

POTENTIAL DRAFT REGULATORY LANGUAGE FOR STAKEHOLDER REVIEW: This document provides potential draft regulatory language for the Zero-Emission Powertrain Certification Procedures measure. This document is only intended to encourage public feedback, is incomplete, and should not be construed as a formal regulatory proposal.

Title 13, California Code of Regulations

§ 2035. Purpose, Applicability, and Definitions.

(a) Purpose.

The purpose of this article is to interpret and make specific the statutory emissions warranty set forth in Health and Safety Code sections 43205, and 43205.5 by clarifying the rights and responsibilities of individual motor vehicle and motor vehicle engine owners, motor vehicle and motor vehicle engine manufacturers, and the service industry.

(b) Applicability.

This article shall apply to:

- (1) California-certified 1979 and subsequent model motorcycles, passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles (except heavy-duty zero-exhaust emission vehicles), registered in California, regardless of their original point of registration; ~~and~~
- (2) California-certified 2019 and subsequent model heavy-duty zero-exhaust emission vehicles, registered in California, regardless of their original point of registration; and
- ~~(2)~~(3) California certified motor vehicle engines and zero-emission powertrains used in such vehicles.

(c) Definitions.

For the purposes of this article, the following definitions shall apply:

- (1) “Drivability Component” means any vehicle integration component in a zero-exhaust emission vehicle or any component in a zero-emission powertrain that when deteriorated, damaged, or failing will not allow normal operability.

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~~(4)~~(2) “Warrantable condition” means any condition of a vehicle or engine which triggers the responsibility of the manufacturer to take corrective action pursuant to sections 2036, 2037, or 2038.

~~(2)~~(3) “Warranted Part” means:

- (A) in the case of 1979 through 1989 model year passenger cars, light-duty trucks, and medium-duty vehicles, 1979 and later model year motorcycles and heavy-duty vehicles, and 1990 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles produced before January 24, 1991, any emission-related part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which is included on the “Emissions Warranty Parts List” required by section 2036(f) and approved for the vehicle or engine by the Executive Officer; and
- (B) in the case of 1990 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles other than those identified in subparagraph (A) of this definition, any part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which affects any regulated emission from a motor vehicle or engine which is subject to California emission standards.
- (C) in the case of zero-exhaust emission vehicles, vehicle integration components, as set forth in “California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles,” as adopted [PLACEHOLDER], which is hereby incorporated by reference herein.
- (D) in the case of zero-emission powertrains, powertrain components, as set forth in California Standards and Test Procedures for New 2019 and Subsequent Model Heavy-Duty Zero-Emission Powertrains, as amended [PLACEHOLDER], which is hereby incorporated by reference herein.

~~(3)~~(4) “Warranty period” means the period of time and mileage that the vehicle, engine, zero-emission powertrain or part are covered by the warranty provisions.

~~(4)~~(5) “Warranty station” means a service facility authorized by the vehicle, ~~or~~ engine, or zero-emission powertrain manufacturer to perform warranty repairs. This shall include all of the manufacturer's dealerships which are franchised to service the subject vehicles or engines.

(6) “Vehicle integration component” means any component of the vehicle that involves the interfacing of components between the zero-exhaust emission vehicle and the zero-emission powertrain.”

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- ~~(5)~~(7) “Vehicle or engine manufacturer” means the manufacturer granted certification for a motor vehicle or motor vehicle engine, or zero-emission powertrain. In the case of motor vehicles for which certification of the exhaust and evaporative emissions control systems is granted to different manufacturers, the warranty responsibility shall be assigned accordingly.
- (8) “Zero-emission powertrain” means the electric motor, system controller, generator, on-board charge battery management system, battery thermal management system, energy storage system (batteries, capacitors, and flywheels), and the interface at which the electric power is converted to tractive mechanical power or power to a PTO system certified pursuant to the Voluntary Zero-Emission Powertrain Requirements in title 13 CCR, section 1956.8, hereby incorporated by reference herein.
- (9) “Zero-exhaust emission vehicle” means a vehicle certified pursuant to the Alternative Zero-Emission Certification Standards title 17 CCR, section § 95663, hereby incorporated by reference herein. The vehicle does not include components in the powertrain, but does include any component that interfaces with the powertrain components.

§ 2036. Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.

(a) Applicability.

This section shall apply to 1979 through 1989 model passenger cars, light-duty trucks, and medium-duty vehicles; 1979 and subsequent model motorcycles and heavy-duty vehicles; 2019 and subsequent model heavy-duty zero-exhaust emission vehicles; and motor vehicle engines and zero-emission powertrains used in such vehicles. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

(b) General Emissions Warranty Coverage.

The manufacturer of each motor vehicle, motor vehicle engine, zero-exhaust emission vehicle or zero-emission powertrain shall warrant to the ultimate purchaser

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and each subsequent purchaser that the vehicle, ~~or engine,~~ or zero-emission powertrain is:

- (1) Designed, built, and equipped so as to conform, at the time of sale, with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and
- (2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to that part as described in the vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer's application for certification.

(c) Warranty Period.

The warranty period applicable to this section shall be:

- (1) In the case of 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) In the case of 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) In the case of 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) In the case of diesel-powered heavy-duty vehicles (except medium-duty vehicles), and motor vehicle engines used in such vehicles, a period of use of five years, 100,000 miles, or 3000 hours of operations, whichever first occurs. However, in no case may this period be less than the basic mechanical warranty that the manufacturer provides (with or without additional charge) to the purchaser of the engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. In cases where responsibility for an extended warranty is shared between the owner and the manufacturer, the emissions warranty shall also be shared in the same manner as specified in the warranty agreement.
 - (4.1) In the case of diesel-powered heavy-duty vehicles below 19,500 pound GVWR (except medium-duty vehicles) certified to the GHG emission standards of section 95663, title 17, and motor vehicle engines used in such vehicles, a period of use of five years or 50,000 miles, whichever first occurs, for GHG emission control

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components, as set forth in 40 CFR 1037.120, as adopted November 14, 2011.

- (4.2) In the case of diesel-powered heavy-duty vehicles at or above 19,500 pound GVWR certified to the GHG emission standards of section 95663, title 17, and motor vehicle engines used in such vehicles, a period of use of five years or 100,000 miles, whichever first occurs, for GHG emission control components, as set forth in 40 CFR 1037.120, as adopted November 14, 2011.
- (5) In the case of passenger cars, light-duty trucks, 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, except as otherwise provided in this paragraph. In the case of diesel particulate control system components on the 1985 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles certified under the optional 100,000-mile certification procedure, the warranty period means five years or 50,000 miles, whichever first occurs, for failures of such components which do not result in the failure of any other warranted part to perform as designed during the warranty period of the vehicle, and ten years or 100,000 miles, whichever first occurs, for all other failures.
- (6) In the case of vehicles certified to the optional emission standards pursuant to Health and Safety Code section 43101.5(a), which are sold on or after January 1, 1983, for fuel metering and ignition components contained in the state board's "Emissions Warranty Parts List", dated December 14, 1978, as amended February 22, 1985, a period of use of two years or 24,000 miles, whichever first occurs, and for all other warranted parts, a period of use of five years or 50,000 miles, whichever first occurs.
- (7) In the case of all other passenger cars, light-duty trucks, and medium-duty vehicles, a period of use of five years or 50,000 miles, whichever first occurs.
- (8) In the case of heavy-duty vehicles and motor vehicle engines used in such vehicles, (except for diesel-powered heavy-duty vehicles, ~~or~~ all medium-duty vehicles, all zero-exhaust emission vehicles and motor vehicle engines and zero-emission powertrains used in such vehicles,) a period of use of five years or 50,000 miles, whichever first occurs. However, in no case may this period be less than the basic mechanical warranty period that the manufacturer provides (with or without additional charge) to the purchaser of the engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. In cases where responsibility for an extended warranty is shared between the owner and the manufacturer,

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the emissions warranty shall also be shared in the same manner as specified in the warranty agreement.

(8.1) In the case of heavy-duty vehicles certified to the GHG emission standards of section 95663, title 17, and motor vehicle engines used in such vehicles, (except for diesel-powered heavy-duty vehicles or all 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 GHG emission control components, as set forth in 40 CFR 1037.120, as adopted November 14, 2011.

(9) In the case of zero-exhaust emission vehicles, a period of use of three years or 50,000 miles, whichever occurs first for vehicle integration components, as set forth in "California Standards and Test Procedures for New 2019 and Subsequent Model Heavy-Duty Zero-Emission Powertrains," which shall be considered emission-related parts for the purposes of this section.

(10) In the case of zero-emission powertrains, a period of use of three years or 50,000 miles, whichever first occurs for zero-emission powertrain components, which shall be considered emission-related parts for the purposes of this section.

- (d) Subject to the conditions and exclusions of subsection (j), the warranty on emissions-related parts or drivability components shall function as follows:
- (1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (c). If any such part fails during the warranty period, it shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.
 - (2) Any warranted part which is scheduled only for regular inspection in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (c). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.
 - (3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required by subsection (e) shall be warranted for the period of time or mileage, whichever first occurs, prior to the first scheduled replacement point for that part. If the part fails before the first scheduled replacement point, the part shall be repaired or

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replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part repaired or replaced under warranty shall be warranted for 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 shall be performed at no charge to the vehicle, ~~or engine,~~ or zero-emission powertrain owner, at a warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part, except for zero-exhaust emission vehicles and zero-emission powertrains, for which repair locations may be limited to authorized service establishments that have undergone manufacturer-authorized service training. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. Heavy-duty vehicle, zero-exhaust emission vehicle, zero-emission powertrain and engine manufacturers shall establish reasonable emergency repair procedures which may differ from those specified in this subsection. A vehicle, ~~or engine,~~ or zero-emission powertrain owner may reasonably be required to keep receipts and failed parts in order to receive compensation for warranted repairs reimbursable due to an emergency, provided the manufacturer's written instructions advise the owner of his obligation.
- (5) Notwithstanding the provisions of subsection (4), warranty services or repairs shall be provided at all of a manufacturer's dealership which are franchised to service the subject vehicles or engines.
- (6) The vehicle, ~~or engine,~~ or zero-emission powertrain owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.
- (7) The vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty any warranted part.
- (8) Throughout the vehicle, ~~or engine,~~ or zero-emission powertrain's warranty period defined in subsection (b), the vehicle, ~~or engine,~~ or powertrain manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to

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exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of subsection (4).

- (9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer, except that the vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under subsection (7)).
 - (10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of an add-on or modified part.
 - (11) The Executive Officer may request and, in such case, the vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer shall provide, any documents which describe that manufacturer's warranty procedures or policies.
- (e) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle, ~~or engine,~~ or zero-emission powertrain written instructions for the maintenance and use of the vehicle, ~~or engine,~~ or zero-emission powertrain by the owner, which instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.
 - (f) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle, ~~or engine,~~ or zero-emission powertrain a list of the warranted parts installed on that vehicle or engine. The list shall include those parts included on the Air Resources Board "Emissions Warranty Parts List," dated December 14, 1978, as amended on February 22, 1985, and incorporated herein by reference.
 - (g) Except for 1980 and 1981 model motorcycles, each manufacturer shall submit the documents required by sections (e) and (f), with the manufacturer's preliminary application for new vehicle, ~~or engine,~~ or zero-emission powertrain certification for approval by the Executive Officer. The Executive Officer may

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reject or require modification of the manufacturer's list of warranted parts to ensure that each such list is of proper scope and also may reject or require modification of any of the documents required by subsection (e). Approval by the Executive Officer of the documents required by subsections (e) and (f), shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (e) and (f), within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

- (h) Notwithstanding subsection (f), the exception the Executive Officer may delete any part from a manufacturer's list of warranted parts provided in the manufacturer demonstrates to the Executive Officer's satisfaction that:
 - (1) Failure of such part will not increase the emissions of any vehicle or engine on which it is installed, and
 - (2) Any deterioration of drivability or performance which results from failure of the part could not be corrected by adjustments or modifications to other vehicle components.

(i) Vehicle Inspection Program.

This subsection shall apply to passenger cars, light-duty trucks, medium-duty and heavy-duty vehicles and motorcycles required to be inspected pursuant to any California statutorily authorized motor vehicle emissions inspection and maintenance program. The provisions of this section shall be contained in the warranty statement required pursuant to section 2039.

- (1) The owner of a vehicle which fails the inspection during its warranty period may choose to have the vehicle repaired at a warranty station.
 - (A) If the warranty station identifies that the inspection failure was caused by the failure or malfunction of a warranted part, ~~that~~then the vehicle manufacturer shall be liable for expenses involved in detecting and correcting the part failure or malfunction, unless the warranty station demonstrates that the part failure or malfunction was caused by abuse, neglect, or improper maintenance as specified in subsection (j)(1), or was caused by an adjustment not covered by warranty as specified in subsection (j)(2).
 - (B) If the warranty station demonstrates that the inspection failure was caused by one or more conditions executed from warranty coverage pursuant to subsection (j), the vehicle owner shall be liable for all

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diagnostic and repair expenses. Such expenses shall not exceed the maximum repair costs permissible under the inspection program.

- (C) If the warranty station identifies that the inspection failure was caused by one or more defects covered under warranty pursuant to these regulations and in combination with one or more conditions excluded from warranty coverage pursuant to subsection (j), ~~that~~then the vehicle owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.
 - (2) In the alternative, the owner of a vehicle which fails an inspection may choose to have the vehicle repaired at other than a warranty station. If a warrantable defect is found, the vehicle owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The vehicle manufacturer shall not be liable for any expenses incurred at a service establishment not authorized to perform warranty repairs, except in the case of an emergency as specified in subsection (d)(4). If the vehicle owner chooses to have the warrantable defect repaired at other than a warranty station, the upper cost limit pursuant to Health and Safety Code section 44017 shall not apply to the repair.
- (j) Exclusions.
- (1) The repair or replacement of any warranted part otherwise eligible for warranty coverage under subsection (d) or (i), shall be excluded for such warranty coverage if the vehicle ~~or engine~~, or zero-emission powertrain manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.
 - (2) The following adjustments to warranted parts are excluded from warranty coverage under subsection (d) or (i); the idle air/fuel mixture ratio (for 1979 model passenger cars, and 1979 and 1980 model light-duty trucks and medium-duty vehicles), curb or high idle speed, ignition timing, valve lash, injection timing for diesel-powered vehicles, or any combination thereof.
 - (3) Except as provided in subsection (1) above, any adjustment of a component which as a factory installed, and properly operating, adjustment limiting device (such as an idle limiter cap) is eligible for warranty coverage under subsection (d) or (i).

§ 2037. Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

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[Not applicable to ZEP Cert]

§ 2038. Performance Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

[Not applicable to ZEP Cert]

§ 2039. Emissions Control System Warranty Statement.

- (a) Each manufacturer shall furnish a copy of the following statement with each new 1991 and subsequent model vehicle or engine produced after January 24, 1991, using those portions of the statement applicable to the vehicle or engine, except for zero-exhaust emissions vehicles and zero-emission powertrains. This statement shall be included with and preceded the manufacturer's warranty statement required in subsection (b), unless otherwise authorized by the Executive Officer.

**CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT
YOUR WARRANTY RIGHTS AND OBLIGATIONS**

The California Air Resources Board (and manufacturer's name, optional) is pleased to explain the emission control system warranty on your (year) (vehicle, truck, or motorcycle). In California, new motor vehicles must be designated, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your (vehicle, truck, or motorcycle) for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your (vehicle, truck, or motorcycle).

Your emission control system may include parts such as the carburetor or fuel-injection system, the ignition system, catalytic converter, and engine computer. Also included may be hoses, belts, connectors and other emission-related assemblies. Where a warrantable condition exists, (manufacturer's name) will repair your (vehicle, truck, or motorcycle) at no cost to you including diagnosis, parts and labor.

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MANUFACTURER'S WARRANTY COVERAGE:

[For 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles.]

- For 3 years or 50,000 miles (or a longer period of time or mileage, optional) (whichever first occurs);
 - 1) If your (vehicle or truck) fails a Smog Check inspection, all necessary repairs and adjustments will be made by (manufacturer's name) to ensure that your emission control system PERFORMANCE WARRANTY.
 - 2) If any emission-related part on your (vehicle or truck) is defective, the part will be repaired or replaced by (manufacturer's name). This is your short-term emission control system DEFECTS WARRANTY.
- For 7 years or 70,000 miles (or a longer period of time or mileage, optional) (Whichever first occurs);
 - 1) If an emission-related part listed in this warranty booklet specially noted with coverage for 7 years or 70,000 miles is defective, the part will be repaired or replaced by (manufacturer's name). This is your long-term emission control system DEFECTS WARRANTY.

OWNER'S WARRANTY RESPONSIBILITIES:

- As the (vehicle, truck, or motorcycle) owner, you are responsible for the performance of the required maintenance listed in your owner's manual. (manufacturer's name) recommends that you retain all receipts covering maintenance on your (car, truck, or motorcycle), but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.
- You are responsible for presenting your (vehicle, truck, or motorcycle) to a (manufacturer's name) dealer as soon as a problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days.
- As the (vehicle, truck, or motorcycle) owner, you should also be aware that (manufacturer's name) may deny you warranty

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coverage if your (vehicle, truck, or motorcycle) or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXXX or the California Air Resource Board at 9528 Telstar Avenue, El Monte, CA 91731.

- (b) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle, or engine, or zero-emission powertrain a warranty statement which generally describes the obligations and rights of vehicle or engine manufacturers and owners under this article.
- (c) Each manufacturer shall submit the documents required by subsections (a) and (b) with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of subsections (a) and (b). Approval by the Executive Officer of the documents required by subsections (a) and (b) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

§ 2040. Vehicle Owner Obligations.

- (a) The owner of any vehicle, or engine, or zero-emission powertrain warranted pursuant to this article shall be responsible for the performance of all required scheduled maintenance specified in the written instructions furnished to the owner pursuant to subsections 2036 (e), 2037(e), and 2038(c)(1). Such maintenance may be performed by the owner, at a service establishment of the owner's choosing, or by a person or persons of the owner's choosing. For zero-exhaust emission vehicles and zero-emission powertrains, service

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establishments may be limited to authorized service establishments that have undergone manufacturer-authorized service training.

- (b) Except as specified in subsections 2036(j)(1), 2037(i), and 2038(c), failure of the vehicle, ~~or engine,~~ or zero-emission powertrain owner to ensure the performance of such scheduled maintenance or to keep maintenance records shall not, per se, be grounds for disallowing a warranty claim.

§ 2041. Mediation; Finding of Warrantable Condition.

- (a) This section is intended to provide a mechanism for mediating unresolved emissions warranty disputes between vehicle, ~~or engine,~~ or zero-emission powertrain owners and manufacturers or their agents.
- (b) A vehicle, ~~or engine,~~ or zero-emission powertrain owner may request that the Executive Officer mediate a warranty claim.
- (1) Upon receipt of such a claim the Executive Officer, or the Executive Officers's representative, may make a determination regarding whether the claim is meritorious on its face and, if meritorious, shall notify the appropriate dealer, or vehicle, ~~or engine,~~ or zero-emission powertrain manufacturer of the claim. The party against whom a complaint is made shall be given a reasonable time in which to respond. The Executive Officer may conduct an informal conference, and may request additional information and evidence.
- (2) Upon examination of the facts submitted by the parties concerned, the Executive Officer, or the Executive Officers's representative, may find that a warranted part, or a vehicle's nonconformity with any California statutorily authorized motor vehicle emissions inspection and maintenance program, is eligible for warranty coverage pursuant to this article. If such a finding is made, the Executive Officer shall issue a Finding of Warrantable Condition.
- (3) The Finding of Warrantable Condition shall include the name of the vehicle owner, vehicle manufacturer and model (including model year, make, car line and body type), vehicle identification number, engine ~~or~~ zero-emission powertrain family, odometer reading, date of inspection, identification of the defective part or other warrantable condition and the signature of the person issuing the Finding.

§ 2111. Applicability.

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- (a) These procedures shall apply to:
 - (1) California-certified 1982 and subsequent model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, California-certified 2019 and subsequent model heavy-duty zero-exhaust emission 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 and zero-emission powertrains 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.

- (d) “Drivability Component” has the same definition as in title 13, CCR section 2035, hereby incorporated by reference herein.

* * * *

- ~~(l)~~(m) “Useful life” means, for the purposes of this article:

* * * *

- (27) For 2014 and subsequent model-year heavy-duty vehicles above 33,000 pounds GVWR, certified to the GHG emission standards of section 95663,

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title 17, CCR, the useful life shall be ten years or 435,000 miles, whichever first occurs.

(28) For zero-emission powertrains and zero-exhaust emission vehicles, the useful life shall be three years or 50,000 miles, whichever first occurs.

(n) “Vehicle integration component” means any component of the vehicle that involves the interfacing of components between the zero-exhaust emission vehicle and the zero-emission powertrain.”

~~(m)~~(o) “Vehicle, or engine, or zero-emission powertrain manufacturer” means the manufacturer granted certification for a motor vehicle, or motor vehicle engine, zero-exhaust emission vehicle, or zero-emission powertrain.

~~(n)~~(p) “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.

(g) “Zero-emission powertrain” has the same definition as in title 13 CCR, section 2035.

(r) “Zero-exhaust emission vehicle” has the same definition as in title 13 CCR, section 2035.

§ 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.

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- (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, or zero-emission powertrain subject to recall including the number of vehicles, ~~or engines, zero-emission powertrains~~ to be recalled, the engine or powertrain 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, or zero-emission powertrain~~ 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, or zero-emission powertrains~~.
 - (3) A description of the method by which the manufacturer will determine the names and addresses of vehicle, ~~or engine, or zero-emission powertrain~~ owners and the manufacturer's method and schedule for notifying the service facilities and vehicle, ~~or engine, or zero-emission powertrain~~ owners of the recall.
 - (4) A description of the procedure to be followed by vehicle, ~~or engine, or zero-emission powertrain~~ 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

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- 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,~~ or zero-emission powertrains 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,~~ or zero-emission powertrain 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, drivability, performance and safety of each class or category of vehicles, ~~or engines,~~ or zero-emission powertrains 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, except for heavy-duty zero-exhaust emission vehicles and zero-emission powertrains, 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

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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 or zero-emission powertrain 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

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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,~~ or zero-emission powertrain 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. [This statement is not required for zero-exhaust emission vehicle or zero-emission powertrains.]
- (b) A statement that the nonconformity of any such vehicles, ~~or engines,~~ or zero-emission powertrains 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. [This statement is not required for zero-exhaust emission vehicle or zero-emission powertrains.]
- (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,~~ or zero-emission powertrain.
- (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,~~ or zero-emission powertrain owner in the event the vehicle, ~~or engine,~~ or zero-emission powertrain 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,~~ or zero-emission powertrain was sold or transferred.

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- (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, or zero-emission powertrain) serviced as soon as possible. Failure to do so could be determined as lack of proper maintenance of your (vehicle, ~~or~~ engine, or zero-emission powertrain).” This statement is not required for off-road motorcycles, 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, or zero-emission powertrain subject to the emission recall campaign, the quarterly report shall contain the following:
 - (1) Engine or zero-emission powertrain 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, or zero-emission powertrains involved in the voluntary or influenced emission recall campaign.
 - (4) Number of vehicles, ~~or~~ engines, or zero-emission powertrains 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, or zero-emission powertrains inspected pursuant to the voluntary or influenced emission recall plan.
 - (6) Number of inspected vehicles, ~~or~~ engines, or zero-emission powertrains found to be affected by the nonconformity.
 - (7) Number of vehicles, ~~or~~ engines, or zero-emission powertrains receiving repair under the recall plan.
 - (8) Number of vehicles, ~~or~~ engines, or zero-emission powertrains 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, or zero-emission powertrains determined to be ineligible for recall action due to removed or altered components.

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- (10) A listing of the identification numbers of vehicles, ~~or~~ engines, or zero-emission powertrains 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, or zero-emission powertrain 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.

§ 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.

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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.

§ 2122. General Provisions.

The provisions regarding applicability of the ordered recall procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112.

§ 2123. Initiation and Notification of Ordered Emission-Related Recalls.

- (a) A manufacturer shall be notified whenever the Executive Officer has determined, based on warranty information reports, field information reports, enforcement testing results, or any other information, that a substantial number of a class or category of vehicles, ~~or engines,~~ or zero-emission powertrains produced by that manufacturer, although properly maintained and used, contain a failure in an emission-related component or drivability component which, if uncorrected, may result in the vehicles' or engines' failure to meet applicable standards over their useful lives; or whenever a class or category of vehicles or engines within their useful lives, on average, do not conform to the standards prescribed pursuant to Section 43101 of the Health and Safety Code as applicable to the model year of such vehicles.
- (b) Except for zero-exhaust emission vehicles and zero-emission powertrains, it shall be presumed for purposes of this section that an emission-related failure will result in the exceedance of emission standards unless the manufacturer presents evidence in accordance with the procedures set forth in Title 13, California Code of Regulations, Section 2147 which demonstrates to the satisfaction of the Executive Officer that the failure will not result in exceedance of emission standards over the useful life of the vehicle or engine.

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- (c) The notification shall include a description of each class or category of vehicles, ~~or engines,~~ or zero-emission powertrains encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date at least 45 days from the date of receipt of such notification by which the manufacturer shall submit a plan to remedy the nonconformity.

§ 2124. Availability of Public Hearing.

- (a) The manufacturer may request a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations to contest the finding of nonconformity and the necessity for or the scope of any ordered corrective action.
- (b) If a manufacturer requests a public hearing pursuant to subsection (a) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit the recall plan required by Section 2125 within 30 days after receipt of the Board's decision.

§ 2125. Ordered Recall Plan.

- (a) Unless a public hearing is requested by the manufacturer, a recall plan shall be submitted to the Chief, ~~Mobile Source Division~~ Emissions Compliance, Automotive Regulations and Science Division, 9528 Telstar Avenue, El Monte, CA 91731, within the time limit specified in the notification. The Executive Officer may grant the manufacturer an extension upon good cause shown.
- (b) The recall plan shall contain the following:
 - (1) A description of each class or category of vehicles, ~~or engines,~~ or zero-emission powertrains to be recalled, including the engine or zero-emission powertrain family or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the vehicles, ~~or engines,~~ or zero-emission powertrains to be recalled.
 - (2) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles, ~~or engines,~~ or zero-emission powertrains into conformity including a brief summary of the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made.

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- (3) A description of the method by which the manufacturer will determine the names and addresses of vehicle, or engine, or zero-emission powertrain owners and the method by which they will be notified.
- (4) A description of the procedure to be followed by vehicle, or engine, or zero-emission powertrain owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the vehicle, or engine, or zero-emission powertrain for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.
- (5) If some or all of the nonconforming vehicles, or engines, or zero-emission powertrains are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.
- (6) The capture rate required for each class or category of vehicle, or engine, or zero-emission powertrain to be recalled. Under recalls based on exceedance of emission standards, the capture rate shall be calculated using the following formula:

$$R = \frac{(Ef - Es) * 100\%}{\Delta}$$

where:

R = capture rate (see section 2112(a), above, for definition).

Δ = average reduction per vehicle resulting from the recall repair (see subsection (b)(12)(B), below, for determination).

Ef = average noncompliance emission level determined from in-use enforcement testing and other sources.

Es = emission standard for a particular pollutant.

An 80 percent capture rate shall be required for recalls based exclusively on noncompliance as defined in section 2112(h)(1), above.

- (7) The plan may specify the maximum incentives (such as a tune-up or specified quantity of gasoline), if any, the manufacturer will offer to induce vehicle, or engine, or zero-emission powertrain owners to present their vehicles for repair, as evidence that the manufacturer has made a good

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faith effort to repair the percentage of vehicles or engines specified in 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.

- (8) A copy of the letter of notification to be sent to vehicle, ~~or~~ engine, or zero-emission powertrain owners.
- (9) 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.
- (10) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan.
- (11) A description of the impact of the proposed changes on fuel economy, drivability, performance and safety of each class or category of vehicles, ~~or~~ engines, or zero-emission powertrains to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these descriptions.
- (12) A description of the impact of the proposed changes on the average emissions of the vehicles or engines to be recalled based on noncompliance as defined in section 2112(h)(2), above. This does not apply to zero-exhaust emission vehicles or zero-emission powertrains.
The description shall contain the following:

* * * *

- (13) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan.

§ 2126. Approval and Implementation of Recall Plan.

- (a) If the Executive Officer finds that the recall plan is designed effectively to correct the nonconformity and complies with the provisions of Section 2125, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners and the implementation of recall repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

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- (b) If the Executive Officer does not approve the recall plan or the mitigation measures provided in Section 2130 as submitted, the Executive Officer shall order modification of the plan or mitigation measures with such changes and additions as he or she determines to be necessary. The Executive Officer shall notify the manufacturer in writing of the disapproval and the reasons for the disapproval.
- (c) The manufacturer may contest the Executive Officer's disapproval by requesting a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations. As a result of the hearing, the Board may affirm, overturn or modify the Executive Officer's action. In its decision, affirming or modifying, the Board shall specify the date by which the manufacturer shall commence notifying vehicle or engine owners and implementing the required recall repairs.
- (d) If no public hearing is requested in accordance with (c) above, the manufacturer shall incorporate the changes and additions required by the Executive Officer and shall commence notifying vehicle, ~~or engine,~~ or zero-emission powertrain owners and implementing the required recall repairs within 60 days of the manufacturer's receipt of the Executive Officer's disapproval.

§ 2127. Notification of Owners.

* * * *

- (d) The notification of vehicle, ~~or engine,~~ or zero-emission powertrain owners shall contain the following:
 - (1) The statement: "the California Air Resources Board has determined that your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and Federal) standards. These standards were established to protect your health and welfare from the dangers of air pollution." This does not apply to zero-exhaust emission vehicles or zero-emission powertrains.

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- (5) A statement that such nonconformity, if not repaired, may cause the vehicle or engine to fail an emission inspection or Smog Check test when such tests are required under State law. [This statement is not required for zero-exhaust emission vehicle or zero-emission powertrains.]

* * * *

- (10) The statement: “In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (vehicle or engine).” This statement is not required for off-road motorcycles, ~~or all-terrain vehicles,~~ zero-exhaust emission vehicle, or zero-emission powertrains.

§ 2128. Repair Label.

- (a) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each vehicle, ~~or engine,~~ or zero-emission powertrain repaired or, when required, inspected under the recall plan.
- (b) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.
- (c) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

§ 2129. Proof of Correction Certificate.

The manufacturer shall require those who perform the recall repair to provide the owner of each vehicle, ~~or engine,~~ or zero-emission powertrain repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle, ~~or engine,~~ or zero-emission powertrain has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of the recall enforcement program referred to in Section 2117, above.

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§ 2130. Capture Rates and Alternative Measures.

The manufacturer shall comply with the capture rate specified in the recall plan as determined pursuant to Section 2125(b)(6), above, within six consecutive quarters beginning with the quarter in which the notification of vehicle or engine owners was initiated. If, after good faith efforts, the manufacturer cannot correct the percentage of vehicles specified in the plan by the applicable deadlines and cannot take other measures to bring the engine family or test group into compliance with the standards, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired vehicles within 45 days from the last report filed pursuant to Section 2133(c), below unless the affected product is a zero-exhaust emission vehicles or zero-emission powertrain. The Executive Officer shall approve such measures provided that:

- (a) the emission reductions from the recalled and repaired vehicles or engines and the mitigation measures are equivalent to achieving the capture rate; and
- (b) the emission reductions from the mitigation measures are real and verifiable; and
- (c) the mitigation measures are implemented in a timely manner.

§ 2131. Preliminary Tests.

The Executive Officer may require the manufacturer to conduct tests on components and vehicles, ~~or engines,~~ or zero-emission powertrains incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

§ 2132. Communication with Repair Personnel.

The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

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§ 2133. Recordkeeping and Reporting Requirements.

- (a) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle, or engine, or zero-emission powertrain, but need not be limited to, the following:
- (1) Engine or zero-emission powertrain family involved and recall campaign number as designated by the manufacturer.
 - (2) Date owner notification was begun, and date completed.
 - (3) Number of vehicles, or engines, or zero-emission powertrains involved in the recall campaign.
 - (4) Number of vehicles, or engines, or zero-emission powertrains known or estimated to be affected by the nonconformity.
 - (5) Number of vehicles, or engines, or zero-emission powertrains inspected pursuant to the recall plan and found to be affected by the nonconformity.
 - (6) Number of inspected vehicles, or engines, or zero-emission powertrains.
 - (7) Number of vehicles, or engines, or zero-emission powertrains receiving repair under the recall plan.
 - (8) Number of vehicles, or engines, or zero-emission powertrains 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, or zero-emission powertrains determined to be ineligible for recall action due to removed or altered components.
 - (10) A listing of the identification numbers of vehicles, or engines, or zero-emission powertrains 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, as specified in subsection (c) below, may be changed by the Executive Officer depending on the needs of recall enforcement.
 - (11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.
 - (12) All communications transmitted to vehicle, or engine, or zero-emission powertrain owners which relate to the nonconformity and which have not previously been submitted.
- (b) If the manufacturer determines that the original responses to subsections (a)(3) and (4) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) shall be cumulative totals.

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- (c) Unless otherwise directed by the Executive Officer, the information specified in subsection (a) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.
- (d) 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, lists of the names and addresses of vehicle, ~~or engine,~~ or zero-emission powertrain owners:
 - (1) To whom notification was given;
 - (2) Who received remedial repair or inspection under the recall plan; and
 - (3) Who were denied eligibility for repair due to removed or altered components.
- (e) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles, ~~or engines,~~ or zero-emission powertrains involved, or one year beyond the reporting time frame specified in subsection (c) above, whichever is later.

§ 2134. Penalties.

Failure by a manufacturer to carry out all recall actions ordered by the Executive Officer pursuant to Sections 2123 through 2133 of these procedures shall constitute a violation of Health and Safety Code Section 43105.

§ 2135. Extension of Time.

The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

§ 2136. General Provisions.

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The provisions regarding applicability of the enforcement test procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112.

§ 2137. Vehicle and Engine Selection.

[Not applicable to ZEP Cert]

§ 2138. Restorative Maintenance.

[Not applicable to ZEP Cert]

§ 2139. Testing.

[Not applicable to ZEP Cert]

§ 2140. Notification and Use of Test Results.

[Not applicable to ZEP Cert]

§ 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,~~ or zero-emission powertrains shall be applicable for the warranty period but not to exceed the useful-life period of the vehicles, ~~or engines,~~ or zero-emission

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powertrains beginning with the 1990 model-year vehicles, or engines, or zero-emission powertrains.

- (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, or zero-emission powertrains.
- (d) In the case of motor vehicles, or engines, or zero-emission powertrains 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.

* * * *

- (2) track failing components by engine or zero-emission powertrain family or test group;

* * * *

§ 2143. Failure Levels Triggering Recall.

An engine or zero-emission powertrain family, test group or a subgroup shall be subject to a recall when the number of failures of a specific emission-related component or drivability 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, or zero-emission powertrains 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; and 4 percent or 25 (whichever is greater) for 2019 and subsequent model-year zero-exhaust emission vehicles and zero-emission powertrains. 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

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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 or zero-emission powertrain family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components or drivability components. The data compiled shall be based on all warranty claims, without any prescreening of data as to the validity of the claims. Except for heavy-duty zero-exhaust emission vehicles and zero-emission powertrains, 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 or zero-emission powertrain 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, drivability component, or repair represent at least one percent or twenty five (whichever is greater), or one percent or ten (whichever is greater) for zero-exhaust emission vehicles or zero-emission powertrains, 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,~~ or zero-emission powertrains affected by a warranty replacement or warranty repair of a specific emission-related component or drivability component, including model year and engine or zero-emission powertrain family or test group.
 - (3) The number and percentage of vehicles, ~~or engines,~~ or zero-emission powertrains in each engine or zero-emission powertrain family or test

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- group for which a warranty replacement or warranty repair of a specific emission-related component or drivability component was identified.
- (4) A short description of the specific emission-related component or drivability 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 or drivability component 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 or drivability 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, or zero-emission powertrains affected including make, model, model-year, engine or zero-emission powertrain family or test group and such other information as may be required to identify the vehicles, or engines, or zero-emission powertrains affected. The description shall

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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 86.1839-01, as amended January 17, 2006 (“carry-over” and “carry-across” engine families or test groups).

- (4) A description of the emission-related component or drivability 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,~~ or zero-emission powertrains in each engine family or test group for which a failure of a specific emission-related component or drivability component was identified.
- (6) The total number and percentage of unscreened warranty claims and failures of a specific emission-related component or drivability component projected to occur during the engine or zero-emission powertrain 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 or drivability 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:

* * * *

- (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.

* * * *

- (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. This description is not required for zero-exhaust emission vehicles or zero-emission powertrains.

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- (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. This description is not required for zero-exhaust emission vehicles or zero-emission powertrains.

§ 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, except for zero-exhaust emission vehicles or zero-emission powertrains. 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.

§ 2148. Evaluation of Need for Recall.

- (a) Once the emission information report or drivability component 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 drivability 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 or drivability 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 or drivability components during the useful life of the vehicle, ~~or engines,~~ or zero-emission powertrains, and

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- (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 or zero-emission powertrain family or test group which is subject to a failure, a recall may be limited to that subgroup with Executive Officer approval.

DISCUSSION DRAFT