

# Appendix A

## PROPOSED REGULATION ORDER

Adopt new sections 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, and 2870, title 13, California Code of Regulations to read as follows:

[Note: All of the text below is new language to be added to the California Code of Regulations]

### **Chapter 15. Additional Off-Road Vehicles and Engines Pollution Control Requirements**

#### **Article 4. Evaporative Emissions Requirements for Spark-Ignition Marine Watercraft with Gasoline-Fueled Engines**

##### **§ 2850. Purpose.**

The purpose of this Article is to reduce evaporative emissions from spark-ignition marine engines and watercraft.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

##### **§ 2851. Applicability.**

(a) This Article applies to all new model year (MY) 2018 or later spark-ignition marine watercraft (SIMW), spark-ignition marine engines (SIME), and/or any of its evaporative emissions control system components for sale, lease, use, or offered for sale, lease or use, or otherwise introduced into commerce in California (hereinafter collectively referred to as “sold or offered for sale”).

(b) This Article shall not apply to:

(1) SIMW that use portable marine fuel tanks, compression-ignition engines, or SIME or SIMW powered with compressed natural gas, propane, liquefied petroleum gas, or liquefied natural gas.

(2) SIMW used by the federal government responsible for national defense that have been exempted from regulations under the federal national security exemption, 40 Code of Federal Regulations, part 1068, subdivisions 1068.225 (2008), which is incorporated by reference herein.

(3) SIMW produced by a manufacturer to be used solely for competition. The SIMW must be designed, built, and used solely for competition. SIMW not registered with an organization that sanctions professional competitive events, or used for amateur competition, do not meet the competition exemption criteria.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 41511, 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2852. Prohibitions.**

(a) No person may manufacture for sale, advertise for sale, sell, or offer for sale in California, or introduce, deliver, or import into California SIMW, SIME, and/or its evaporative emissions control system components that are subject to any of the applicable standards and procedures in sections 2854 or 2855 if the SIMW or evaporative emissions control system component is:

(1) Not certified under section 2856 as applicable; or

(2) The SIMW, SIME, and/or evaporative emissions control system component for SIMW are certified under section 2856 as applicable, but not in conformity with applicable performance or design standards.

(b) No person may advertise for sale, offer or sell in California, or introduce, deliver, or import into California SIMW, SIME, and/or evaporative emissions control system components for SIMW as being certified, when in fact, such SIMW, SIME, or evaporative emissions control system component is not in conformity of the Executive Order of Certification or Component Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2853. Definitions.**

(a) The definitions in California Code of Regulations, title 13, section 1900(b), section 2441(a), section 2752, and 40 C.F.R., §1060, subd. 1060.801 (October 8, 2008), and § 1045, subd. 1045.801 (October 8, 2008), apply to this Article with the following additions:

(1) "Commerical Pump Fuel" refers to Phase 3 California Reformulated Gasoline as specified in California Code of Regulations, title 13, section 2260 et seq.

(2) "Common Sizes" refers to the common sizes of fuel line installed in SIMW. These fuel line sizes have 1/4 inch, 5/16 inch, 3/8 inch, and 1/2 inch inside diameters.

(3) “Compatibility” means that evaporative emissions control components and complete evaporative emissions systems comply with the applicable standards in this Article throughout the component’s or system’s useful life, when exposed to any and all fuel blends in common use in California, including seasonal changes, and approved for use as specified in California Code of Regulations, title 13, section 2260 et seq.

(4) “Component EO Holder” refers to any person or persons who obtain(s) a Component Executive Order of Certification.

(5) “Component Executive Order of Certification” refers to an Executive Order issued by the Executive Officer for an evaporative emissions control system component.

(6) “Component Manufacturer” refers to any manufacturer of evaporative emissions control system components.

(7) “Days” refers to calendar days.

(8) “E10 CERT Fuel” refers to California certification gasoline as specified in “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emissions Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emissions Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” section II.A.100.3.1.2, December 6, 2012, which is incorporated by reference herein.

(9) “EO Holder” refers to any person or persons who obtain(s) an Executive Order of Certification for a complete SIMW evaporative emissions control system.

(10) “Evaporative Emissions Control System Component” refers to components that control evaporative hydrocarbon emissions from the fuel system. Evaporative emissions control system components include, but are not limited to, low permeation fuel tanks, low permeation fuel hoses, carbon canisters, pressure relief valves, fuel-injection, and carburetors.

(11) “Evaporative Family” refers to a class of evaporative emissions control system components or SIMW that are grouped together based on similar fuel system characteristics as they relate to evaporative emissions.

(12) “Evaporative System Builder” refers to any business, company, or manufacturer that installs or mounts a complete evaporative emissions control system on a SIMW; this includes, but is not limited to, dealers, SIMW manufacturers, and SIME manufacturers.

(13) “Executive Order of Certification” refers to an Executive Order issued for the complete SIMW evaporative emissions control system.

(14) “Flexible” refers to a fuel hose that meets the requirements of the kink resistance test procedure as specified in SAE J30 (December 2008), which is incorporated by reference herein.

(15) "Fuel Hose" is defined as the length of fuel line connecting the watercraft fuel tank to the first attachment point on each engine as indicated by the SIME manufacturer.

(16) "Fuel Injection" is defined as any mechanical or electrical fuel system in which pressurized fuel is sprayed or injected into the intake system or combustion chamber of an internal combustion engine.

(17) "Independent Laboratory" is defined as a laboratory that is not owned, operated, or affiliated with the applicant seeking a Component Executive Order of Certification.

(18) "Made Available in California" is defined as being any of the following:

(A) Manufactured to be sold or leased, for use or operation in California; or

(B) Sold, leased, registered, or offered for sale or lease for use or operation in California; or

(C) Delivered or imported into California for introduction into commerce in California.

(19) "Properly Installed" refers to installation in accordance with manufacturer's instructions.

(20) "Properly Seals" refers to the leakage test procedure as specified in SAE J30 (December 2008), when attached to common marine barbs and other connectors or fittings.

(21) "Spark-Ignition Marine Watercraft" refers to all marine watercraft designed to use gasoline-fueled, SIME with installed fuel tanks; this includes, but is not limited to, personal watercraft and marine watercraft equipped with outboard or inboard engines.

(22) "TP-902" refers to "Test Procedure for Determining Diurnal Evaporative Emissions from Small Off-Road Engines and Equipment," adopted July 26, 2004, which is incorporated by reference herein.

(23) "TP-1501" refers to "Test Procedure for Determining Diurnal Evaporative Emissions from Spark-Ignition Marine Watercraft," adopted [INSERT ADOPTION DATE HERE], which is incorporated by reference herein.

(24) "TP-1502" refers to "Test Procedure for Determining Hot Soak Evaporative Emissions from Spark-Ignition Marine Engines," adopted [INSERT ADOPTION DATE HERE], which is incorporated by reference herein.

(25) "TP-1503" refers to "Test Procedure for Determining Diurnal Vented Emissions from Installed Marine Fuel Tanks," adopted [INSERT ADOPTION DATE HERE], which is incorporated by reference herein.

(26) “TP-1504” refers to “Test Procedures for Determining Permeation Emissions from Installed Marine Fuel Tanks, Marine Fuel Hoses and Marine Fuel Caps,” adopted [INSERT ADOPTION DATE HERE], which is incorporated by reference herein.

(27) “TP-1505” refers to “Test Procedure for Determining Pressure Relief Valve Performance: Durability Demonstration and Leak Test,” adopted [INSERT ADOPTION DATE HERE], which is incorporated by reference herein.

(28) “Trailerable” refers to any SIMW that is less than or equal to 26 feet in length and less than or equal to 8.5 feet in width.

(29) “Under Cowl Fuel Lines” refers to a fuel line that is entirely contained under the cowl of an outboard engine including the SIME manufacturers supplied fuel feed line that may extend outside of the cowl no more than two feet for connection to the SIMW fuel system.

(30) “UV Resistant” refers to a fuel hose that meets minimum industry-accepted requirements as tested per ASTM D 1148-07a (2007), which is incorporated by reference herein.

(31) “Watercraft or marine watercraft” refers to SIMW throughout this Article.

(b) In the event of contradictory definitions, California Air Resources Board (ARB) definitions always take precedent over U.S. EPA definitions, and the regulation definitions take precedent over test procedure definitions.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

#### **§ 2854. Spark-Ignition Marine Watercraft Standards for ≤ 30 kW Engines.**

(a) For MY 2018 and later, SIMW using SIME less than or equal to 30 kW must comply with the evaporative emissions standards and test procedures in 40 C.F.R., § 1060 (October 8, 2008), which is incorporated by reference herein and specified in the Table below.

**Evaporative Emissions Harmonized Design Standards for ≤ 30 kW SIMW Table**

Model Year (MY) Effective Date	Fuel Hose Permeation (grams/m <sup>2</sup> /day ROG <sup>1</sup> )	Fuel Tank Permeation (grams/m <sup>2</sup> / day ROG <sup>1</sup> )	Diurnal Requirement (grams/gallon/ day HC <sup>2</sup> )	Fuel Injection or Equivalent (grams HC <sup>2</sup> /hour)
2018 and Later	15.0	1.5 <sup>3</sup>	0.4	None
Test Procedure	40 C.F.R., §1060.515	40 C.F.R., §1060.520	40 C.F.R., §1060.525	None

<sup>1</sup> Reactive Organic Gases (ROG).

<sup>2</sup> Hydrocarbon (HC).

<sup>3</sup> As an alternative, component manufacturers can certify at 2.5 grams/m<sup>2</sup>/day at 40°C.

(b) All SIMW evaporative emissions control system components must be compatible with commercial pump fuels sold in California and properly installed, by the evaporative system builder, for use in SIMW prior to being offered for sale in California.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

#### **§ 2855. Spark-Ignition Marine Watercraft Standards for > 30 kW Engines.**

(a) For MY 2018 and later, SIMW using greater than 30 kW SIME must comply with the evaporative emissions standards, test procedures, and test fuels as specified below in the Evaporative Emissions Design Standards for Trailerable > 30 kW SIMW Table for trailerable SIMW and the Evaporative Emissions Design Standards for Nontrailerable > 30 kW SIMW Table for nontrailerable SIMW. The Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table specifies an alternative evaporative emissions performance-based standard for SIMW using greater than 30 kW engines

The two tables below hereby incorporate by reference the following documents:

(1) ASTM D 5228-92 (2010), *Standard Test Method for Determination of Butane Working Capacity of Activated Carbon*;

(2) SAE J1737, *Test Procedure to Determine the Hydrocarbon Losses from Fuel Tubes, Hoses, Fittings, and Fuel Line Assemblies by Recirculation* (November 2004), Society of Automotive Engineers (SAE), Surface Vehicle Recommended Practice

(3) SAE Technical Paper Series 892089, *Prediction of Fuel Vapor Generation from a Vehicle Fuel Tank as a Function of Fuel RVP and Temperature* (September 1989)

(4) CFR § 1060.515 and CFR § 1060.525 (October 2008) U.S. EPA, *Control of Evaporative Emissions from New and In-use Nonroad and Stationary Equipment*,

(5) TP-902, *Test Procedure for Determining Diurnal Evaporative Emissions from Small Off-Road Engines and Equipment*, (July 26, 2004)

(6) TP-1502, *Test Procedure for Determining Hot Soak Evaporative Emissions from Spark-Ignition Marine Engines* (INSERT DATE OF ADOPTION)

(7) TP-1503, *Test Procedure for Determining Diurnal Vented Emissions from Installed Marine Fuel Tanks* (INSERT DATE OF ADOPTION)

(8) TP-1504, *Test Procedure for Determining Permeation Emissions from Installed Marine Fuel Tanks, Marine Fuel Hoses and Marine Fuel Caps* (INSERT DATE OF ADOPTION)

(9) TP-1505, *Test Procedure for Determining Pressure Relief Valve Performance* (INSERT DATE OF ADOPTION)

## Evaporative Emissions Design Standards for Trailerable > 30 kW SIMW Table

MY Effective Date	Fuel Hose Permeation <sup>1</sup> (grams/m <sup>2</sup> /day ROG <sup>2a</sup> )	Fuel Tank Permeation (grams/m <sup>2</sup> /day ROG <sup>2a</sup> )	Diurnal Requirement					Meets Fuel Injection Definition or Equivalent Performance Standard (grams HC <sup>2b</sup> /hour)
			Canister			Non-Canister <sup>3</sup>		
			Performance (grams/gallon/day HC <sup>2b</sup> )	Design (Minimum Working Capacity)		General	Pressure Relief Valve (kPa)	
				Canister (g/gal) <sup>4</sup>	Carbon (g/l) <sup>5</sup>			
2018 and 2019	10.0 <sup>6</sup>	0.70	0.25	3.8	94	65 percent reduction from uncontrolled HC emissions	7.35	0.4
2020 and Later	5.0 <sup>6,7</sup>	0.70	0.25	3.8	94	65 percent reduction from uncontrolled HC emissions	7.35	0.4
Test Procedure	TP-1504 <sup>8</sup> or SAE J1737 <sup>8</sup>	TP-1504 <sup>8</sup>	TP-1503 <sup>9</sup>	TP-902 Attachment 1	ASTM D 5228-92 <sup>10</sup>	TP-1503 <sup>9</sup>	TP-1505 <sup>11</sup>	TP-1502 <sup>9</sup>

### Notes

<sup>1</sup> The following fuel hose standards also apply to auxiliary engines on SIMW using > 30 kW SIME. The fuel hose permeation standards do not apply to under the cowl fuel lines. As an alternative to 40 C.F.R., § 1060.515 (2008), component manufacturers can test following SAE, *Test Procedure to Determine the Hydrocarbon Losses from Fuel Tubes, Hoses, Fittings, and Fuel Line Assemblies by Recirculation* (May 2013), SAE J1737.

<sup>2a</sup> Reactive Organic Gas (ROG).

<sup>2b</sup> Hydrocarbon (HC).

<sup>3</sup> For non-canister vented systems, a venting control efficiency standard of 65 percent must be met. To determine the venting control efficiency, a venting control test must be performed following 40 C.F.R., § 1060.525 (2008), (or TP-1503, if applicable) with E10 CERT fuel and then compared against an identical uncontrolled venting test. Alternatively, an estimate of uncontrolled venting can be calculated using the fuel tank vapor generation equation (6) in Reddy, *Prediction of Fuel Vapor Generation from a Vehicle Fuel Tank as a Function of Fuel RVP and Temperature* (Nov. 2004), SAE Technical Paper Series 892089.

<sup>4</sup> Grams of vapor storage capacity per gallon of nominal fuel tank capacity.

<sup>5</sup> Grams per liter of carbon working capacity with minimum carbon volume of 0.040 liters per gallon of nominal fuel tank capacity. The carbon canister must have a minimum effective length-to-diameter ratio of 3.5 and the vapor flow must be directed with the intent of using the whole carbon bed.

<sup>6</sup> Starting with MY 2018 and thereafter, if the Executive Officer determines that all of the following criteria are met:

1. That a 5.0 g/m<sup>2</sup>/day fuel hose has been certified, and
2. That a certified 5.0 g/m<sup>2</sup>/day fuel hose is commercially available in common sizes,

then the fuel hose permeation standard will change to 5.0 g/m<sup>2</sup>/day, effective no earlier than MY 2020 or two years after the finding.

<sup>7</sup> Using a test temperature of 40°C. As an alternative to 40 C.F.R., § 1060.515 (2008), component manufacturers can test following SAE, *Test Procedure to Determine the Hydrocarbon Losses from Fuel Tubes, Hoses, Fittings, and Fuel Line Assemblies by Recirculation* (May 2013), SAE J1737.

<sup>8</sup> Using a test fuel of either E10 CERT or CE 10. As an alternative for fuel tank testing, component manufacturers can certify at 1.4 grams/m<sup>2</sup>/day at 40° C.

<sup>9</sup> Using E10 CERT fuel.

<sup>10</sup> ASTM, *Standard Test Method for Determination of Butane Working Capacity of Activated Carbon* (2010), ASTM D 5228-92, West Conshohocken, PA;

<sup>11</sup> Component manufacturers can perform a leak test performance test of the pressure relief valve following TP-1505. A SIMW using a sealed evaporative control system to a positive pressure of at least 7.35kPa (1.05PSI) will be deemed compliant with the 65 percent HC reduction requirement. The pressure relief valve must also be tested and pass TP-1505 durability requirements.



## Evaporative Emissions Design Standards for Nontrailerable > 30 kW SIMW Table

MY Effective Date	Fuel Hose Permeation <sup>1</sup> (grams/m <sup>2</sup> /day ROG <sup>2a</sup> )	Fuel Tank Permeation (grams/m <sup>2</sup> /day ROG <sup>2a</sup> )	Diurnal Requirement					Meets Fuel Injection Definition or Equivalent Performance Standard (grams HC <sup>2b</sup> /hour)
			Canister			Non-Canister <sup>3</sup>		
			Performance (grams/gallon/day HC <sup>2b</sup> )	Design (Minimum Working Capacity)		General	Pressure Relief Valve (kPa)	
				Canister (g/gal) <sup>4</sup>	Carbon (g/l) <sup>5</sup>		Minimum	
2018 and 2019	10.0 <sup>6</sup>	0.70	0.25	1.5	94	65 percent reduction from uncontrolled HC emissions	7.35	0.4
2020 and Later	5.0 <sup>6,7</sup>	0.70	0.25	1.5	94	65 percent reduction from uncontrolled HC emissions	7.35	0.4
Test Procedure	TP-1504 <sup>8</sup> or SAE J1737 <sup>8</sup>	TP-1504 <sup>8</sup>	TP-1503 <sup>9</sup>	TP-902 Attachment 1	ASTM D 5228-92 <sup>10</sup>	TP-1503 <sup>9</sup>	TP-1505 <sup>11</sup>	TP-1502 <sup>12</sup>

### Notes

<sup>1</sup> The following fuel hose standards also apply to auxiliary engines on SIMW using > 30 kW SIME. The fuel hose permeation standards do not apply to under the cowl fuel lines. As an alternative to 40 C.F.R., § 1060.515 (2008), component manufacturers can test following SAE, *Test Procedure to Determine the Hydrocarbon Losses from Fuel Tubes, Hoses, Fittings, and Fuel Line Assemblies by Recirculation* (May 2013), SAE J1737.

<sup>2a</sup> Reactive Organic Gas (ROG).

<sup>2b</sup> Hydrocarbon (HC).

<sup>3</sup> For non-canister vented systems, a venting control efficiency standard of 65 percent must be met. To determine the venting control efficiency, a venting control test must be performed following 40 C.F.R., § 1060.525 (2008), (or TP-1503, if applicable) with E10 CERT fuel and then compared against an identical uncontrolled venting test. Alternatively, an estimate of uncontrolled venting can be calculated using the fuel tank vapor generation equation (6) in Reddy, *Prediction of Fuel Vapor Generation from a Vehicle Fuel Tank as a Function of Fuel RVP and Temperature* (Nov. 2004), SAE Technical Paper Series 892089.

<sup>4</sup> Grams of vapor storage capacity per gallon of nominal fuel tank capacity.

<sup>5</sup> Grams per liter of carbon working capacity with minimum carbon volume of 0.016 liters per gallon of nominal fuel tank capacity. The carbon canister must have a minimum effective length-to-diameter ratio of 3.5 and the vapor flow must be directed with the intent of using the whole carbon bed.

<sup>6</sup> Starting with MY 2018 and thereafter, if the Executive Officer determines that all of the following criteria are met:

1. That a 5.0 g/m<sup>2</sup>/day fuel hose has been certified, and
2. That a certified 5.0 g/m<sup>2</sup>/day fuel hose is commercially available in common sizes, then the fuel hose permeation standard will change to 5.0 g/m<sup>2</sup>/day, effective no earlier than MY 2020 or two years after the finding.

<sup>7</sup> Using a test temperature of 40°C. As an alternative to 40 C.F.R., § 1060.515 (2008), component manufacturers can test following SAE, *Test Procedure to Determine the Hydrocarbon Losses from Fuel Tubes, Hoses, Fittings, and Fuel Line Assemblies by Recirculation* (May 2013), SAE J1737.

<sup>8</sup> Using a test fuel of either E10 CERT or CE 10. As an alternative for fuel tank testing, component manufacturers can certify at 1.4 grams/m<sup>2</sup>/day at 40° C.

<sup>9</sup> Using U.S. EPA certification gasoline with 9 RVP.

<sup>10</sup> ASTM D 5228-92 (2010), Standard Test Method for Determination of Butane Working Capacity of Activated Carbon, ASTM International, West Conshohocken, PA, 2010

<sup>11</sup> Component manufacturers can perform a leak test performance test of the pressure relief valve following TP-1505. A SIMW using a sealed evaporative control system to a positive pressure of at least 7.35kPa (1.05PSI) will be deemed compliant with the 65 percent HC reduction requirement. The pressure relief valve must also be tested and pass TP-1505 durability requirements.

<sup>12</sup> Using E10 CERT fuel.

## Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table

MY Effective Date	SIMW Type	Diurnal Standard (grams HC <sup>1</sup> /day)
2018 and Later	All SIMW With Engines > 30 kW	0.048 * Nominal Tank Volume (liters) + 0.97
	Test Procedure	TP-1501 <sup>2</sup>

### Notes

<sup>1</sup> Hydrocarbon (HC).

<sup>2</sup> Using E10 CERT fuel.

(b) All SIMW fuel systems and evaporative emissions control system components must be compatible with commercial pump fuels sold in California. They must be properly installed by an evaporative system builder for use in SIMW prior to being made available for sale in California.

(1) *Deck Fill Plate Compatibility Standard.* All deck fill plates on SIMW shall conform to all specifications for the filler pipe opening of the vehicle fuel tank in the International Organization for Standardization (ISO) "Road vehicles— Filler pipes and openings of motor vehicle fuel tanks – Vapour recovery system" International Standard ISO-13331:1995(E) as adopted June 1, 1995, which is hereby incorporated by reference.

(2) *California Fuel Compatibility Standard.* All evaporative emissions control system components must be properly installed and must be compatible with all commercial pump fuels formulated for use in SIMW sold in California.

(3) *Fuel Cap, Vents, and Carbon Canisters Requirements.* All SIMW must comply with the design requirements for fuel caps, vents, and carbon canisters in 40 C.F.R., § 1060.101, subd. (f)(1) (2008).

(4) *Fuel Hose Fittings Requirements.* All SIMW must comply with the design requirements for fuel-line fittings in 40 C.F.R., §1060.101, subd. (f)(2) (2008).

(5) *Refueling Requirements.* All SIMW must comply with the design requirements for refueling in 40 C.F.R., § 1060.101, subd. (f)(3) (2008).

## Compatibility Standards Table

MY Effective Date	SIMW Type	Compatibility Standard	Standard Reference
2018 and Later	All Trailerable SIMW With Engines > 30 kW	Deck Fill Plate	Cal. Code Regs., tit.13, § 2235

(c) Beginning with MY 2018, if the Executive Officer determines that a fuel hose specified in Evaporative Emissions Design Standards for Trailerable > 30 kW SIMW Table and/or Evaporative Emissions Design Standards for Nontrailerable > 30 kW SIMW Table meets the following criteria: (1) That a 5.0 g/m<sup>2</sup>/day fuel hose has been certified, and (2) That a certified 5.0 g/m<sup>2</sup>/day fuel hose is commercially available in common sizes, then the fuel hose permeation standard will change to 5.0 g/m<sup>2</sup>/day with a test temperature of 40°C, effective no earlier than MY 2020 or two years after the determination by the Executive Officer.

(1) In determining whether the fuel hose specified in the Evaporative Emissions Design Standards for Trailerable > 30 kW SIMW Table and/or Evaporative Emissions Design Standards for Nontrailerable > 30 kW SIMW Table meets the criteria of section (b), the Executive Officer shall also verify that the fuel hose:

(A) Has passed U.S. Coast Guard flammability and fire tests as specified in 33 Code of Federal Regulations, section 183.590 (May 1987), which is hereby incorporated by reference.

(B) Has met standard H24 as published by the American Boat and Yacht Council (July 2012), which is hereby incorporated by reference.

(C) Is available in common sizes for marine fuel systems.

(D) Is flexible so as to allow proper steering control when installed on SIMW with outboard engines.

(E) Meets UV resistance requirements.

(F) Is resistant to kinks and other restrictions, or flexible.

(G) Liner will remain intact and not split, separate or collapse under marine operating conditions.

(H) Properly seals when attached to common marine barbs and other connectors or fittings.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2856. Certification Requirements.**

In order to facilitate SIMW design-based certification, California Air Resources Board (ARB) will certify evaporative emissions control system components relating to fuel hoses, fuel tanks, and venting control devices. Manufacturers of evaporative emissions control system components must apply for certification to obtain a Component Executive Order of Certification. The Component Executive Order of Certification numbers are then referenced in a SIMW design-based certification application. Evaporative system builders who certify to the performance-based standard are not required to reference certified evaporative emissions control system components but must submit SIMW performance data with the SIMW performance-based certification application.

Section 2856(a) describes the SIMW evaporative emissions control system component testing and certification requirements. Section 2856(b) describes the SIMW design-based certification requirements. Section 2856(c) describes SIMW performance-based certification requirements. Section 2856(d) details the administrative requirements for certifying SIMW and evaporative emissions control system components.

*(a) Evaporative Emissions Control System Component Testing and Certification Requirements.*

(1) *Evaporative Emissions Control System Component Testing Requirements.* For all applicable MYs in the following tables of this Article, evaporative emissions from any SIMW certifying under these sections must comply with the design requirements specified in section 2855(a):

(A) Evaporative Emissions Harmonized Design Standards for  $\leq 30$  kW SIMW Table,

(B) Evaporative Emissions Design Standards for Trailerable  $> 30$  kW SIMW Table, and

(C) Evaporative Emissions Design Standards for Nontrailerable  $> 30$  kW SIMW Table.

(2) *Component Manufacturer Certification Requirements.* To obtain an Executive Order of Certification for a SIMW evaporative emissions control system component under section 2856(a)(1), a manufacturer must:

(A) Follow the applicable test procedures as indicated in sections 2854 and 2855 to measure emissions, which are incorporated by reference herein.

(B) Test with applicable fuels as specified in sections 2854 and 2855.

(C) Compare the measured emissions to the emissions standards listed in sections 2854 and 2855 as applicable.

(D) Meet all the applicable requirements of sections 2854 and 2855.

(E) Follow the certification requirements outlined in section 2856(a)(2).

(F) If a carbon canister is being certified, it must meet the durability requirements as specified in TP-1503, section 5.1 Carbon Canister Durability Requirements. After meeting the durability requirements, the carbon canister must meet the design requirements as specified in the Evaporative Emissions Design Standards for Trailerable  $> 30$  kW SIMW Table and/or Evaporative Emissions Design Standards for Nontrailerable  $> 30$  kW SIMW Table.

(G) If a pressure relief valve is being certified, it must meet the requirements as specified in TP-1503, section 5.2 Pressure Relief Valve Durability and Reliability Requirements.

(H) Meet the applicable requirements of 40 C.F.R., § 1060 (2008), which is incorporated by reference herein.

(3) *Evaporative Emissions Control System Component Certification Process and Requirements.* The following certification process and requirements apply to all evaporative emissions control system components to be used on SIMW.

(A) In order to obtain a Component Executive Order of Certification that can be referenced in a design-based certification application, component manufacturers must apply for a certification.

(B) A component manufacturer must apply in writing to: Chief, Monitoring and Laboratory Division, ARB, P.O. Box 2815, Sacramento, California 95812, in order to request a Component Executive Order of Certification.

(C) The component manufacturer must comply with all administrative requirements in subsection (d).

(D) The application must include data demonstrating that their evaporative emissions control system component meets the ARB testing requirements. The applicant must include the data generated by an independent laboratory from at least five representative samples of the evaporative emissions control system component and must include the supporting documentation that quantifies the emissions or shows the efficiency of the evaporative emissions control system components. All five representative evaporative emissions control system components must be tested using the ARB-approved test procedures. All information, including proprietary data submitted by a component manufacturer pursuant to this section will be handled in accordance with the disclosure of public records procedures specified in California Code of Regulations, title 17, sections 91000-91022.

(E) The Executive Officer may approve U.S. EPA certification of evaporative emissions control system components to be referenced for design-based certification, if they meet the ARB testing requirements and standards.

(F) The Executive Officer may approve evaporative emissions control system components for use on evaporative emissions control systems that meet the ARB testing requirements.

(G) Within 30 calendar days of receipt of the application, the Executive Officer must determine whether an application is complete.

(H) Within 90 calendar days after an application for certification has been deemed complete, the Executive Officer must approve or disapprove the evaporative emissions control system component. If approved, a Component Executive Order of Certification will be issued. The applicant and the Executive Officer may mutually agree to a longer time for reaching a decision. An applicant may submit additional supporting documentation prior to a decision.

(I) If the evaporative emissions design-based standards are amended for a product category, all certification “approvals” granted for evaporative emissions control system components in the product category are void, as of the effective date of the amended standards, unless the applicable evaporative emissions control system component requirements are not amended.

(J) If the Executive Officer determines that an evaporative emissions control system component for which an “approval” has been granted no longer meets the performance standards, the Executive Officer may deny, suspend or revoke the Component Executive Order of Certification following provisions of section 2868 of this Article.

(K) The component manufacturer must provide the ARB assigned evaporative emissions system Component Executive Order of Certification number to the evaporative system builder upon request. All ARB assigned Component Executive Order of Certification numbers for approved evaporative emissions control system components are also available from the ARB’s website.

(b) *Design-Based Certification for all SIMW Types.* The following certification requirements apply to all MY 2018 and subsequent SIMW types. Any evaporative system builder may submit an application for design-based certification.

(1) *Design-Based SIMW Certification Requirements.* The evaporative system builder choosing to certify by design-based certification under 2856(b)(1) must:

(A) Complete the installation as directed by the component manufacturer installation instructions; this includes (but is not limited to) the fuel hose, fuel tank, and carbon canister component, or other venting component. The evaporative system builder must also verify compliance with the limiting specifications contained within the respective Component Executive Order of Certification.

(B) If a certified carbon canister is not used on the evaporative system, the evaporative system builder or component manufacturer must design, install, test, and certify a venting system according to 2856(a)(1), using TP-1503, to ensure compliance with the venting standard or venting efficiency standard.

(C) Submit an application for each evaporative family that includes the approved Component Executive Order of Certification number for the evaporative emissions control system components (fuel hose, fuel tank, and carbon canister or other venting controls).

(D) Comply with all administrative requirements in subsection (d).

(2) In order to certify to the design-based standards, the applicant must apply for an Executive Order of Certification for the SIMW. The evaporative system builder must document all evaporative emissions control system components installed in the SIMW and record the Component Executive Order of Certification number or compliant emissions data for each evaporative emissions control system component. If the evaporative system builder is certifying an evaporative family for SIMW with engines less than 30 kW, they must submit the list of U.S. EPA-approved evaporative

emissions control system components installed on the SIMW in the certification application.

(3) In order to obtain a design-based certification, the evaporative system builder must state in the certification application that all requirements, as outlined in subsection (b)(1), have been met.

(4) The evaporative system builder must submit a design-based certification application as specified in subsection 1 to the Chief, Emissions Compliance, Automotive Regulations and Science Division, ARB.

(5) Upon submission of a design-based certification application, the application will be reviewed to determine if all information is true, accurate, and complete. Within 30 calendar days of receipt of the application, the Executive Officer must determine whether an application is complete. Within 90 calendar days after an application has been deemed complete, the Executive Officer must approve or disapprove the SIMW certification. If approved, an Executive Order of Certification will be issued.

(c) *Performance-Based Certification for SIMW Using > 30 kW Engines.* The following certification requirements apply to all MY 2018 and subsequent SIMW using > 30 kW engines.

(1) *SIMW Testing Requirements.* For all applicable MYs in the Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table, evaporative emissions from any SIMW must not exceed the standards. Evaporative system builders certifying SIMW under section 2856(c)(1) must:

(A) Test all evaporative families in accordance with the test procedure indicated in the Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table to measure diurnal evaporative emissions.

(B) Diurnal testing must be completed using E10 CERT fuel.

(C) Compare the measured emissions to the emissions standard listed in Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table.

(D) Meet all the applicable requirements of section 2855.

(E) Follow the certification requirements outlined in section 2856(c)(2).

(F) Meet the compatibility requirements as indicated in the Compatibility Standards Table.

(G) If a carbon canister is being certified, it must meet the requirements as specified in TP-1503, section 5.1 Carbon Canister Durability Requirements. After meeting the durability requirements, the carbon canister must meet the design requirements as specified in TP-1503, section 8 Carbon Canister Design Requirements.

(2) *SIMW Certification Requirements.* The evaporative system builder choosing to certify using performance-based certification must:

(A) Design and install an evaporative emissions control system.

(B) Test the system, using the test procedure listed in the Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table.

1. In order to certify by the testing requirements in section 2856(c)(1), the applicant must apply for an Executive Order of Certification for each SIMW evaporative family.

2. The application must include data demonstrating that their SIMW meets the ARB testing requirements. The applicant must include the data from one SIMW test and the supporting documentation that quantifies the emissions measurement. The SIMW must be tested using the applicable ARB approved test procedure. All information, including proprietary data submitted by an evaporative system builder pursuant to this section, will be handled in accordance with the disclosure of public records procedures specified in California Code of Regulations, title 17, sections 91000-91022.

3. In order to obtain a performance-based certification the evaporative system builder must document that all requirements as outlined in the Alternative Evaporative Emissions Performance-Based Standard for > 30 kW SIMW Table of section 2855 have been met.

4. The evaporative system builder must submit a performance-based certification application, in accordance with subsections 1 and 2 (a-c), to the Chief, Emissions Compliance, Automotive Regulations and Science Division, ARB.

5. Upon submission of a performance-based certification application, the application will be reviewed to determine if all information is true, accurate, and complete. Within 30 calendar days of receipt of the application, the Executive Officer must determine whether an application is complete. Within 90 calendar days after an application has been deemed complete, the Executive Officer must approve or disapprove the SIMW certification. If approved, an Executive Order of Certification will be issued. Once the Executive Order of Certification has been issued, the SIMW may be offered for sale in California.

(C) Comply with all administrative requirements in subsection (d).

(d) *Administrative Requirements.*

(1) *Maintenance of Records for EO Holders.*

(A) The evaporative system builder must establish, maintain, and retain the following organized records for each evaporative family:

1. ARB evaporative family identification code,



2. Model number(s) and engine size(s),
3. Make(s) and model name(s),
4. Projected sales volume for the MY,
5. Certification test results (if certifying by performance), and
6. Actual sales volume for the MY.

(B) For the purpose of this Article, actual sales are defined as shipments to distributors of SIMW sold or offered for sale in California. The evaporative system builder must submit actual California sales data as it becomes available for each model sold or offered for sale, but no later than 90 days after the end of the MY.

(C) The evaporative system builder shall retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-MY report. Records may be retained as hard copy, or in electronic format, provided that information required to be retained is available upon request by the Executive Officer. An evaporative system builder shall submit all information requested by the Executive Officer within 30 days of the date of such request.

(D) The Executive Officer may revoke or suspend the Executive Order of Certification for an evaporative family for which the evaporative system builder fails to retain the records required in this section, or fails to provide such information to the Executive Officer upon request. No new Executive Orders of Certification will be issued to the evaporative system builder until the requested records are made available and/or the Executive Officer approves an evaporative system builder submitted plan addressing why the records were unavailable and steps being taken to ensure future records will be available upon request.

(2) *Maintenance of Records for Component EO Holders.*

(A) The component manufacturer must establish, maintain, and retain the following organized records for each component certified:

1. Certification test results,
2. List of evaporative system builders that reference the evaporative emissions control system component in their certification application, and
3. A copy of all the information and documents provided with the application for Component Executive Order of Certification.

(B) The component manufacturer must retain all test evaporative emissions control system components used to generate certification or durability data for as long as the Component Executive Order of Certification remains valid.

(C) Records may be retained as hard copy, or in electronic format, provided that information required to be retained is available upon request of the Executive Officer. A component manufacturer shall submit all information requested by the Executive Officer within 30 days of the date of such request.

(D) The Executive Officer may revoke or suspend the Component Executive Order of Certification for an evaporative emissions control system component for which the component manufacturer does not meet the requirements of subsections A-C, or does not provide the information as outlined in subsections A-C to the Executive Officer upon request. No new Executive Orders of Certification will be issued to the component manufacturer until the requested records are made available, and/or the Executive Officer approves a component manufacturer submitted plan addressing why the records were unavailable, and the steps being taken to ensure future records will be available upon request.

(e) *Tampering.*

(1) Any tampering, removal or modification of the evaporative emissions control system is prohibited.

(2) The evaporative emissions control system must be designed in such a way that tampering, or disassembling, is not needed to conduct normal functions. Normal functions include, but are not limited to, routine maintenance and refueling of the SIMW.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43100, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2857. Spark-Ignition Marine Watercraft Registration.**

In order for a SIMW to be registered for use in the state of California, it must meet all requirements as outlined in California Vehicle Code, sections 9850-9880.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2858. Aftermarket Parts.**

Sale or installation of any aftermarket part or parts that are sold, offered for sale, or advertised for sale or for use on SIMW or SIME, which alters or modifies the original design or performance of the certified evaporative emissions system, in California without an Executive Order of Certification is prohibited as stated in California Code of Regulations, title 13, sections 2470 – 2476.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2859. Evaporative Emissions Control System Component Labeling.**

(a) *Purpose.* The California Air Resources Board recognizes that evaporative emissions control system components must be properly labeled in order to identify those that meet applicable evaporative emissions standards.

(b) *Applicability.* These specifications apply to evaporative emissions control system components that have been certified to the applicable evaporative emissions standards in this Article.

(c) *Certification Label Content.*

(1) The evaporative emissions control system component label information must be written in the English language.

(2) The evaporative emissions control system component label must contain the following information:

(A) The approved ARB Component Executive Order of Certification (EO) number; or

(B) Identifying characters (e.g., symbol, image, letters, EO number, model number, manufacturing part number, or combination thereof) that must be described in the evaporative emissions control system component certification application. Identifying characters must be readily visible, distinguishable, and discernable.

(d) *Label Visibility.* As used in these specifications, readily visible to the average person means that a label is readable from a distance of 46 centimeters (18 inches), if the evaporative emissions control system component is removed from the evaporative emissions system and inspected.

(e) *Label Durability.* The labels and any adhesives used must be designed to withstand, for the evaporative emissions control system component's useful life, typical evaporative emissions control system component environmental conditions. Typical evaporative emissions control system component environmental conditions include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, water, and ethylene glycol).

(f) *Labeling Enforcement.* Missing labels, or use of labels that are different from those approved, will be grounds for revocation or suspension of the Component Executive Order of Certification, or other actions as provided by law.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2860. Spark-Ignition Marine Watercraft Labeling.**

(a) *Purpose.* ARB recognizes that SIMW must be properly labeled in order to identify those that meet applicable evaporative emissions standards. These specifications require that evaporative system builders and/or SIME manufacturers affix a certification label (or labels) on each SIMW they assemble with an evaporative emissions control system.

(b) *Applicability.* These specifications apply to SIMW that have been certified to the applicable evaporative emissions standards in this Article.

(c) *Certification Label Content and Location.*

(1) A plastic or metal label must be welded, riveted, or otherwise permanently attached by the evaporative system builder to an area on the SIMW in such a way that it will be readily visible.

(2) The certification label must be installed in a place, and in a way, where the label will remain legible for the useful life of the SIMW. The possibility of accidental damage must be considered (e.g. possibility of tools or sharp instruments coming in contact with the label). Each certification label must be affixed in such a manner that it cannot be removed without destroying or defacing the label, and must not be affixed to any engine (or SIMW, as applicable) or evaporative emissions control system component that is easily detached from the SIMW.

(3) The SIMW label information must be written in the English language and use block letters and numerals (i.e., sans serif, upper-case characters) that must be of a color that contrasts with the background of the label.

(4) The SIMW label must contain the following information:

(A) The label heading must read: "EMISSIONS CONTROL SYSTEM INFORMATION." When combined with an exhaust label, "EMISSIONS" relates to both exhaust and evaporative emissions.

(B) The full corporate name or trademark of the evaporative system builder.

1. An evaporative system builder may request approval to delete its name and trademark, and substitute the name and trademark of another manufacturer, original evaporative system builder, or third-party distributor.

2. Such an approval does not relieve the evaporative system builder of complying with the requirements imposed by this Article.

(C) Identification of the evaporative emissions control system. Abbreviations per CP-902 – "Small-Off Road Engine Evaporative Emissions Control System Certification Procedure" as adopted July 26, 2004, which is incorporated by reference herein, or evaporative system builders' evaporative code as defined in the owner's manual are allowed if they are submitted as part of the certification application.

(D) The date of SIMW manufacture (month and year) for an evaporative emissions control system certified by the evaporative system builder. A SIMW with an affixed hull identification number (HIN) is acceptable as an alternative.

(E) An unconditional statement of compliance with the appropriate MY California regulations; for example in 2018 MY, "MEETS 2018 MY CALIFORNIA EVAP EMISSIONS REGULATIONS FOR SPARK-IGNITION MARINE WATERCRAFT".

(F) The applicable evaporative emissions family.

(d) *Conformance with Other Requirements.* A label may state that the SIMW conforms to any applicable Federal, Canadian, or European evaporative emissions standards for new SIMW; or any other information that the evaporative system builder deems necessary for or useful to, the proper operation and satisfactory maintenance of the engine.

(e) *Label Visibility.* As used in these specifications, readily visible to the average person means that a label is readable from a distance of 46 centimeters (18 inches) without any obstructions from the SIMW or engine parts, except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the evaporative emissions control system component, SIMW and/or engine (as applicable) must be no smaller than 2 millimeters (0.08 inches) in height provided that no SIMW or engine parts, except for flexible parts, obstruct the label(s).

(f) *Label Durability.* The labels and any adhesives used must be designed to withstand, for the SIMW's useful life, typical SIMW environmental conditions in the area where the labels required by this section are attached. Typical SIMW environmental conditions include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, water, and ethylene glycol). The evaporative system builder must submit with its certification application a statement attesting that its labels comply with these requirements.

(g) *Sample Label Submission.* Samples of all actual production labels used within an evaporative family must be submitted to the Executive Officer upon request. Sample labels are not required for carry over certification unless labels are revised. SIME manufacturers must provide samples of their own applicable production labels, and samples of applicable production labels of the evaporative system builder that are accessible to the SIME manufacturers due to any direct market arrangement between such manufacturers.

(h) *Alternate Label.* The Executive Officer may approve alternate label locations or may, upon request, waive or modify the label content requirements provided that the intent of these specifications is met. Such approval may be conditional upon providing such information in the owner's manual as the Executive Officer deems appropriate.

(i) *Labeling Enforcement.* Missing labels, or use of labels that are different from those approved, will be grounds for revocation or suspension of the Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

**§ 2861. Defects Warranty Requirements for Spark-Ignition Marine Watercraft.**

(a) *Applicability.* This section applies to SIMW subject to the standards in this Article. The warranty period begins on the date the SIMW is delivered to an ultimate purchaser.

(b) *General Evaporative Emissions Warranty Coverage.* The SIMW EO Holder must warrant to the ultimate purchaser, and any subsequent owner within the warranty period, that the evaporative emissions control system, when installed, complies with the following:

(1) Designed, built, and equipped so as to conform with all applicable regulations; and

(2) Free from defects in materials and workmanship that causes the failure of a warranted part for a period of two years.

(c) The warranty is primarily the responsibility of the EO Holder. In the event that the evaporative emissions control system component exhibits a defect in the manufacture or integrity of the evaporative emissions control system component, the EO Holder will be responsible for addressing all warranty issues, unless the part has failed due to abuse, neglect, improper maintenance, or unapproved modifications.

(d) The warranty on evaporative emissions-related parts will be interpreted as follows:

(1) Any warranted part that is not scheduled for replacement as required maintenance in the written instructions required by subsection (f) must be warranted for a period defined in subsection (b)(2). If any such part fails during the period of warranty coverage, it must be repaired or replaced by the responsible representative (as stated in (c)) issuing the warranty according to subsection (4). Any such part, repaired or replaced under the warranty, must be warranted for a time not less than the remaining warranty period.

(2) Any warranted part that is scheduled only for regular inspection in the written instructions required by subsection (f) must be warranted for the warranty period defined in subsection (b)(2). A statement in such written instructions to the effect of "repair or replace as necessary" will not reduce the period of warranty coverage. Any such part, repaired or replaced under warranty, must be warranted for a time not less than the remaining warranty period.

(3) Any warranted part that is scheduled for replacement, as required maintenance in the written instructions required by subsection (f), must be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part must be repaired or replaced by the responsible representative (as stated in subsection (c)) according to subsection (4). Any such part, repaired or replaced under warranty, must be warranted for a time not

less than the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article must be performed at no charge to the owner at a warranty station.

(5) Notwithstanding the provisions of subsection (4) , warranty services or repairs, must be provided at distribution centers that are franchised to service the subject SIMW.

(6) The owner must not be charged for diagnostic labor that leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) Throughout the evaporative emissions control system's warranty period set out in subsection (b)(2), the responsible representative (as stated in subsection (c)) issuing the warranty, must maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(8) Evaporative system builder approved replacement parts must be used in the performance of any warranty maintenance or repairs and must be provided without charge to the owner. Such use will not reduce the warranty obligations of the responsible representative (as stated in subsection (c)) issuing the warranty.

(9) The use of any add-on or modified parts will be grounds for disallowing a warranty claim made in accordance with this Article. The EO Holder (as stated in subsection (c)) issuing the warranty will not be liable under this Article to warrant failures of warranted parts caused by abuse, neglect, improper maintenance, or unapproved modifications.

(10) The EO Holder (as stated in subsection (c)) issuing the warranty must provide any documents that describe that evaporative system builder's warranty procedures or policies within 15 working days of a request by the Executive Officer.

(e) A copy of the following evaporative emissions warranty parts list must be included with each new SIMW subject to this Article, using those from the list applicable to the SIMW.

- (1) Canister Mounting Brackets
- (2) Carbon Canister
- (3) Carburetor Purge Port Connector
- (4) Clamps\*
- (5) Control Cables\*
- (6) Control Linkages\*
- (7) Control Solenoids\*

- (8) Control Valves\*
- (9) Electronic Controls\*
- (10) Fuel Cap
- (11) Fuel Line
- (12) Fuel Line Fittings
- (13) Fuel Tank
- (14) Liquid/Vapor Separator
- (15) Pressure Relief Valves\*
- (16) Purge Valves
- (17) Vacuum Control Diaphragms\*
- (18) Vapor Hoses
- (19) All other parts not listed that may affect the evaporative emissions control system

\*Note: As they relate to the evaporative emissions control system.

(f) Written instructions for the maintenance and use of the evaporative emissions control system by the owner must be furnished with each new SIMW subject to this Article. The instructions must be consistent with this Article and applicable regulations contained herein.

(g) The documents required by subsection (d)(10) must be submitted with the application for evaporative emissions control system certification for approval by the Executive Officer. Approval by the Executive Officer of the documents required by subsection (d)(10) is a condition of certification. The Executive Officer will approve or disapprove the documents required by subsection (d)(10) within 90 calendar days of the date such documents are received.

(h) The application for certification must also include a statement regarding the maintenance of the evaporative emissions control system. The statement must include, but is not be limited to, information on evaporative emissions control system maintenance, and a maintenance schedule.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.



## **§ 2862. Evaporative Emissions Control System Warranty Statement.**

(a) Any application for an evaporative emissions control system certification must include a copy of the following statement:

### **CALIFORNIA EVAPORATIVE EMISSIONS CONTROL SYSTEM WARRANTY STATEMENT**

#### **YOUR WARRANTY RIGHTS AND OBLIGATIONS**

The California Air Resources Board (and evaporative system builder's name, optional) is pleased to explain the evaporative emissions control system's warranty on your (model year) (SIMW type). In California, new SIMW must be designed, built, and equipped to meet the State's stringent anti-smog standards. (evaporative system builder's name) must warrant the evaporative emissions control system on your (SIMW type) for the period listed below, provided there has been no abuse, neglect or improper maintenance of your SIMW.

Your evaporative emissions control system may include parts such as: canisters, carburetors, clamps, connectors, filters, fuel caps, fuel lines, fuel tanks, valves, vapor hoses, and other associated evaporative emissions control system components.

#### **MANUFACTURER'S WARRANTY COVERAGE:**

This evaporative emissions control system is warranted for two years. If any evaporative emission-related part on your SIMW is defective, the part will be repaired or replaced by (evaporative system builder's name).

#### **OWNER'S WARRANTY RESPONSIBILITIES:**

As the (SIMW type) owner, you are responsible for performance of the required maintenance listed in your owner's manual. (evaporative system builder's name) recommends that you retain all receipts covering maintenance on your (SIMW type), but (evaporative system builder's name) cannot deny warranty solely for the lack of receipts.

As the (SIMW type) owner, you should however be aware that the (evaporative system builder's name) may deny you warranty coverage if your (SIMW type) or a part has failed due to abuse, neglect, or improper maintenance or unapproved modifications.

You are responsible for presenting your (SIMW type) to a (evaporative system builder's name) distribution center or service center as soon as the problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 calendar days. If you have a question regarding your warranty coverage, you should contact (Insert chosen evaporative system builder's contact) at 1-XXX-XXX-XXXX.

(b) A combined exhaust and evaporative warranty statement is acceptable. For combined warranty statements, “evaporative emission” can be replaced with “emissions” where “emissions” is understood to mean both exhaust and evaporative emissions.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

### **§ 2863. Emissions-Related Defect Reporting Requirements.**

(a) Any application for an evaporative emissions control system certification must include a copy of the procedures established by the evaporative system builder or component manufacturer to identify either safety-related or performance defects.

(b) Applicability. This subsection applies to MY 2018 and subsequent SIMW and evaporative emissions control components.

(c) If a defect has occurred within five years from the end of the calendar year, an evaporative system builder or component manufacturer must file an information report. The evaporative system builder or component manufacturer must file an information report if the following criteria are met:

(1) The evaporative system builder or component manufacturer determines, in accordance with procedures specified in (a), that a specific evaporative emission-related defect exists, and

(2) A specific evaporative emission-related defect exists in 10 percent of production or 20 or more (whichever is less) SIMW of a given evaporative family or evaporative emissions control system component manufactured in the same Executive Order of Certification or Component Executive Order of Certification or MY.

(d) No report must be filed under this section for any evaporative emission-related defect corrected prior to the sale of the affected SIMW or evaporative emissions control system component to ultimate purchasers.

(e) The evaporative system builder or component manufacturer must submit defect information reports to: Chief, Emissions Compliance, Automotive Regulations and Science Division, ARB, not more than 15 working days after an emission-related defect is found. Required information that is either not available or is significantly revised must be submitted to the Executive Officer as it becomes available.

(f) Each defect report must contain the following information:

(1) The corporate name of the evaporative system builder or component manufacturer.

(2) A description of the defect.

(3) A description of each evaporative emissions control system component, class, evaporative family, or category of SIMW potentially affected by the defect including

make, model, model year, calendar year produced, and any other information required to identify the engines affected.

(4) For each class or category of SIMW described in response to subsection (e) , the following must also be provided:

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

(B) The address of the plant(s) at which the potentially defective SIMW or evaporative emissions control system component were produced.

(5) An evaluation of the evaporative emissions impact from the defect and a description of any operational problems that a defective SIMW or evaporative emissions control system component might exhibit.

(6) Available evaporative emissions data that relate to the defect.

(7) Information on any anticipated evaporative system builder or component manufacturer follow-up.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

#### **§ 2864. New Evaporative Emissions Control System Component Compliance Testing.**

(a) *Compliance Test Procedures.*

(1) The Executive Officer may order a component manufacturer, whose evaporative component has been issued a Component Executive Order of Certification, to make available for compliance testing and/or inspection five evaporative components. Unless otherwise directed by the Executive Officer, the SIMW evaporative emissions control system component shall be delivered to: Chief, Monitoring and Laboratory Division, ARB, P.O. Box 2815, Sacramento, California 95812. Evaporative emissions control system components must be selected at random from sources specified by the Executive Officer according to a method approved by the Executive Officer (subsection (a)(5)). The selection must exclude SIMW evaporative emissions control system components that would result in an unreasonable disruption of the manufacturer's distribution system.

ARB personnel shall have access to evaporative emissions control system component assembly plants or distribution facilities for the purposes of component selection and testing.

(2) All testing must be conducted in accordance with the applicable MY evaporative emissions test procedures under which the component was certified by the Executive Officer. Any evaporative emissions control system parameters must be set to values or positions that are within the range as specified in the certification application.

(3) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the evaporative emissions control system component is permitted only after an initial test. The component manufacturer may request that the component be repaired from shipping damage and be retested. If the Executive Officer concurs, then the evaporative emissions control system component may be retested, and the original test results may be replaced by the post-repair test results.

(4) Evaporative emissions control system components must be randomly chosen according to the following criteria:

(A) The evaporative emissions control system component must be representative of the California sales.

(B) Each evaporative emissions control system component will be selected from the end of the assembly line.

(C) All evaporative emissions control system component models must be included in the sample pool.

(D) Five evaporative emissions control system components will be selected for testing per the applicable test procedure as indicated in sections 2854 and/or 2855.

(E) The component will be deemed to have passed the compliance testing if all test results are equal to or below the applicable standard.

(F) The component or subgroup will be deemed to have failed the compliance testing if one or more of the test results are above the applicable standard and the upper 95 percent confidence limit of the five samples is greater than 110 percent of the applicable standards specified in sections 2854 and/or 2855 per the following table:

Test Category	"Pass" If " <i>U</i> " is less than or equal to	"Fail" If " <i>U</i> " is greater than
1 <sup>st</sup> and Subsequent Years of Evaporative Family	1.1*Applicable Standard	1.1*Applicable Standard

Where:

$$U = \bar{x} + 2.776 * \frac{s}{\sqrt{n}}$$

$$\bar{x} = \frac{\sum_{i=1}^n sample_i}{n}$$

$$s = \sqrt{\frac{\sum_{i=1}^n (x_i - \bar{x})^2}{n-1}}$$

$n = 5$

(5) If any evaporative emissions control system component selected for inspection fails an evaporative emissions test as determined by subsection (a)(2), or fails to conform to the labeling requirements of section 2859, the Executive Officer shall notify the component manufacturer in accordance with subsection (b).

(b) *Notification of Failure.* If compliance testing identifies an evaporative emissions control system component that do not meet the standards set out in subsection (a)(5) , the Executive Officer will notify the Component EO Holder. The Executive Officer shall also notify the Component EO Holder that the Component Executive Order of Certification may be suspended or revoked. The Component EO Holder shall have 30 calendar days in which to notify the Executive Officer of their intent to provide additional information and/or independent test results for the five randomly selected evaporative emissions control system components showing compliance with this Article.

The Executive Officer will consider all relevant information provided by the component manufacturer and other interested parties, including, but not limited to, corrective actions.

(c) *Suspension and Revocation of Executive Orders.*

(1) The Executive Officer shall not revoke or suspend the Component Executive Order of Certification without considering all relevant information provided by the Component EO Holder and other interested parties, including, but not limited to, corrective actions.

(2) If the results of the compliance testing indicate that the failed evaporative emissions control system components are produced at one plant, the Executive Officer may elect to suspend the Component Executive Order of Certification with respect to components manufactured at that plant only.

(3) Notwithstanding the foregoing, the Executive Officer may suspend a Component Executive Order of Certification, in whole or in part, effective upon written notice to the Component EO Holder if the Executive Officer finds that:

(A) The Component EO Holder has refused to comply with any of the requirements of this section; or

(B) The Component EO Holder has submitted false or incomplete information in any report provided to the Executive Officer under this section; or

(C) ARB personnel have been denied entry for inspection and/or the opportunity to conduct authorized activities; or

(D) ARB personnel were unable to conduct activities authorized in this Article because the facility is located in a foreign jurisdiction.

(4) The Executive Officer may revoke a Component Executive Order of Certification for an evaporative emissions control system component after the Executive Order has been suspended pursuant to subsection (1) or (2), if the proposed remedy for the nonconformity, as reported by the Component EO Holder to the Executive Officer, is one requiring a design change to the evaporative emissions control system component.

(5) Once a Component Executive Order of Certification for a failed evaporative emissions control system component has been suspended pursuant to subsections (1), (2), or (3), the Component EO Holder must take the following actions before the Executive Officer will consider reinstating the Component Executive Order of Certification:

(A) Submit a written report to the Executive Officer that identifies the reason for the noncompliance of the evaporative emissions control system component, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the Component EO Holder to prevent future occurrences of the problem, and states the date on which the remedies will be implemented, and

(B) Demonstrate that the Component Executive Order of Certification that has been suspended does in fact comply with the regulations of this Article by testing no fewer than five evaporative emissions control system components.

(6) Once the Component Executive Order of Certification has been revoked, if the Component EO Holder desires to continue introduction into commerce of a modified version of the evaporative emissions control system component, the Component EO Holder must: after implementing the change or changes intended to remedy the nonconformity, demonstrate that the evaporative emissions control system component does in fact conform by certifying to the applicable standards of this Article by having five evaporative emissions control system components tested following the applicable test procedure indicated in sections 2854 or 2855, unless such testing is waived by the Executive Officer.

(7) To permit a Component EO Holder to avoid storing non-tested evaporative emissions control system components while conducting subsequent testing of the noncomplying evaporative component, a Component EO Holder may request that the Executive Officer conditionally reinstate the Component Executive Order of Certification.

(d) *Inspection.* The Executive Officer, or an authorized representative of the Executive Officer, may inspect any facility that manufactures, assembles, distributes, or sells SIMW, SIME, or evaporative emissions control system components, or systems subject to this Article. Failure of an evaporative systems builder, component manufacturer, distributor, or retailer or other person subject to this Article to allow access for inspection purposes shall be grounds for suspension or revocation of a Component Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, 41510, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 41510, 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2865. New Spark-Ignition Marine Watercraft Compliance Testing.**

### *(a) Design-Based Certification Compliance Test Procedures.*

(1) The Executive Officer may, with respect to any new design-certified SIMW being sold, offered for sale, or manufactured for sale in California, order a component manufacturer, whose Component Executive Order of Certification is referenced in the SIMW's design-based certification, to make available for compliance testing and/or inspection five evaporative emissions control system components. Compliance testing for design-based certification must be followed according to section 2864.

(2) If the evaporative emissions control system component from the SIMW selected for inspection fails an evaporative emissions test as determined by section 2864(a)(2), or fails to conform to the labeling requirements of sections 2859 and 2860, the Executive Officer shall notify the Component EO Holder and the evaporative system builder in accordance with sections 2864(b) and 2865(c), respectively. The Component EO Holder shall be the responsible representative if any failure occurs for an evaporative emissions control system component according to section 2864(a).

### *(b) Performance-Based Certification Compliance Test Procedures.*

(1) The Executive Officer may, with respect to any new performance-based certified SIMW evaporative family being sold, offered for sale, or manufactured for sale in California, order a SIMW manufacturer or evaporative system builder to make available for compliance testing and/or inspection of at least one SIMW. Unless otherwise directed by the Executive Office, the SIMW shall be delivered to: Chief, Emissions Compliance, Automotive Regulations and Science Division, ARB. The SIMW must be selected at random from sources specified by the Executive Officer according to a method approved by the Executive Officer (subsection (b)(5)). The selection must exclude a SIMW that would result in an unreasonable disruption of the evaporative system builder's distribution system.

(2) ARB personnel shall have access to SIMW assembly plants or distribution facilities for the purposes of selection for testing. Scheduling of access shall be arranged with the representative designated in the application for certification or a representative designated by the evaporative system builder.

(3) All testing must be conducted in accordance with the applicable MY evaporative emissions test procedures. Any evaporative emissions control system parameters must be set to values or positions that are within the range as specified in the certification application. No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on SIMW chosen for compliance testing without the written consent of the Executive Officer. If the Executive Officer consents

to break-in or modifications, adjustments, or special preparation or maintenance, they will be performed by the evaporative system builder under the supervision of ARB personnel.

(4) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the SIMW is permitted only after an initial test of the SIMW. The evaporative system builder may request that the SIMW be repaired from shipping damage and be retested. If the Executive Officer concurs, the SIMW may be retested, and the original test results may be replaced by the post-repair test results.

(5) One SIMW must be randomly chosen from the selected evaporative family according to the criteria specified herein. The SIMW must be representative of the evaporative system builder's California sales. The SIMW will be selected from the end of the assembly line. The selected SIMW must pass the inspection test by being equipped with the appropriate emissions control systems as documented in the approved Executive Order of Certification for the evaporative family.

(6) One SIMW from the requested evaporative family will be selected for testing per the applicable test procedure as indicated in section 2855. The evaporative family will be deemed to have passed the compliance testing if the test result is equal or below the applicable standard. The evaporative family or subgroup will be deemed to have failed the compliance testing if the test result is above the applicable standard.

(7) If the SIMW selected for inspection fails an evaporative emissions test as determined by subsection (b)(6), or fails to conform to the labeling requirements of sections 2859 and 2860, the Executive Officer shall notify the evaporative system builder in accordance with subsection (c).

(c) *Notification of Failure.* If compliance testing identifies SIMW that do not meet the standards set out in subsection (b)(6), the Executive Officer will notify the EO Holder covering the SIMW. The Executive Officer shall also notify such EO Holder that the Executive Order of Certification may be suspended or revoked. The EO Holder shall have 30 calendar days in which to notify the Executive Officer of their intent to provide additional information and/or independent test result for a randomly selected SIMW that documents compliance of the evaporative family. The evaporative family will be deemed to have passed the compliance testing if SIMW meets the applicable performance standards specified in this Article.

The Executive Officer will consider all relevant information provided by the evaporative system builder, and other interested parties, including, but not limited to corrective actions applied to the noncompliant evaporative family.

(d) *Suspension and Revocation of Executive Orders.*

(1) The Executive Officer shall not revoke or suspend the Executive Order of Certification without considering any information provided by the EO Holder of such certification pursuant to subsection (b).

(2) If the results of the compliance testing indicate that the failed



SIMW of a particular evaporative family are produced at one plant, the Executive Officer may elect to suspend the Executive Order of Certification with respect to SIMW manufactured at that plant only.

(3) Notwithstanding the foregoing, the Executive Officer may suspend an Executive Order of Certification, in whole or in part, effective upon written notice to the EO Holder if the Executive Officer finds that:

(A) The EO Holder has refused to comply with any of the requirements of this section; or

(B) The EO Holder has submitted false or incomplete information in any report or information provided to the Executive Officer under this section; or

(C) ARB personnel have been denied entry to inspect and/or the opportunity to conduct authorized activities; or

(D) ARB personnel were unable to conduct activities authorized in this Article because the facility is located in a foreign jurisdiction.

(4) The Executive Officer may revoke an Executive Order of Certification for an evaporative family after the Executive Order of Certification has been suspended pursuant to subsection (1) or (2) of this section if the proposed remedy for the nonconformity, as reported by the EO Holder to the Executive Officer, is one requiring a design change or changes to the evaporative emissions control system as described in the application for certification of the affected evaporative family.

(5) Once an Executive Order of Certification for a failed evaporative family has been suspended pursuant to subsections (1), (2), or (3), the EO Holder must take the following actions before the Executive Officer will consider reinstating the Executive Order of Certification:

(A) Submit a written report to the Executive Officer that identifies the reason for the noncompliance of the SIMW, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the EO Holder to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(B) Demonstrate that the evaporative family for which the Executive Order of Certification has been suspended does in fact comply with the regulations of this Article by testing a SIMW.

(6) Once the Executive Order of Certification has been revoked for an evaporative family, if the EO Holder desires to continue introduction into commerce of a modified version of that evaporative family, then the EO Holder must demonstrate that the modified evaporative family does in fact conform to the applicable standards of this Article by having one SIMW from the modified evaporative family tested following TP-1501 after implementing the change or changes intended to remedy the nonconformity.

(7) To permit an EO Holder to avoid stockpiling SIMW while conducting subsequent testing of the noncomplying evaporative family, an EO Holder may request that the Executive Officer conditionally reinstate the Executive Order of Certification for that evaporative family.

(e) *Inspection.* The Executive Officer, or an authorized representative of the Executive Officer, may inspect any facility that manufactures, assembles, distributes, or sells SIMW, SIME, or evaporative emissions control system components, or systems subject to this Article. Failure of an evaporative systems builder, component manufacturer, distributor, or retailer or other person subject to this Article to allow access for inspection purposes shall be grounds for suspension or revocation of an Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2866. Exemptions.**

Metal tanks that meet the permeation criteria in 40 C.F.R., § 1060.240, subd. (d)(2) (2008), or use certified nonmetal fuel caps, are specifically exempt from section 2855 of this Article. Tank permeation data for metal tanks is not required to be submitted in the certification application. Metal tanks do not need a Component Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, 41510, 43008.6, 43013, 43018, 43101, 43102, 43104 and 43212, Health and Safety Code. Reference: Sections 41510, 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2867. Variances.**

(a) Any evaporative system builder or component manufacturer subject to this Article that cannot meet the applicable requirements set forth in sections 2854 or 2855 of this Article, due to extraordinary reasons beyond the evaporative system builder's or component manufacturer's reasonable control, may apply in writing for a variance. The variance application must set forth:

- (1) The provisions of the regulations for which a variance is sought;
- (2) The specific grounds upon which the variance is sought;
- (3) The proposed date(s) by which compliance will be achieved; and
- (4) A compliance plan detailing the method(s) in which compliance will be achieved.

(b) Within 75 calendar days of receipt of a variance application containing the information required in subsection (a), the Executive Officer, or an authorized representative of the Executive Officer, must hold a public hearing to determine whether, under what conditions, and to what extent, a variance is necessary and should be

allowed. Notice of the time and place of the hearing must be sent to the applicant by certified mail not less than 30 calendar days before the hearing. Notice of the hearing must also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such a notice, not less than 45 calendar days before the hearing. The notice must state that all parties may, but do not need to be, represented by counsel at the hearing. At least 30 calendar days before the hearing, the variance application must be made available to the public for inspection. Interested members of the public must be allowed a reasonable opportunity to testify at the hearing and their testimony must be considered.

(c) No variance may be granted unless all of the following findings are made:

- (1) That, due to reasons beyond the reasonable control of the applicant, compliance can't be achieved due to extraordinary circumstances; and
- (2) That the public interest in granting the variance outweighs the public interest in denying the variance; and
- (3) That the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible; and
- (4) That the applicant has mitigated the noncompliance to the maximum extent feasible and will continue to do so during the variance period.

(d) Any variance order must specify a final date by which compliance will be achieved. Any variance order must contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions, especially as they pertain to limiting any excess emissions caused by the granting of the variance, that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Health and Safety Code (Health & Saf. Code), division 26.

(e) A variance will cease to be effective upon failure of the responsible representative to whom the variance was granted to comply with any term or condition of the variance.

(f) Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from applicable requirements of sections 2854 or 2855 after holding a public hearing in accordance to the provisions in subsection (b).

(g) A variance will not be granted for more than one full MY after the year such variance is granted.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2868. Denial, Suspension or Revocation of Certification.**

(a) The Executive Officer may, for just cause, deny, suspend, or revoke an Executive Order of Certification or Component Executive Order of Certification in any of the following circumstances:

- (1) An applicant or EO Holder or Component EO Holder that has materially misrepresented the meaning, findings, effect, or any other material aspect of the certification application, including submitting false or incomplete information in its application for certification regardless of the applicant's personal knowledge of the falsity or incompleteness of the information;
- (2) An applicant or EO Holder or Component EO Holder that has used a label other than the approved label on any SIMW or evaporative emissions control system component, or the label used otherwise fails to comply with the requirements of this Article;
- (3) Pursuant to section 2865(d).
- (4) Failure to comply with any order of the Executive Officer issued pursuant to this Article may result in revocation or conditioning of an Executive Order of Certification or Component Executive Order of Certification in the manner specified in section 2868 as applicable.

(b) An applicant or EO Holder or Component EO Holder may be denied certification or be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.

(c) The Executive Officer must notify the applicant or EO Holder or Component EO Holder by certified mail of any action taken by the Executive Officer to suspend or revoke any certification granted under this Article. The notice must set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.

(d) An EO Holder or Component EO Holder may request that the suspension or revocation be stayed pending a hearing under section 2869. In determining whether to grant the stay, the Executive Officer must consider the harm the EO Holder or Component EO Holder will likely suffer if the stay is not granted. The Executive Officer must deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the EO Holder or Component EO Holder if the stay is not granted.

(e) Once an Executive Order of Certification or Component Executive Order of Certification has been suspended pursuant to subsection (a), the EO Holder or Component EO Holder must satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer describing all corrective steps taken by the EO Holder or Component EO Holder before the Executive Officer will consider reinstating the Executive Order of Certification or Component Executive Order of Certification.

(f) Nothing in this section will prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2869. Appeals.**

Any person whose application for Executive Order of Certification or Component Executive Order of Certification has been denied or whose certification has been suspended or revoked may request a hearing to review the action. Any such request shall be made within 30 days of the date the action for which review is sought becomes final. The provisions of California Code of Regulations, title 17, apply to these filings.

(a) *Hearing Procedure.* Except as provided for in subsection (b) below, any appeal pursuant to this section must be conducted in accordance with the Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions, commencing with California Code of Regulations, title 17, section 60055.1.

(b) *Review by Written Submission.*

(1) In lieu of the hearing procedure set forth in (a) above, an evaporative system builder or component manufacturer may request that a review of the Executive Officer's decision be conducted by a hearing officer solely by written submission.

(2) An evaporative system builder or component manufacturer may request a review of the Executive Officer's decision to deny, suspend, or revoke a certification no later than 20 days from the date of issuance of the notice of the denial, suspension, or revocation. Such request must include, at a minimum, the following:

(A) Name of the evaporative system builder or component manufacturer, the name, address and telephone number of the person representing the evaporative system builder or component manufacturer; and

(B) A statement signed by a responsible representative of the evaporative system builder or component manufacturer warranting that the responsible representative has full authority to bind the evaporative system builder or component manufacturer as to all matters regarding the appeal; and

(C) Copy of the Executive Order of Certification or Component Executive Order of Certification granting certification and the written notification of denial; and

(D) A statement of facts and an explanation of the issues to be raised setting forth the basis for challenging the denial, suspension, or revocation (conclusory allegations will not suffice) together with all documents relevant to those issues; and

(E) The signature of the representative named in subsection (A).

(3) Upon receipt of a request for review, the request shall be referred to the ARB administrative hearing office for assignment of a hearing officer.

(4) Within 15 days of appointment of a hearing officer, ARB staff must submit a written response to the evaporative system builder's or component manufacturer's submission and, no later than 10 days after the receipt of the evaporative system builder or component manufacturer's submission, provide documents in support of the Executive Officer's action to deny, suspend, or revoke a certification.

(5) Within seven days of receipt of the ARB response, the evaporative system builder or component manufacturer may submit one rebuttal statement, which must be limited to the issues raised in the ARB rebuttal.

(6) If the evaporative system builder or component manufacturer submits a rebuttal, ARB staff may, within seven days of receipt of the evaporative system builder's or component manufacturer's rebuttal, submit one rebuttal statement which must be limited to the issues raised in the evaporative system builder's or component manufacturer's rebuttal.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

## **§ 2870. Penalties.**

In addition to suspension or revocation of an Executive Order of Certification as provided in this Article, the Executive Officer may seek administrative, and/or civil penalties and/or equitable relief as provided for by law for any violation of these regulations. Such penalties apply on a per SIMW and/or per component basis. A separate violation occurs for each day in which a violation occurred.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43016, 43017, 43018, 43020, 43023, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

**§ 2871. Severability.**

Each part of this Article is severable, and in the event that any part of this Article is held to be invalid, then the remainder of this Article remains in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.