Modifier shall be required to complete the repairs within 30 calendar days from initiation of service by the consumer unless it can be shown that part(s) unavailability resulted from circumstances beyond the control of the Modifier.

- (d) Provide a shop manual with each vehicle which describes the emission control system function and repair procedures in sufficient detail so that a competent mechanic can repair the vehicle.
- (e) If special repair or service procedures or tools are required to repair the emission control system/ components, demonstrate that one or more mechanic with the special training and tools is available in each of the seven major urban areas in California,* or that a means is available to provide the necessary service information and special loaner tools. Mechanic training must be made available as needed.

Any violation of the terms and conditions of Paragraph I.D.5. ~~I.V.15/~~ of this procedure, shall subject the Modifier to penalties specified in Section 43016 of the Health and Safety Code for each violation.

- * The Major Urban Areas are the following counties: 1) Los Angeles/Orange; 2) Riverside/San Bernardino; 3) Alameda/San Francisco; 4) San Diego; 5) Sacramento; 6) Fresno; and 7) Ventura.

- II. The "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Liquefied Petroleum Gas- or Gasoline-Powered Motor Vehicles," as incorporated by reference in Title 13, California Administrative Code, Section 1976, shall apply to modifier certified motor vehicles with the following exceptions and additions.
 - A. If a durability-data vehicle is run, the vehicle shall be Sealed Housing Evaporative Determination (SHED) tested every 5,000 miles. An evaporative emission deterioration factor shall be calculated in accordance with the method described in Paragraph I.B.2. of this procedure. Compliance with the evaporative emission standard shall be determined by SHED testing the emission-data vehicle and applying the DF to the test results.
 - B. If no durability-data vehicle is run for exhaust emission certification, the durability of the evaporative emission control system shall be determined by an engineering evaluation by the Modifier. The engineering evaluation shall be submitted to the Executive Officer for approval prior to certification.

1. The deterioration factor (DF) for the approved evaporative family shall be assigned as 0.5 grams/test.
 2. Compliance with the evaporative emission standard shall be determined by SHED testing the emission-data vehicle and applying the DF to the SHED test results.
- III. "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks" incorporated by reference in Title 13, California Administrative Code, Section 2290, shall apply to modifier certified motor vehicles.
- IV. "California Motor Vehicle Tune-Up Label Specifications" as incorporated by reference in Title 13, California Administrative Code, Section 1965, shall apply to modifier certified motor vehicles with the following addition.

An "Emission Control Information" label shall be affixed to each vehicle produced. The label shall clearly state that the vehicle has been modified to comply with California emission requirements and shall show the Modifier's name, address and telephone number as well as the emission control component codes used for the visual portion of the California Vehicle Inspection Program and the model year, date (month/year) the modification is completed, and mileage when the emission control system warranty expires. A vacuum hose routing diagram shall also be installed with each vehicle. The label shall be placed underhood in a permanent, visible and accessible location, but not on the engine.

- V. The provisions of the "California Assembly-Line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" incorporated by reference to Title 13, California Administrative Code, Section 2061, shall apply to modifier certified motor vehicles with the following exceptions and additions.

A. General Provisions

State Board personnel shall have access to vehicle assembly plants, distribution facilities, and test facilities for the purpose of vehicle selection, testing, or observation. The Executive Officer shall have access to vehicles for confirmatory testing of production vehicles at the ARB's laboratory at the Modifier's expense. Quality-audit test vehicles shall be retained by the Modifier for two (2) business days, or ten (10) business days at the Executive Officer's request, following the quality-audit tests. Any modified vehicle which the Modifier has under its control is eligible for confirmatory testing by the Air Resources Board.

B. Inspection Test Procedures

The Modifier shall perform an emission control function test on all modifier certified motor vehicles.

C. Quality-Audit Test Procedures

1. Vehicle Sample Selection

The first five vehicles of each model year for each engine family shall be selected for quality-audit FTP testing. Every fourth vehicle shall be tested thereafter. However, if FTP tests are performed on an engine family for configuration control, the quality-audit testing requirement is satisfied.

2. Standards and Test Procedures

The emission standards and the exhaust sampling and analytical procedures shall be those described in the "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" with the following exceptions and additions.

3. Evaluation and Compliance

Compliance with the quality-audit test requirement shall be based on an initial evaluation of a minimum of five vehicles. Compliance will be demonstrated if the average deteriorated emissions for the tested vehicles are equal to or less than the applicable emission standards. If a non-compliance condition occurs, the Modifier shall notify the Executive Officer within 10 working days. Based on such non-compliance, the Executive Officer may invoke Section 2109 of Title 13, California Administrative Code. Subsequent evaluations shall be made at the end of each calendar month of the model year by evaluating data from all vehicles tested since the start of that model-year's production. If the average emissions, with deterioration factors applied, exceed the applicable standards, the Modifier shall notify the Executive Officer within 10 working days. Based on such non-compliance, the Executive Officer may invoke the provisions of Section 2109 of Title 13, California Administrative Code. The Executive Officer may seek penalties as specified under Sections 43211 and 43212 of the Health and Safety Code. The Executive Officer may order resumption of every other vehicle testing of an engine family if a condition of non-compliance occurs.

4. Reports

Each Modifier shall submit monthly evaluation reports to the ARB for each calendar month that a Modifier's engine family is in production. The reports shall be sent to the Chief, Mobile Source Division, by the 15th day of the following month.

In addition to the above, the Modifier shall report a description of each production vehicle sold or intended for sale in California

on a monthly basis. The description shall include the make, model, engine family, original date of manufacture, date of modification and Vehicle Identification Number or chassis number.

VI. Vehicle Emissions-Related Defects Reporting Procedures, In-Use Vehicle Emissions-Related Recall Procedures, and In-Use Vehicle Enforcement Test Procedures for Modifier Certified Motor Vehicles.

A. The following procedures shall apply to modifier certified motor vehicles with exceptions and additions:

1. "California Vehicle Emissions-Related Defects Reporting Procedure for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles," incorporated by reference in Title 13, California Administrative Code, Section 2111, except for those sections applicable only to motorcycles.
2. "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," incorporated by reference in Title 13, California Administrative Code, Section 2112, except for those sections applicable only to motorcycles.

B. Exceptions and Additions

1. The Executive Officer shall require a program of in-use recall testing any group or subgroup of modifier certified motor vehicles still within the vehicle useful life certification mileage period is subject to in-use enforcement and recall testing. The program shall be based on testing five in-use vehicles of an engine family which are determined by the Executive Officer to have been properly maintained and used. Vehicle procurement and testing shall be performed at the Modifier's expense at an ARB approved independent laboratory. By the ARB/own laboratory//The modifier shall be entitled to select the test laboratory from an ARB approved list. In addition:
 - (a) The Executive Officer shall be given prior notice of the start of testing and access to the test vehicles, test facilities, and test data.
 - (b) The Executive Officer may perform confirmatory testing.
 - (c) The Executive Officer may, at the request of the modifier, increase the sample size to ten.
 - (d) The Executive Officer shall not order recall testing at the expense of the modifier more than once for each engine family for a specific model year.

2. The criteria for acceptance of a vehicle as representative are specified in Paragraph C.2.b. of the "California In-Use Vehicle Enforcement Test Procedures for 1978 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles and Motorcycles." The testing procedures and permitted restorative maintenance are specified in Paragraphs C.2.c. and C.2.d. of the same procedures.
3. If the tested vehicles' deteriorated average emissions exceed any applicable emission standard, the engine family shall be deemed to be in non-compliance. If a non-compliance occurs, the Modifier shall notify the Executive Officer within 10 working days. Based on such non-compliance, the Executive Officer may implement the recall provisions set forth in Sections 2111 and 2112 of Title 13, California Administrative Code, and penalties provided in Health and Safety Code Sections 43211 and 43212.
4. If the Modifier fails to perform in-use recall testing as required by Paragraph VI. B. or if, on the basis of any testing performed pursuant to Section VI of these procedures, the Executive Officer determines that the vehicles in a certified engine family are subject to recall and the Modifier fails to comply with all recall requirements to the satisfaction of the Executive Officer including those requirements specified in a voluntary or ordered remedial plan, the surety bonds for each vehicle in that engine family shall be forfeited and shall be paid into the Air Pollution Control Fund. If the vehicles have not been recalled or if the Modifier (or his or her agent) has completed all necessary recall actions to the satisfaction of the Executive Officer, the bond shall be released at the end of the recall period for the engine family.
5. The Executive Officer shall not require in-use testing of more than three (3) passing engine families per Model Year unless he determines that additional testing is necessary to assure that all certified vehicles meet the applicable emission standards. In no case shall more than one (1) of a Modifier's engine families be tested in a Model Year if the Modifier has certified seven (7) or more engine families. one-half of each Modifier's engine families for each model year at the Modifier's expense. If division of the total number of engine families by two to calculate a Modifier's liability does not result in a whole number, the result shall be rounded up to the next whole number. When three engine families are tested which comply with the emission standards for a given model year and Modifier, no further testing of that Modifier's engine families for that model year shall be performed at the Modifier's expense.

VII. Under the authority of Health and Safety Code Section 43012, upon presentation of his/her credentials, the Executive Officer or his/her

authorized representative shall conduct inspections of new or used modifier certified motor vehicle dealerships or facilities where such new or used vehicles are offered for sale to verify conformity with requirements specified in Title 13, CAC, Sections 2151 and 2152. Costs of new vehicle inspections such as those enumerated in Section 2153 (personnel salaries, administrative overhead, travel time, etc.) shall be borne by the Modifier and shall be made payable to the State of California, Air Resources Board, 9528 Telstar Avenue, El Monte, CA 91731.

Violation of requirements specified in Sections 2151 and 2152 may result in sanctions and penalties as specified in each section.

VIII. CERTIFICATION PROTOCOL

- A. A Modifier may apply for certification of modifier certified motor vehicles. The application shall be in the new vehicle certification application format developed by the Environmental Protection Agency and shall be accompanied by the applicable certification or recertification fee. Upon confirming that the applicant has met all applicable requirements, an Executive Order shall be issued certifying the vehicles as meeting California emission standards. A fee of \$4,000 payable to the Air Resources Board shall be charged for each application for certification of an engine family submitted by a Modifier. A fee of \$2,000 payable to the Air Resources Board shall be charged for each application to recertify an engine family. These fees may be increased annually by an amount not to exceed ten percent (10%) at the discretion of the Executive Officer without further authorization from the Board, if necessary to cover the costs of administration and enforcement of these procedures.
- B. The application for certification shall include a statement, executed by a responsible officer of the Modifier under penalty of perjury, that all vehicles which the Modifier has, from the effective date of these certification and compliance procedures, sold, leased, rented, offered to sell, imported, delivered, purchased, received or otherwise acquired, or which acts the Modifier has attempted or assisted in, have been certified by the Board, and have been manufactured, tested and sold or offered for sale in compliance with Health and Safety Code Sections 43211 and 43212, or were the subject of a mitigation settlement accepted by the Board or a civil penalty paid pursuant to a judicial determination; provided that this statement shall apply only to vehicles which, at the time of the applicable transaction, were new vehicles as defined in Health and Safety Code Sections 39042 and 43156, and had not previously been registered outside of this state, and which were intended for use, registration or resale in this state, or were sold or offered for sale to a resident of or person doing business in this state.
 1. For purposes of this section, the term "Modifier" shall extend to and include any person who owns a 10 percent or greater interest in the Modifier; and shall also include any business or entity in which the Modifier, as defined in this section, since the effective date of these procedures has owned or owns a 10 percent or greater interest or has been or is a managerial employee.

2. The Modifier shall produce records and other evidence as necessary to support the statement required by this paragraph upon request of the Executive Officer.
3. The Executive Officer shall withhold certification if the Modifier fails to comply with the provisions of this section or if the Executive Officer determines that the statement required by this section contains false or incomplete information. The Executive Officer shall provide to the Modifier a written statement specifying the basis of his/her action under this provisions.

IX. SEVERABILITY

Each part of the "California Certification and Compliance Test Procedures for Modifier Certified Motor Vehicles" is intended to be non-severable, and in the event that any part of these certification and compliance test procedures is held to be invalid, the entirety of the certification and compliance test procedures shall be invalid, and of no further force and effect.

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Regulations Regarding the Certification
for Sale in California of Modifier Certified New Motor Vehicles

Agenda Item No.: 85-16-2

Public Hearing Date: November 21, 1985

Response Date: January 31, 1985

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental
issues pertaining to this item. The staff report identified no
adverse environmental effects.

Response: N/A

Certified:

Harold Holmes
Board Secretary

Date:

May 13, 1986

Memorandum

To : Gordon Van Vleck
Secretary
Resources Agency

Date : August 27, 1986

Subject: Filing of Notice
of Decisions of
the Air Resources
Board

Harold Holmes
Harold Holmes
Board Secretary
From Air Resources Board

Pursuant to Title 17, Section 60007 (b), and in compliance with Air Resources Board certification under Section 21080.5 of the Public Resources Code, the Air Resources Board hereby forwards for posting the attached notice of decisions and response to environmental comments raised during the comment period.

ATTACHMENTS

85-77
85-78
85-80
86-4
86-25
86-43
86-44
86-45