

➡ **§ 2100. Purpose.**

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

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

➡ **§ 2100.5. Purpose.**

Notwithstanding the repeal or expiration of this regulation on May 12, 1983, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

➡ **§ 2100.6. Purpose.**

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

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

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

(a) The executive officer may, with respect to any new vehicle engine family, test group or subgroup being sold, offered for sale, or manufactured for sale in California, order a vehicle manufacturer to make available for compliance testing and/or inspection a reasonable number of vehicles, and may direct that the vehicles be delivered to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California. Vehicles shall be selected at random from sources specified by the executive officer according to a method approved by him/her, which insofar as practical shall exclude (1) vehicles manufactured pursuant to the specific order of an ultimate purchaser or (2) vehicles the selection of which, if not excluded, would result in an unreasonable disruption of the manufacturer's distribution system.

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

(b) If the vehicles are selected for compliance testing, the selection and testing of vehicles and the evaluation of data shall be made in accordance with the "California New Vehicle Compliance Test Procedures," adopted by the state board on June 24, 1976 and last amended August 5, 1999. Testing of passenger cars and light-duty-trucks certified to the low-emission and ultra-low-emission exhaust standards to determine compliance with the Supplemental Federal Test Procedure emission standards shall commence in the 2002 model year. Motorcycles scheduled for compliance testing shall be selected, tested, and evaluated in accordance with the "California New Motorcycle Compliance Test

Procedures," adopted by the state board on June 30, 1977, and amended November 24, 1981.

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

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

➡ § 2106. New Vehicle Assembly-Line Inspection Testing.

If reports required by an assembly-line test procedure under Article 1 of Subchapter 2 are not in accordance with reporting requirements or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly-line inspection testing is being improperly performed, or that vehicles are being manufactured which do not comply with the functional test requirements or, prior to the 2001 model year with the assembly-line emission standards, the executive officer may order corrections of reporting or test procedures, and may, in accordance with Section 2109 or 2110, as applicable, order correction of vehicles not in compliance with applicable laws, emission standards, or test procedures.

➡ § 2107. Assembly-Line Quality-Audit Testing.

Prior to the 2001 model year, if any official test procedure adopted by the state board specifies that the state board may find a violation of Section 43105 or 43106 of the Health and Safety Code or of this article when a specified percentage of assembly-line vehicles exceeds a standard and when data submitted by the manufacturer indicates such percentage is being exceeded or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly-line quality audit testing is being improperly performed, the executive officer may invoke the provisions of Section 2109 or 2110, as applicable. Quality audit testing is not required for the 2001 and subsequent model years.

➡ § 2108. Order of Executive Officer.

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

➡ **§ 2109. New Vehicle Recall Provisions.**

(a) When this section is invoked pursuant to other sections of this article or Health and Safety Code Section 43105, the executive officer shall require the manufacturer to submit a plan within 30 calendar days of receipt of the invocation order to bring all vehicles into compliance. The executive officer shall order execution of the plan with such changes and additions as he/she determines to be necessary. The plan may include measures to identify the cause of vehicle noncompliance and to correct noncomplying conditions, correction of vehicles under manufacture, correction of vehicles in the possession or control of the manufacturer and dealers, and correction of vehicles in the possession of consumers (by correction upon service whether or not by warranty, by correction following notification of recall by mail, or by correction following efforts actively to locate and correct all such vehicles). The plan may include the temporary cessation of sales to dealers by the manufacturer and efforts by the manufacturer to prevent the sale of vehicles in possession or control of dealers, until the vehicles are corrected. The executive officer may order any one or more of the foregoing actions, or any other action reasonably necessary to bring all vehicles into compliance.

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

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

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

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

(d) If the plan ordered by the executive officer pursuant to this subsection includes a recall, the manufacturer may, within 20 calendar days of its receipt of the plan ordered by the executive officer, notify the executive officer of its desire to contest the necessity for or scope of that order. Any such notification shall specify the basis of the manufacturer's objections. Upon receipt of such notification, the executive officer shall stay the recall until the state board affords the manufacturer the opportunity, at a public hearing to be scheduled no less than 30 calendar days and no more than 60 calendar days after receipt of such notification, to present evidence in support of its objections.

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

The manufacturer may, within 20 calendar days of its receipt of the plan ordered by the executive officer, request a public hearing of the state board on the necessity for or scope of any other corrective action ordered by the executive officer. Such a hearing shall be held by the state board not less than 30 and no more than 60 calendar days after receipt of the manufacturer's request for such a

hearing. The plan ordered by the executive officer shall remain in effect pending such hearing, unless otherwise ordered by the executive officer.

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

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

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

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

➡ § 2110. Remedial Action for Assembly-Line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 Model Year.

(a) When this section is invoked prior to the 2001 model year pursuant to other sections of this article or Health and Safety Code Section 43105, the executive officer shall order the manufacturer to submit a remedial action plan to bring all vehicles in possession of the manufacturer into compliance. The manufacturer shall submit the plan within 30 calendar days after it receives the order. The executive officer may order execution of the plan with such changes and additions as he/she determines are necessary, including additional testing and reporting, consistent with the applicable assembly-line test procedures, to verify acceptability of the plan. The plan shall include a schedule for implementing actions to be taken, including identified increments of progress towards implementation, and deadlines for completing each such increment. The executive officer may not order a recall pursuant to this section.

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

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

the deadline(s) included in the plan shall constitute a separate violation of the order and of Health and Safety Code Section 43106.

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

The state board shall hold such a hearing if requested to do so by either the affected manufacturer or the executive officer.

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