

➡ **§ 2141. General Provisions.**

(a) The provisions regarding applicability of the failure reporting procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112, except that this Section 2141 does not apply to off-road compression-ignition engines, as defined in Section 2421.

(b) The requirement to file emission warranty information reports and field information reports for a given class or category of vehicles or engines shall be applicable for the warranty period but not to exceed the useful-life period of the vehicles or engines beginning with the 1990 model-year vehicles or engines.

(c) The requirement to file an emissions information report for a given class or category of vehicles or engines shall be applicable for the useful-life period of the vehicles or engines.

(d) In the case of motor vehicles or engines for which certification of the exhaust and evaporative emission control systems is granted to different manufacturers, the information reporting responsibility in subsections (b) and (c) above shall be assigned to the certifying manufacturer.

➡ **§ 2142. Alternative Procedures.**

(a) A vehicle manufacturer may use an alternative procedure to those specified in Sections 2144(a) and 2145(a), provided the Executive Officer has determined that the alternative procedure will produce substantially equivalent results. In making such a determination, the Executive Officer shall consider the capacity of the alternative procedure to:

- (1) ensure early detection of failing components within the useful life of the vehicles or engines;
- (2) track failing components by engine family;
- (3) assure prompt notification of the Executive Officer when a systematically failing component is indicated;
- (4) provide objective, complete and easily monitored data; and
- (5) be audited by the Executive Officer.

(b) If, in order to comply with the requirements of Section 2142(a), 2144(a) or 2145(a), a manufacturer elects to develop a system based upon a sampling of representative California dealerships, such plan must be reviewed and approved by the Executive Officer prior to its implementation.

➡ **§ 2143. Failure Levels Triggering Recall.**

An engine family, test group or a subgroup shall be subject to a recall when the number of failures of a specific emission-related component exceeds the failure level set forth below, unless the Executive Officer determines from the emission information report that a recall is unnecessary pursuant to the criteria set forth in Section 2148(a) and (b). Vehicles or engines in an engine family or test group are subject to recall at the following failure levels: 4 percent or 50 (whichever is greater) for 1990 through

1991 model year vehicles or engines; 3 percent or 50 (whichever is greater) for 1992 through 1993 model-year vehicles or engines; and 2 percent or 50 (whichever is greater) for 1994 and subsequent model-year vehicles or engines. The Executive Officer may extend the applicability of the 4 or 3 percent failure levels if he/she determines that proceeding to the next lower level will create an excessive administrative burden on the ARB or the vehicle manufacturers without a corresponding benefit in the reduction of emissions.

➡ **§ 2144. Emission Warranty Information Report.**

(a) A manufacturer shall:

(1) Review warranty claim records for each engine family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components. The data compiled shall be based on all warranty claims, without any prescreening of data as to the validity of the claims. In the case of heavy-duty vehicles or engines, a manufacturer may use nationwide data for monitoring warranty claims of a California-certified engine family or test group which is also certified by the United States Environmental Protection Agency.

(2) Categorize warranty claims for each engine family or test group by the specific emission control component replaced or repaired.

(3) On the basis of data obtained subsequent to the effective date of these regulations, file an emission warranty information report for each quarter when the cumulative number of unscreened warranty claims for a specific emission-related component or repair represent at least one percent or twenty five (whichever is greater) of the vehicles or engines of a California-certified engine family or test group.

(b) The emission warranty information report shall contain the following information in substantially the format outlined below:

(1) The manufacturer's corporate name.

(2) A description of each class or category of California-certified vehicles or engines affected by a warranty replacement or warranty repair of a specific emission-related component, including model year and engine family or test group.

(3) The number and percentage of vehicles or engines in each engine family or test group for which a warranty replacement or warranty repair of a specific emission-related component was identified.

(4) A short description of the specific emission-related component that was replaced or repaired under warranty.

(c) Emission warranty information reports shall be submitted not more than 25 days after the close of a calendar quarter. Subsequent to the filing of an emission warranty information report, a manufacturer shall submit quarterly reports updating the number and percentage of emission-related warranty claims with the most recent information, unless a recall has been implemented. Emission warranty information reports and updates shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731.

(d) The records described in Section 2144(a)(1) of these procedures and the records used under the alternative procedure described in Section 2142(a) of these procedures shall be made available to the Executive Officer upon request.

➡ **§ 2145. Field Information Report.**

(a) On the basis of data obtained and reported pursuant to Section 2144 of these procedures, a manufacturer shall file a field information report not more than 45 days after an emission warranty information report indicates that a cumulative total of unscreened warranty claims for a specific emission-related component is found to exist in excess of the percentage of vehicles specified in Section 2143, unless the manufacturer has committed to perform a recall by notifying the ARB of its intent in writing within the 45-day period. A recall plan must be submitted within 45 days of that notice.

(b) All field information reports shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731, and shall contain the following information in substantially the format outlined below:

(1) The manufacturer's corporate name.

(2) A field information report number assigned by the manufacturer which shall be used in all related correspondence.

(3) A description of each class or category of California-certified vehicles or engines affected including make, model, model-year, engine family or test group and such other information as may be required to identify the vehicles or engines affected. The description shall include those engine families or test groups related to the affected engine family or test group through common certification test data allowed under Title 40, Code of Federal Regulations, Section 86.085-24(f), as amended December 10, 1984 or Title 40 Code of Federal Regulations, Section 86.1839-01, as adopted May 4, 1999 ("carry-over" and "carry-across" engine families).

(4) A description of the emission-related component that failed or was replaced or repaired under warranty, the failure and the probable cause of the failure.

(5) The number and percentage of vehicles or engines in each engine family or test group for which a failure of a specific emission-related component was identified.

(6) The total number and percentage of unscreened warranty claims and failures of a specific emission-related component projected to occur during the engine family's or test group's useful life and a description of the method used to project this number.

(7) An estimated date when the failure of a specific emission-related component will reach the levels specified in Section 2143 of these procedures.

§ 2146. Emissions Information Report.

(a) A manufacturer shall file an emissions information report:

(1) For 1990 and subsequent model-year vehicles or engines, when the failure of a specific emission-related component exceeds the percentages specified in Section 2143 of these procedures. An emissions information report shall not be required sooner than 45 days after the field information report has been submitted to the Executive Officer.

(2) Not more than 45 days after the Executive Officer, with cause, requires such a report. For purposes of this section, "cause" shall be based upon any information in ARB possession which indicates that a failure of significant scope is occurring which might necessitate a recall, including but not limited to the in-use enforcement test results specified in Section 2140(a) above, and information gathered from ARB in-use surveillance activities, Smog Check inspections, and consumer complaints.

(3) For 1982 through 1989 model-year vehicles or engines, not more than 15 days after a specific emission-related defect is determined to exist in twenty-five or more vehicles or engines of the same

model year. A defect shall be determined in accordance with procedures established by a manufacturer to identify safety-related defects.

(b) No emissions information report shall be required if a manufacturer has committed to perform a recall by notifying the ARB of its intent in writing after the failure of a specific emission-related component exceeds the percentages specified in Section 2143 of these procedures. A recall plan shall be submitted within 45 days of the manufacturer's notification of intent to perform a recall.

(c) All emissions information reports shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731, and shall contain the following information in substantially the format outlined below. For purposes of this section, the term "failure" shall be considered synonymous with the term "defect" for those emissions information reports filed pursuant to subsection (a)(3), above.

(1) The manufacturer's corporate name.

(2) The field information report number from which the failure was first reported, if applicable.

(3) A description of each class or category of California-certified vehicles or engines affected by the failure including make, model, model-year, engine family or test group, and such other information as may be required to identify the vehicles or engines affected.

(4) A description of the emission-related component that failed, the failure and the probable cause of failure.

(5) A description of any driveability problems or impact on other vehicle or engine performance factors such as fuel economy and cold starting likely to result from the failure.

(6) For emissions information reports filed pursuant to Section 2146(a)(1) and (2), a description of how emissions will be affected over the useful life of the vehicles or engines due to the failure.

(7) For emissions information reports filed pursuant to Section 2146(a)(3), an evaluation of the emission impact of the failure and any available emission data which relate to the failure.

➡ § 2147. Demonstration of Compliance with Emission Standards.

(a) In order to overcome the presumption of noncompliance set forth in Title 13, California Code of Regulations, Section 2123(b), the average emissions of the vehicles and engines with the failed emission-related component must comply with applicable emission standards. A manufacturer may demonstrate compliance with the emission standards by following the procedures set forth in either subsection (b) or subsection (c) of this section.

(b) A manufacturer may test properly maintained in-use vehicles with the failed emission-related component pursuant to the applicable certification emission tests specified in Title 13, California Code of Regulations, Section 1960.1 or 1961, as applicable, for passenger cars, light-duty trucks and medium-duty vehicles, Section 1956.8 for heavy-duty engines and vehicles, Section 1958 for motorcycles, and Section 2442 for sterndrive/inboard marine engines. The emissions shall be projected to the end of the vehicle's or engine's useful life using in-use deterioration factors. The in-use deterioration factors shall be chosen by the manufacturer from among the following:

(1) "Assigned" in-use deterioration factors provided by the ARB on a manufacturer's request and based on ARB in-use testing; or,

(2) deterioration factors generated during certification, provided adjustments are made to account for vehicle aging, customer mileage-accumulation practices, type of failed component, component failure

mode, effect of the failure on other emission-control components, commercial fuel and lubricant quality, and any other factor which may affect the vehicle's or engine's operating conditions; or,

(3) subject to approval by the Executive Officer, a manufacturer-generated deterioration factor. The Executive Officer shall approve such deterioration factor if it is based on in-use data generated from certification emission tests performed on properly maintained and used vehicles in accordance with the procedures set forth in Section 1960.1 or 1961 of Title 13 of the California Code of Regulations as applicable for passenger cars, light-duty trucks, and medium-duty vehicles; Section 1956.8 of Title 13 of the California Code of Regulations for heavy duty vehicles and engines; and Section 1958 of Title 13 of the California Code of Regulations for motorcycles, and if the vehicles from which it was derived are representative of the in-use fleet with regard to emissions performance and are equipped with similar emission control technology as vehicles with the failed component.

(c) In lieu of the vehicle or engine emission testing described in subsection (b) above and subject to approval by the Executive Officer, a manufacturer may perform an engineering analysis, laboratory testing or bench testing, when appropriate, to demonstrate the effect of the failure.

➡ § 2148. Evaluation of Need for Recall.

(a) Once the emission information report is filed, the Executive Officer shall evaluate the failure to determine whether a recall is necessary. Factors to be considered shall include but are not limited to the following:

- (1) the validity of the data;
- (2) the emission impact of the failure on individual vehicles or engines;
- (3) the possibility of induced tampering due to driveability problems resulting from the failure;
- (4) the effects of the failure on performance, fuel economy, and safety;
- (5) the failure rates and the timing and extent of a remedy if no recall is required; and
- (6) other factors specific to the failure.

(b) Notwithstanding subsection (a) above, a recall shall not be required if the manufacturer submits information with the emissions information report which demonstrates to the satisfaction of the Executive Officer that the failure:

- (1) is limited to an emission-related component on a <-substantial percentage of vehicles and does not represent a pervasive defect in design, application, or execution which is likely to affect a substantial number of such emission-related components during the useful life of the vehicle or engines, and
- (2) is likely to be corrected under the warranty program or other in-use maintenance procedure shortly after the inception of the problem.

(c) If a manufacturer can identify a subgroup of an engine family or test group which is subject to a failure, a recall may be limited to that subgroup with Executive Officer approval.

➡ § 2149. Notification and Subsequent Action.

(a) The Executive Officer shall notify the manufacturer of the evaluation results. If the Executive

Officer deems a noncompliance exists, a manufacturer shall have 15 days upon receipt of ARB notification to notify the ARB in writing of its intent to perform a recall. A manufacturer may initiate one of the following recalls:

(1) A voluntary recall if the emissions information report submitted was required pursuant to Section 2146(a)(1) or (a)(3) of these procedures;

(2) An influenced recall if the emissions information report submitted was required pursuant to Section 2146(a)(2) of these procedures.

(b) If no notification to perform a voluntary or influenced recall is submitted by the manufacturer within the 15-day period specified in subsection (a) above, the ARB may initiate further investigation which could lead, respectively, to an influenced or ordered recall of the subject vehicles or engines.

(c) Following notification of noncompliance by the ARB, a manufacturer shall submit within 45 days a recall plan in accordance with Section 2113(a) or (b), Title 13, California Code of Regulations.