State of California
AIR RESOURCES BOARD

Resolution 75-21

May 14, 1975

WHEREAS, Section 39154 of the Health and Safety Code now requires the Board to adopt procedures for effecting vehicle recall where violations of its test procedures and standards have occurred;

WHEREAS, Section 39155 of the Health and Safety Code requires vehicles and engines to conform in all material respects to the vehicles and engines originally approved for sale in this state by the Air Resources Board;

WHEREAS, Sections 39051(c) and 39150(a) of the Health and Safety Code authorize the Air Resources Board to adopt rules and regulations to implement the above-described powers and duties in accordance with the provisions of the Administrative Procedure Act of the Government Code;

WHEREAS, the Board has held a public hearing in compliance with the Administrative Procedure Act;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby amends its regulations in Article 2, Subchapter 2, Chapter 3 of Title 13, California Administrative Code, as follows:

Add a new subsection (l) to Section 2100, to read:

(l) "Recall" means:

(1) The issuing of notices directly to consumers that vehicles in their possession or control should be corrected, and/or

(2) Efforts actively to locate and correct vehicles in the possession or control of consumers.

Amend Section 2106, to read:

2106. 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, order correction of vehicles not in compliance with applicable laws, emission standards, or test procedures.

Amend Section 2108, to read:

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 approval in the manner specified in Section 2109.

Amend Section 2109, to read:

2109. Enforcement Action. (a) When this section is invoked pursuant to other sections of this article, the Executive Officer shall require the manufacturer forthwith to submit a plan to bring all vehicles into compliance. The Executive Officer shall order execution of the plan with such changes and additions as he determines to be necessary. The plan may include 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 or control 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 the 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.

If a vehicle is recalled pursuant to this section, the manufacturer shall make all necessary corrections specified by the Board without charge to the registered owner of the vehicle or, at the manufacturer's election, reimburse the registered owner for the cost of making such necessary corrections.

If the corrective action ordered pursuant to this subsection includes a recall, the manufacturer may, within 10 calendar days of its receipt of the recall, notify the Executive Officer of its desire to contest the necessity or scope of the recall. 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 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 request a public hearing on the necessity for or scope of any other corrective action ordered by the Executive Officer. Such a hearing shall be held within 10 calendar days of 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.

(b) If the Executive Officer finds that any corrective action ordered pursuant to Section 2106 or to subsection (a) of this section has not been taken promptly, the Board shall hold a public hearing to consider whether approval of such vehicles shall be revoked or conditioned. The Board may revoke 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 promptly.