

➡§ 2111. Applicability.

(a) These procedures shall apply to:

(1) California-certified 1982 through the 2009 model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, motorcycles, and California-certified 1997 and subsequent model-year off-road motorcycles and all-terrain vehicles, and 2007 and subsequent model-year off-road sport vehicles, off-road utility vehicles, and sand cars, including those federally certified vehicles which are sold in California pursuant to Health and Safety Code section 43102,

(2) California-certified motor vehicle engines used in such vehicles,

(3) California-certified 2000 and subsequent model-year off-road compression-ignition engines, and

(4) California-certified 2008 model year spark-ignition sterndrive/inboard marine engines with maximum rated power less than or equal to 373 kilowatts complying with the Option 2 requirements in Section 2442(b)(1) and all California-certified 2009 and subsequent model-year spark-ignition sterndrive/inboard marine engines.

(b) These procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code section 44201.

(c) The Executive Officer may waive any or all of the requirements of these procedures if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer without a corresponding emission reduction.

➡§ 2112. Definitions.

(a) "Capture rate" means the percentage of in-use vehicles subject to recall which must be corrected to bring the class or category of vehicles into compliance. The number of vehicles subject to recall shall be based on the actual number of vehicles in use as verified by the Department of Motor Vehicles registration records, or vehicle or engine registration records compiled and prepared by R. L. Polk and Company or a comparable source at the time a recall is initiated.

(b) "Correlation factor" means a pollutant-specific multiplicative factor calculated by a manufacturer for an engine family or test group which establishes a relationship between chassis exhaust emission data, as determined from the test procedures specified in section 1960.1 or 1961, Title 13, California Code of Regulations, and engine exhaust emission data, as determined from the test procedures specified in section 1956.8, Title 13, California Code of Regulations.

(c) "Days", when computing any period of time, means normal working days on which a manufacturer is open for business, unless otherwise noted.

(d) "Emission-Related Failure" means a failure of a device, system, or assembly described in the approved application for certification which affects any parameter, specification, or component enumerated in Appendix A to this subchapter 2.5 or listed in the Emission Warranty Parts List pursuant to section 2036, Title 13, California Code of Regulations, except for failures of devices, systems and assemblies which the Executive Officer has deleted from the manufacturer's list of warranted parts pursuant to section 2036 (f), Title 13, California Code of Regulations.

(e) "Emission Warranty Claim" means an adjustment, inspection, repair or replacement of a specific emission-related component for which the vehicle or engine manufacturer is invoiced or solicited by a repairing agent for compensation pursuant to warranty provisions, regardless of whether compensation is actually provided.

(f) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(g) "Influenced Emission Recall" means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer or its agent or representative as a result of in-use enforcement testing or other evidence of noncompliance provided or required by the Board, to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(h) "Nonconformity" or "noncompliance" exists whenever:

(1) a substantial number of a class or category of vehicles or engines, although properly maintained and used, experience a failure of the same emission-related component within their useful lives which, if uncorrected, results in the vehicles' or engines' failure to meet the applicable standards; or

(2) a class or category of vehicles or engines within their useful lives, although properly maintained and used, on average does not comply with the emission standards prescribed under section 43101 of the Health and Safety Code which are applicable to the model-year of such vehicles or engines.

(i) "Ordered Emission Recall" means an inspection, repair, adjustment, or modification program required by the Board and conducted by the manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

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

(k) "Ultimate purchaser" has the same meaning as defined in section 39055.5 of the Health and Safety Code.

(l) "Useful life" means, for the purposes of this article:

(1) For Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) For Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) For Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever first occurs.

(4) For 1982 through 1984 model-year diesel heavy-duty vehicles (except medium-duty vehicles), and 1982 through 1984 model-year motor vehicle engines used in such vehicles, a period of use of five years, 100,000 miles, or 3000 hours of operation, whichever first occurs.

(5) For 1982 through 1987 model-year gasoline heavy-duty vehicles (except medium-duty vehicles) certified using the steady-state emission standards and test procedures, and 1982 through 1987 model-year gasoline heavy-duty motor vehicle engines certified using the steady-state emission standards and test procedures, a period of use of five years or 50,000 miles, whichever first occurs.

(6) For 1987 through 2003 model-year gasoline heavy-duty vehicles (except medium-duty vehicles) certified to the transient emission standards and test procedures, and 1987 and subsequent model-year gasoline heavy-duty motor vehicle engines certified using the transient emission standards and test procedures, a period of use of eight years or 110,000 miles, whichever first occurs, except as noted in paragraph (13).

(7) For 1985 through 2003 model-year heavy-duty diesel urban buses, and 1985 through 2003 model-year heavy-duty diesel engines to be used in urban buses, and for 1985 through 2003 model-year diesel heavy-duty vehicles (except medium-duty vehicles), and 1985 through 2003 model-year motor vehicle engines used in such vehicles, a period of use of eight years or 110,000 miles, whichever first occurs, for diesel light, heavy-duty vehicles; eight years or 185,000 miles, whichever first occurs, for diesel medium, heavy-duty vehicles; and eight years or 290,000 miles, whichever first occurs, for diesel heavy, heavy-duty vehicles, except as provided in paragraphs (11), (14), (15) and (16); or any alternative useful life period approved by the Executive Officer. (The classes of diesel light, medium, and heavy, heavy-duty vehicles are defined in 40 CFR section 86.085-2, as amended November 16, 1983.)

(8) For light-duty and medium-duty vehicles certified under the Optional 100,000 Mile Certification Procedure, and motor vehicle engines used in such vehicles, a period of use of ten years or 100,000 miles, whichever first occurs.

(9) For 2001 and subsequent-model year medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the primary standards in section

1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For all other 1995 and subsequent model-year medium-duty vehicles and motor vehicle engines used in such vehicles, and 1992 through 1994 model-year medium-duty low-emission and ultra-low-emission vehicles certified to the standards in Section 1960.1(h)(2), and motor vehicle engines used in such vehicles, a period of use of eleven years or 120,000 miles, whichever occurs first.

(10) For all other light-duty and medium-duty vehicles, and motor vehicle engines used in such vehicles, a period of use of five years or 50,000 miles, whichever first occurs. For those passenger cars, light-duty trucks and medium-duty vehicles certified pursuant to section 1960.1.5, Title 13, California Code of Regulations, the useful life shall be seven years, or 75,000 miles, whichever first occurs; however, the manufacturer's reporting and recall responsibility beyond 5 years or 50,000 miles shall be limited, as provided in section 1960.1.5. For those passenger cars and light-duty trucks certified pursuant to Title 13, California Code of Regulations, section 1960.1 (f) and section 1960.1(g), the useful life shall be ten years or 100,000 miles, whichever first occurs; however, for those vehicles certified under section 1960.1(f), the manufacturer's warranty failure and defects reporting and recall responsibility shall be subject to the conditions and standards specified in section 1960.1 (f).

(11) For 1994 through 2003 model-year heavy heavy-duty diesel urban buses, and 1994 through 2003 model-year heavy heavy-duty diesel engines to be used in urban buses, for the particulate standard, a period of use of ten years or 290,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(12) For 1997 and subsequent model year off-road motorcycles, all-terrain vehicles, and for 2007 and subsequent model year off-road sport vehicles, off-road utility vehicles, sand cars, and engines used in such vehicles, a period of use of five years or 10,000 kilometers (6,250 miles), whichever first occurs.

(13) For 1998 through 2003 model-year gasoline heavy-duty engines, for the NO_x standard, a period of use of ten years or 110,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(14) For 1998 through 2003 model-year light heavy-duty diesel engines, for the NO_x standard, a period of use of ten years or 110,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(15) For 1998 through 2003 model-year medium heavy-duty diesel engines, for the NO_x standard, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(16) For 1998 through 2003 model-year heavy heavy-duty diesel engines, for the NOx standard, a period of use of ten years or 290,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(17) For those passenger cars and light-duty trucks certified to the primary standards in section 1961(a)(1), the useful life shall be ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent passenger car and light-duty truck low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first.

(18) For 2004 and subsequent model-year light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(19) For 2004 and subsequent model-year medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(20) For 2004 and subsequent model-year heavy heavy-duty diesel engines, 2004 and subsequent model-year heavy-duty diesel urban buses, 2004 and subsequent model-year heavy-duty diesel engines to be used in urban buses, and 2004 and subsequent model year hybrid-electric urban buses for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, or any alternative useful life period approved by the Executive Officer, except as provided in paragraphs (20)(A) and (20)(B).

(A) The useful life limit of 22,000 hours in paragraph (19) of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(B) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d) (42 U.S.C. 7521(d)).

(21) For 2004 and subsequent model-year heavy-duty Otto-cycle engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(22) For 2000 and later model year off-road compression-ignition engines, for oxides of nitrogen, hydrocarbon, oxides of nitrogen plus hydrocarbon (when applicable), carbon monoxide, particulate emission standards, and for smoke opacity:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, a period of use of five years or 3,000 hours of operation, whichever first occurs.

(B) For all other engines rated above 19 kilowatts and under 37 kilowatts, a period of use of seven years or 5,000 hours of operation, whichever first occurs.

(C) For engines rated at or above 37 kilowatts, a period of use of ten years or 8,000 hours of operation, whichever first occurs.

(23)(A) For California-certified 2008 and subsequent model year spark-ignition sterndrive/inboard marine engines with maximum rated power less than or equal to 373 kilowatts and complying with the Option 2 requirements in Section 2442(b)(1), and for California-certified 2009 and subsequent model-year spark-ignition sterndrive/inboard marine engines with a maximum rated or maximum engine power less than or equal to 485 kilowatts, a period of ten years or 480 hours, a period of ten years or 480 hours, whichever first occurs.

(B) For California-certified 2009 and subsequent model year spark-ignition sterndrive/inboard marine engines greater than 485 kilowatts, a period of one year or 50 hours, whichever first occurs. Manufacturers of spark-ignition sterndrive/inboard marine engines greater than 485 kilowatts may petition the Executive Officer for a approval of a shorter period when appropriate.

(m) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine.

(n) "Voluntary Emission Recall" means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

➡§ 2113. Initiation and Approval of Voluntary and Influenced Emission-Related Recalls.

(a) When any manufacturer initiates a voluntary emission recall campaign, the manufacturer shall notify the Executive Officer of the recall at least 30 days before owner notification is to begin. The manufacturer shall also submit a voluntary recall plan for approval, as prescribed under Section 2114 of these procedures. A voluntary recall plan shall be deemed approved unless disapproved by the Executive Officer within 20 days after receipt of the recall plan.

(b) When any manufacturer, based on enforcement test results or any other information

provided or required by the ARB, proposes to initiate an influenced emission recall campaign, the manufacturer shall submit for approval by the Executive Officer an influenced emission recall plan as prescribed by Section 2114 of these procedures. The plan shall be submitted within 45 days following the receipt of a notification from the ARB that enforcement test results or other information demonstrate a vehicle or an engine noncompliance.

(c) The Executive Officer shall approve the recall plan if the plan contains the information specified in Section 2114 and is designed to notify the vehicle owner and correct the nonconformity in an expeditious manner. Notification of vehicle or engine owners and the implementation of recall repairs shall commence no later than the schedule specified under Section 2114(a)(3) and (4), unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

➡§ 2114. Voluntary and Influenced Recall Plans.

(a) The recall plan for both voluntary and influenced recalls shall contain the following information unless otherwise specified:

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

(2) A description of the nonconformity and the specific modifications, alterations, repairs, adjustments, or other changes to be made to correct the vehicles or engines.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the manufacturer's method and schedule for notifying the service facilities and vehicle or engine owners of the recall.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons.

(6) A copy of the letter of notification to be sent to vehicle or engine owners.

(7) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the recall plan, including the date by which an adequate supply of parts will be available to initiate the repair

campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(8) A copy of all necessary instructions to be sent to those persons who are to perform the repair.

(9) A description of the impact of the proposed repairs or adjustments on fuel economy, driveability, performance and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these descriptions.

(10) Under an influenced recall, an estimate of the capture rate from the proposed recall derived from actual data and/or manufacturer experience. A 60 percent capture rate shall be assigned for recalls based exclusively on noncompliance as defined in Section 2112(h)(1), above.

(11) Under an influenced recall based on noncompliance as defined in Section 2112(h)(2), above, a description of the impact of the proposed changes on the average emissions from the vehicles or engines to be recalled. The description shall contain the following:

(A) Average noncompliance emission levels.

(B) Average emission reduction per pollutant resulting from the recall repair. These averages shall be verified by the manufacturer by applying the proposed recall repairs to two or more in-use vehicles or engines representing the average noncompliance emission levels. Only those vehicles or engines with baseline-emission levels within 25 percent of the average emission levels of noncomplying pollutant(s) established under the in-use enforcement test program may be used by manufacturers to verify proposed recall repairs. The Executive Officer may allow the use of vehicles or engines exceeding these limits if none which meet the limits can be reasonably procured. In the case of heavy-duty engines, the average emission levels may be verified using laboratory engines, subject to approval by the Executive Officer.

(C) An estimate of the average emission level per pollutant for the class or category of vehicles or engines after repair as corrected by the estimated capture rate. The estimated average emission level shall comply with the applicable emission standard. The Executive Officer may waive the requirement for average emission compliance with the standards provided the emission level per vehicle repaired is reduced to its new-vehicle certification emission level at a minimum capture rate of 60 percent.

➡§ 2115. Eligibility for Repair.

The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong and compelling reasons and with the approval of the

Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the remedial action cannot be performed without additional cost.

➡§ 2116. Repair Label.

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

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

(c) The label shall contain the recall campaign number and a code designating the campaign facility at which the repair, or inspection for repair, was performed.

➡§ 2117. Proof of Correction Certificate.

The manufacturer shall require those who perform the repair to provide the owner for each vehicle or engine repaired with a certificate, in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of a recall enforcement program adopted by the Department of Motor Vehicles or another state agency which requires presentation of proof of correction of a recalled vehicle prior to issuance of a smog certificate, registration renewal, or other entitlement to use.

➡§ 2117. Proof of Correction Certificate.

The manufacturer shall require those who perform the repair to provide the owner for each vehicle or engine repaired with a certificate, in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of a recall enforcement program adopted by the Department of Motor Vehicles or another state agency which requires presentation of proof of correction of a recalled vehicle prior to issuance of a smog certificate, registration renewal, or other entitlement to use.

➡§ 2118. Notification.

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

(a) The statement: "Your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and federal) standards," if applicable as determined by the Executive Officer.

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

(c) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail a vehicle inspection or Smog Check test when such tests are required under state law.

(d) A statement describing the adverse effect, if any, of the uncorrected nonconformity on the performance, fuel economy, or durability of the vehicle or engine.

(e) After the effective date of the recall enforcement program referred to in Section 2117, a statement that a certificate showing that the vehicle has been repaired under the recall program shall be issued by the service facilities, and that such a certificate will be required as a condition of vehicle registration or operation, as appropriate.

(f) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold or transferred.

(g) The statement: "In order to ensure your full protection under the emission warranty provisions, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined as lack of proper maintenance of your (vehicle or engine)." This statement is not required for off-road motorcycles or all-terrain vehicles.

(h) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

➡ § 2119. Recordkeeping and Reporting Requirements.

(a) Unless otherwise specified by the Executive Officer, the manufacturer shall report on the progress of the recall campaign by submitting subsequent reports for six consecutive quarters commencing with the quarter after the recall campaign begins. Such reports shall be submitted no later than 25 days after the close of each calendar quarter to: Chief, Mobile Source Operations Division, 9528 Telestar, El Monte, CA 91731. For each class or category of vehicle or engine subject to the emission recall campaign, the quarterly report shall contain the following:

(1) Engine family or test group and emission recall campaign number designated by the manufacturer.

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

(3) Number of vehicles or engines involved in the voluntary or influenced emission recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity and an explanation of the means by which this number was determined.

(5) Number of vehicles or engines inspected pursuant to the voluntary or influenced emission recall plan.

(6) Number of inspected vehicles or engines found to be affected by the nonconformity.

(7) Number of vehicles or engines receiving repair under the recall plan.

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

(9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.

(10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this submittal may be changed by the Executive Officer depending on the needs of recall enforcement.

(11) A copy of any service bulletins transmitted to dealers or other authorized repair facilities which relate to the nonconformity to be corrected and which have not previously been reported.

(12) A copy of all communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that any of the information submitted to the Executive Officer pursuant to (a) above has changed or was incorrect, revised information and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) above shall be cumulative totals.

(c) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, the names and addresses of vehicle or engine owners:

(1) To whom notification was given;

(2) Whose vehicles were repaired or inspected under the recall plan; and

(3) Who were determined not to qualify for such recall action due to removed or altered components.

(d) The information gathered by the manufacturer to compile the reports required by

these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines and shall be made available to authorized personnel of the Air Resources Board upon request.

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2119 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.

2. Amendment of Note filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. s 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

3. Amendment of subsections (a) and (a)(1) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

➡§ 2120. Other Requirements Not Waived.

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

➡§ 2121. Penalties.

Under the influenced recall, failure by a manufacturer to notify the vehicle or engine owners and repair the vehicles or engines in the manner specified in the plan shall constitute a violation of the Executive Officer's order approving the plan and a violation of Health and Safety Code Section 43105. Notwithstanding the above, no penalty shall be imposed for a manufacturer's failure to meet the estimated capture rate except for an influenced recall when the 60-percent capture rate is required pursuant to Section 2114(a)(10) above, in which case a recall pursuant to Section 2123 below may be ordered if the Executive Officer determines that the manufacturer did not show a good faith effort to achieve the capture rate set forth in the recall plan