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Descriptions of the proposed changes to the regulations and the reasons for making them. This discussion does not address non-substantive modifications to correct typographical or grammatical errors, changes in numbering or formatting, addition of or edits to internal regulatory cross-references, or similar revisions that improve clarity.

### **Proposed Modifications to Section 1962.7, In-Use Compliance, Corrective Action and Recall Protocols for 2026 and Subsequent Model Year Zero-Emission and Plug-in Hybrid Electric Passenger Cars and Light-Duty Trucks**

1. Title. Staff is proposing to add “plug-in hybrid electric” vehicles to the title of this section, which is necessary for clarity to accurately reflect the applicability of the section.
2. Subsection (a)(1) and (2). Staff is proposing amendments that are necessary to clarify how section 1962.7 applies to plug-in hybrid electric vehicles (PHEV) certified to earn values under title 13, California Code of Regulations (CCR), section 1962.4, which specifies the requirements for production of zero-emission vehicles (ZEVs) and PHEVs necessary to reduce emissions. Based on questions from stakeholders, staff has added subsection (a)(2) for PHEVs, and removed PHEVs from subsection (a)(1), to make clear which provisions of this section apply and what does not apply to PHEVs. Specifically, all of the provisions in this section for verifying compliance with the data requirements for PHEVs per section 1962.5 are applicable to PHEVs while subsections (d), (e)(2)(B)1., (e)(2)(D)1., (e)(2)(D)2., (e)(3)(A), and (e)(5)(A) do not apply because those subsections concern compliance testing of requirements that apply only to ZEVs and do not apply to PHEVs. This added language is consistent with the intent of the original language proposed for adoption and is necessary because of the different characteristics of ZEVs and PHEVs that result in different testing procedures and criteria to properly confirm compliance of each type of vehicle to the requirements of this regulation. This language also includes added precision that is necessary to clearly identify the subsections that are and are not relevant for compliance testing of PHEVs.
3. Subsection (c). Staff is proposing to specify the title and short title of the test procedures with definitions that apply to this section. The 45-day version of the regulation included references to the test procedures by short title and the section that incorporates the test procedures by reference but did not provide the long title in connection with the short title, so this change provides additional clarity. Staff is also proposing to delete the descriptor, “as incorporated by

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reference under CCR, title 13, section 1962.4, subsection (d)(1),” where the short title is used in subsections (e)(3)(A) and (e)(3)(B), as the introduction of the short title in subsection (c) makes the incorporation by reference information superfluous in subsequent sections. These changes are necessary to clearly identify the related requirements.

Staff is also proposing to expand the definition of “nonconformity,” “nonconformance,” or “noncompliance” to include the class or category of vehicles that are determined not to meet the applicable requirements of CCR, title 13, sections 1962.3 and 1962.5 through the processes laid out in this section. The expanded definition is necessary to clearly state staff’s intent for this section, including both the violations intended to be identified and remedied through the nonconformance process (including in these additional sections) and the mechanisms of determining nonconformance prescribed in this section. The testable requirements of sections 1962.3 and 1962.5 (besides vehicle durability and battery state of health (SOH) accuracy) are covered by the “other testing” provisions of this section. Staff is proposing to remove the term “within their useful lives” because this condition is addressed in the enforcement testing provisions of this section and the substantive requirements, as appropriate, of the referenced sections, and the change is necessary to avoid redundancy and promote clarity.

4. Subsection (d)(2)(C). Staff is proposing to modify this subsection so the requirements expressly include a requirement for manufacturers to describe their reasonable diligence when requesting modification of deadlines for their zero-emission vehicle in-use verification reports. This, like the other reporting under the proposed regulations, is necessary for the health, safety, and welfare of the people of the state because it helps ensure and allows verification of compliance with the emission standards. The express requirement for the manufacturer to demonstrate reasonable diligence is added because it is necessary for consistency with the standards that the Executive Officer will apply when evaluating the request and to ensure that the manufacturer knows to provide the requisite information.
5. Subsection (d)(3)(C). Staff is proposing to modify this subsection to reference the specific subsection of CCR, title 13, 1962.5 for which all applicable standardized data shall be collected. The precise citation is necessary for clarity; it specifically identifies the related requirement in a manner that illustrates the requirement without implying that the example cited (battery SOH) is the only requirement in the related regulation.
6. Subsection (d)(4). Staff is proposing to amend this subsection to remove requirements for the Executive Officer to consider a proposed sampling plan’s effectiveness and manufacturer intent and to make explicit that the proposing manufacturer must explain how the plan meets the requirements of the section. These proposed changes are necessary for clarity in defining the requirements for

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a manufacturer to meet in its proposed sampling plan, which are necessary to ensure its tested vehicles and data collection will demonstrate compliance with the requirements of this regulation. Staff is also proposing to clarify that the Executive Officer must approve a sampling plan that meets these requirements within 30 days of submittal. A 30-day period for CARB to take action on a manufacturer's submission of a sampling plan is necessary to reasonably balance CARB's need for time to review and evaluate the plan with the manufacturer's need for a reasonably timely decision and the public's need for timely action to identify and resolve issues that adversely impact air quality.

7. Subsection (e). Staff has added text that is necessary to clarify that the subsection applies to PHEVs as well as ZEVs as it defines the procedures for the Executive Officer to follow when verifying compliance of PHEVs or ZEVs to the required standards.
8. Subsection (e)(1)(A). Staff is proposing to add text identifying that the Executive Officer may conduct testing under any operating conditions for which regulatory requirements apply. This revision is reasonably necessary to confirm compliance with any regulatory provision. This text is also necessary to increase clarity and transparency to vehicle manufacturers and other stakeholders by making explicit the conditions and limitations of the potential testing the Executive Officer can conduct.
9. Subsection (e)(2)(A)1. Staff is proposing to add text to clarify that the Executive Officer would conduct enforcement testing for the purpose of verifying compliance. Staff is also proposing to clarify that this subsection applies to the Executive Officer's identification of a motor vehicle class rather than the scope of the motor vehicle class. These amendments are necessary to increase clarity and transparency by making explicit the conditions under which the Executive Officer may conduct enforcement testing and the precise determination the Executive Officer must make under this subsection.
10. Subsection (e)(2)(A)4. Staff is proposing to add text to clarify that the Executive Officer's determination regarding multiple test groups concerns the appropriate motor vehicle class for enforcement testing for the purpose of verifying compliance. This change is necessary to increase clarity and transparency by making explicit the basis for the Executive Officer's determination under this subsection.
11. Subsection (e)(2)(A)5. Staff is proposing changes necessary to improve clarity by adding regulatory references for the useful life durations listed and specifying which of the useful life durations listed apply to ZEVs versus PHEVs.
12. Subsection (e)(2)(B)1. Staff is proposing to remove language describing the provisions of other subsections because it is unnecessary and duplicative of the text of those subsections, which is necessary to promote clarity.

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13. Subsection (e)(2)(B)2. Staff is proposing to remove language describing the provisions of other subsections because it is unnecessary and duplicative of the text of those subsections, which is necessary to promote clarity.
14. Subsection (e)(2)(B)3. Staff is proposing to include a reference to CCR, title 13, sections 1962.3 and 1962.4 and remove references to standardized data requirements in 1962.5 to clarify that the Executive Officer shall use the process in this subsection to conduct enforcement testing for all testable requirements (besides durability and SOH accuracy) in all three of these cited sections. These changes fulfill staff's intent and are necessary to prescribe the process for the Executive Officer to determine compliance with all the applicable requirements of this regulation, including requirements in 1962.3 and 1962.4, and to provide clarity to the vehicle manufacturers as to the processes that will be used and as to how test sample sizes will be selected for those requirements.
15. Subsections (e)(2)(D)1.c., (e)(2)(D)1.d., and (e)(2)(D)1.h. Staff has added text to this subsection to clarify that the Executive Officer would use good engineering judgment to determine whether certain factors would permanently impact a vehicle's range. This clarification is necessary to define how the Executive Officer would determine whether to exclude vehicles from a test sample group for enforcement durability testing because their range may not be representative. "Good engineering judgment" is a common decision-making principle both employed by regulatory agencies such as CARB and required by regulatory agencies for use by regulated entities. It is defined at 40 C.F.R. section 86.1803-01, which is incorporated into both the proposed California 2026 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and the proposed California Test Procedures for 2026 and Subsequent Model Year Zero-Emission Vehicles and Plug-in Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes. This analytical standard is necessary for consistency with federal requirements and accepted practices in the regulated industry, which facilitates compliance with the requirements that are necessary to reduce emissions.
16. Subsection (e)(2)(D)1.j. Staff is proposing to add language to exclude vehicles from being used to determine compliance with the durability requirements if they have had an excessive number of charging cycles following high depth of discharge events because this charging behavior is believed to have an impact in degrading the amount of energy a battery can store and thus, on a vehicle's driving range. This addition is necessary to ensure that the Executive Officer can exclude individual vehicles from a test sample group for enforcement durability testing if they were excessively charged and discharged in a manner that is unrepresentative of the majority of users, reasonably unforeseeable by the manufacturer, or otherwise likely to detrimentally impact vehicle range, which could lead to invalid, inaccurate, or otherwise improper determinations of

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compliance with the requirements that are necessary to ensure emissions are reduced.

17. Subsection (e)(2)(D)1.k. Staff is proposing to add language to exclude vehicles from being used to determine compliance with the durability requirements if they have had an excessive cumulative amount of time parked or used at a high battery state of charge because this factor is believed to have an impact in degrading the amount of energy a battery can store and thus, on a vehicle's driving range. This addition is necessary to ensure that the Executive Officer can exclude individual vehicles from a test sample group for enforcement durability testing if they spent an excessive amount of time at high battery state of charge in a manner that is unrepresentative of the majority of users, reasonably unforeseeable by the manufacturer, or otherwise likely to detrimentally impact vehicle range, which could lead to invalid, inaccurate, or otherwise improper determinations of compliance with the requirements that are necessary to ensure emissions are reduced.
18. Subsection (e)(2)(D)2. Staff is proposing to add two additional conditions to the requirement for the Executive Officer to exclude vehicles from durability test sample groups by defining "excessive" for those conditions in the specific sample groups on a case-by-case basis. This addition is necessary to be consistent with the factors that staff is proposing for addition to subsections (e)(2)(D)1.j. and (e)(2)(D)1.k., defining vehicles to be included and excluded from durability test sample groups.
19. Subsection (e)(2)(D)3.d. Staff has added text to this subsection to clarify that the Executive Officer would use good engineering judgment to determine whether any identified tampering, add-on, or modified parts on the individual vehicle would impact the reported battery SOH accuracy. This text is necessary for clarity to define how the Executive Officer would determine whether to exclude vehicles from a test sample group for enforcement testing to verify the accuracy of the reported SOH because their reported SOH may not be representative as a result of tampering or the presence of an add-on or modified part. "Good engineering judgment" is a common decision-making principle employed by regulatory agencies such as CARB and required by regulatory agencies for use by regulated entities. It is defined at 40 C.F.R. section 86.1803-01, which is incorporated into both the proposed California 2026 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and the proposed California Test Procedures for 2026 and Subsequent Model Year Zero-Emission Vehicles and Plug-in Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes. This analytical standard is necessary for consistency with federal requirements and accepted practices in the regulated industry, which facilitates compliance with the requirements that are necessary to reduce emissions.

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20. Subsection (e)(2)(D)4.b. Staff is proposing to add a reference to CCR, title 13, sections 1962.3 and 1962.4 and remove the term “standardization” regarding the requirements of section 1962.5 to clarify that this subsection prescribes the Executive Officer’s process to select vehicles for inclusion in a sample to determine compliance with all the testable provisions of these three sections (excluding durability and SOH accuracy). This addition fulfills staff’s intent and is necessary and appropriate to require the Executive Officer to determine compliance with all the applicable requirements of this regulation and to provide clarity to the regulated industry for how test sample vehicles will be selected. Staff has also added text to this subsection to clarify that the Executive Officer would use good engineering judgment to determine whether any identified tampering, add-on, or modified parts on the individual vehicle would impact the ability of the vehicle to comply with the requirement being evaluated. This clarification is necessary to define how the Executive Officer would determine whether to exclude vehicles from a test sample group for enforcement testing because their performance relative to the requirement being evaluated may not be representative as a result of the tampering or presence of an add-on or modified part. “Good engineering judgment” is a common decision-making principle employed by regulatory agencies such as CARB and required by regulatory agencies for use by regulated entities. It is defined at 40 C.F.R. section 86.1803-01, which is incorporated into both the proposed California 2026 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and the proposed California Test Procedures for 2026 and Subsequent Model Year Zero-Emission Vehicles and Plug-in Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes. This analytical standard is necessary for consistency with federal requirements and accepted practices in the regulated industry, which facilitates compliance with the requirements that are necessary to reduce emissions.
21. Subsection (e)(2)(D)4.c. Staff is proposing to remove the references to standardized data to make this provision (concerning exclusion of individual vehicles with identified malfunctions) relevant to the full spectrum of testable requirements covered by these criteria as identified in the regulatory text instead of just those relevant to standardized data. This change is necessary for clarity and to be consistent with other proposed changes to fulfill staff’s intent by making the processes under this section applicable to relevant requirements of CCR, title 13, sections 1962.3, 1962.4, and 1962.5, as specified in subsection (e)(2)(D)4.b., besides durability, SOH accuracy, and standardized data, which were already explicitly addressed in this section.
22. Subsection (e)(3)(C). Consistent with the prior change, staff has included a reference to CCR, title 13, sections 1962.3 and 1962.4 to clarify that, for this subsection of ‘other testing,’ the Executive Officer shall perform testing as necessary to assess compliance with the regulatory requirements of these sections as well as those in section 1962.5. This addition fulfills staff’s intent and

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is necessary and appropriate to define the process that the Executive Officer will use to determine the appropriate kind of testing to conduct when verifying compliance for applicable requirements in these three sections and to provide clarity to the regulated industry as to the process and type of testing that will be conducted.

23. Subsection (e)(4)(A). Staff is proposing to add text identifying the conditions when the Executive Officer will conduct further testing to determine compliance with regulatory requirements in cases where the originally tested group of vehicles is found to have, or is reasonably suspected of having, a subgroup within it that may be noncompliant rather than the entire originally tested motor vehicle class. This text is necessary to increase clarity and transparency because it makes explicit the conditions and limitations of the potential testing the Executive Officer can conduct. For the same reasons, staff is proposing to add the phrase "such further testing is necessary because" to provide necessary increased clarity and certainty to vehicle manufacturers about the circumstances in which the Executive Officer will conduct additional testing.
24. Subsection (e)(5)(A)1. through 3. Staff is proposing a phased schedule for the criteria for durability testing results within a test group to qualify as nonconformance. This change from the 45-day proposal's thresholds for nonconformance is proposed in concert with the proposed changes in the durability requirements in section 1962.4. Staff is proposing both changes as necessary to provide manufacturers with more lead time in planning to meet the proposed electric range durability standards without having to revise currently planned designs. Without these proposed changes, the requirements would risk imposing additional burden on the development of technology to meet the standards at greater cost, which could impede compliance and inhibit the intended reduction of emissions. And this would occur without commensurate benefit. As described in the changes to section 1962.4, manufacturers have existing contracts with suppliers and vehicle designs that were in place before the adoption of these requirements. Recognizing the designs that have already been selected and the lead time needed to cost-effectively plan for the proposed durability standards while also refining methods to simulate aging, staff is proposing modifications to provide additional time for implementing the durability standards as necessary to ensure emissions are reduced. These changes to the durability standards themselves are necessary to facilitate compliance and remove the potential additional development burden and cost of revising long-term design and manufacturing decisions made before the regulations were proposed. Staff is therefore proposing changes to the thresholds for the Executive Officer to make a finding of durability nonconformance in terms of the proportion of vehicles in the test group that must fall below the specified percentage of the certified all-electric range and the specified percentage of the certified all-electric range that vehicles in the test group must fall below to result in a finding of nonconformance. For the 2026 through 2029 model years, staff is proposing a threshold that determines noncompliance when more than 30

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percent of the vehicles in the test sample group fall below 65 percent of the certified battery range. This threshold is necessary to align with manufacturers' current designs and capability and is slightly lower than the certification requirement to provide some flexibility in accounting for outside factors like driver behavior in the early model years as the durability requirement phases in. For the 2030 through 2032 model years, where the durability standard is more rigorous, staff is proposing a modified noncompliance threshold of more than 50 percent of vehicles falling below 75 percent of the certified battery range. This threshold is necessary for model years 2030 through 2032 to be consistent with manufacturers' ability to improve vehicle technology in conjunction with their planned redesign cadence. For the final step in 2033 model year and beyond, the enforcement noncompliance threshold exactly mirrors the design criteria of more than 50 percent of the vehicles in the test sample falling below 80 percent range. Staff is proposing these specific time periods and thresholds because they are necessary to reasonably balance the manufacturers' need for a more gradual phase-in of the durability requirements with the policy need to ensure that the vehicles provide reliability and consumer confidence so that ZEVs reduce emissions by penetrating both the new and used vehicle markets. This is necessary to fully and permanently displace internal combustion engine vehicles (ICEVs), as discussed in Section III.D.2 of the Initial Statement of Reasons (ISOR).

25. Subsection (e)(5)(B). Staff is proposing changes to soften the accuracy threshold for noncompliance with the reported battery SOH parameter for the first three model years of the regulation from exceeding 5 percentage points higher than actual to exceeding 8 percentage points higher than actual. Staff's proposed battery SOH metric is the first of its kind, and uncertainty exists about how quickly manufacturers will be able to develop precise calculations of this metric that remain within 5 percent accuracy through a broad range of in-use operational habits by diverse drivers. While the 5 percentage point threshold remains in place for certification requirements under CCR, title 13, sections 1962.4 and 1962.5 and most manufacturers appear to be on track to meet a 5 percent accuracy specification for reported SOH, some have expressed concern over a lack of experience estimating this parameter and that unforeseen mechanisms of battery degradation may occur in-use or that some vehicle users may have patterns of driving and charging that unknowingly lead to increased error in the estimation of SOH. Thus, slightly adjusting the nonconformance threshold for the first three model years to a reported SOH that is 8 percentage points higher than the measured usable battery energy is necessary to appropriately balance manufacturers' need to gain in-use information relevant to and experience regarding this new requirement with the policy need to ensure that the vehicles provide reliable information to consumers and technicians and provide consumer confidence so that ZEVs penetrate both the new and used vehicle markets as necessary to reduce emissions by fully and permanently displacing ICEVs, as discussed in Section III.D.2 of the ISOR. Staff is also proposing amendments necessary to clarify that the proposal concerns



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percentage points (the simple numerical difference between percentage values, e.g., the difference between 75 percent and 70 percent is 5 percentage points) rather than the percent difference from actual value (e.g., 5 percent of 70 percent is 3.5 percent, meaning 73.5 percent is 5 percent higher than 70 percent). This, like the other reporting under the proposed regulations, is necessary for the health, safety, and welfare of the people of the state because it helps ensure and allows verification of compliance with the emission standards.

26. Subsection (e)(6)(B)3. Staff is proposing to clarify a 30-day time period, to be stated in the notice of determination of nonconformance, for the Executive Officer to provide records material to the determination upon manufacturer request. A 30-day deadline for CARB to provide records is necessary to reasonably balance CARB's need for time to collect the relevant records and determine whether any are subject to exemption from disclosure under the California Public Records Act with an OEM's need for reasonably timely receipt of these records to support the OEM's potential contest of the Executive Officer's findings under subsection (e)(6)(B)4.
27. Subsection (e)(6)(B)5. Staff is proposing to delete the modifier "appropriate" with reference to corrective action under subsection (f). Removing this qualifier is necessary to promote clarity because corrective action is already defined in the regulation and described under subsection (f). Removing the modifier is necessary to avoid ambiguity as to its meaning in relation to the definition and descriptions.
28. Subsection (e)(6)(F)1. Staff is proposing to add language necessary for clarity on the requirements for the Executive Officer to generate a notice of final determination when they conclude that vehicles do not meet the requirements of these regulations. These changes specify that the Executive Officer will notify manufacturers in writing regarding the final determination of the finding of nonconformity and that the Executive Officer must consider all information submitted timely but has the option under subsection (e)(6)(D) to accept or reject late submissions and is not required to consider late submissions. The changes also specify an applicable deadline for the Executive Officer to notify the manufacturer in situations where the manufacturer does not take the opportunity to provide information or the Executive Officer accepts late submissions. These changes are necessary to balance the need for the Executive Officer to have time to thoroughly review all the information with the need for the public to have timely implementation by vehicle manufacturers of corrective actions that address issues that adversely impact air quality.
29. Subsection (e)(6)(G). Staff is proposing to modify this subsection so the requirements expressly include a requirement for manufacturers to describe their reasonable diligence when requesting modification of deadlines to conduct their own testing upon a finding of nonconformance. The express requirement for the manufacturer to demonstrate reasonable diligence is necessary for consistency

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with the standards that the Executive Officer will apply when responding to the request and to ensure that the manufacturer knows to provide the requisite information and to identify the grounds necessary to support the requested extension.

30. Subsection (f)(2). Staff is proposing to remove the phrase “service of” to avoid the inaccurate implication that a notice a final determination of nonconformance must be legally served on the manufacturer, which would be unnecessary and a burden without commensurate benefit. Additionally, staff is proposing to replace the phrase “may be” with “is.” This change is necessary for clarity to remove ambiguity and be more accurate given that subsection (f)(3) describes the process for Executive Officer determination regarding ordered corrective action.
31. Subsection (f)(4)(B)4. Staff is proposing to modify this subsection as necessary to expressly identify the grounds for a manufacturer to obtain additional time to develop its corrective action plan and demonstrate why the manufacturer could not prepare such a plan more expeditiously. The express requirement for the manufacturer to demonstrate reasonable diligence is necessary for consistency with the standards that the Executive Officer will apply when responding to the request and for clarity to ensure that the manufacturer knows to provide the requisite information.
32. Subsection (f)(5). Staff is proposed to modify the provisions for a hearing for a manufacturer to contest an order to perform corrective action. As discussed in Appendix F-9 of the ISOR, the requirement for a vehicle manufacturer to request a hearing is necessary to afford substantive and procedural due process and the procedures are necessary to describe the requirements for such hearings. It is necessary to follow existing hearing procedures rather than establish new procedures to minimize burdens on manufacturers and maintain consistency with other CARB programs. The procedures that are specified in these changes are necessary to follow because they are for appeals of Executive Officer decisions such as this. See Article 2, Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions, Cal. Code Regs., tit. 17, section 60055.1, et seq.
33. Subsection (g)(1)(A)11. Staff is proposing changes necessary to promote clarity to make explicit that the Executive Officer’s requests under this section must pertain to the Executive Officer’s evaluation of the required corrective action plan elements or factors under subsection (g)(1)(B), which clarifies the scope of the 45-day proposed text. Staff is also proposing to clarify a 30-day time period for a manufacturer to fulfill the Executive Officer’s request. A 30-day period for manufacturers to provide records is necessary to reasonably balance the manufacturer’s need for time to collect the relevant records with CARB’s need for reasonably timely procurement of such records to enable timely review and approval of a corrective action plan and the commencement of implementation of necessary corrective action.

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34. Subsection (g)(4)(C)2. Staff is proposing to remove the clause “as determined by the Executive Officer” with regards to a decision whether a manufacturer must include a specific phrasing in the owner notification for a corrective action. Removing this clause is necessary to promote clarity because the determining factor as to which form of the statement needs to be included in the notice is whether the vehicle receiving the notice has an identified issue or has a potential issue. This distinction is necessarily known from the testing, investigation, and analysis of the data in determining the nonconformance and need for corrective action and does not require a separate determination by the Executive Officer.
35. Subsection (g)(4)(C)7. Staff is proposing to add language necessary to clarify that the contact information for reporting difficulties refers to contact information for the manufacturer and not for CARB.
36. Subsection (g)(4)(E). Staff is proposing to remove this subsection as necessary for clarity and to avoid redundancy, as it is duplicative of other subsections.
37. Subsection (g)(5)(E)3. Staff is proposing to clarify a 30-day time period for a manufacturer to submit information about running changes, field fixes, service campaigns, and recalls for any given VIN from all vehicles affected by the nonconformity to the Executive Officer in order for a manufacturer to be exempt from labeling requirements after a corrective action has been performed. A 30-day period for manufacturers to provide records upon CARB’s request is necessary to reasonably balance the manufacturer’s need for time collect the relevant records with CARB’s need for timely procurement of requested information to support a reasonably quick resolution to the issue.
38. Subsection (g)(7)(A)10. Staff is proposing changes necessary for clarity to correct an example of how a list showing vehicles included in a corrective action campaign in “ASCII” code would appear, using data elements in the table provided within the text. Additionally, staff proposes amended language to clarify how “add or delete flags” must be indicated in such a list to accurately describe changes in the status of vehicles subject to corrective action since the previously submitted list of vehicles. These changes are necessary to ensure an accurate list is received, in a consistent format that can be readily used with the California Department of Motor Vehicles, to ensure that corrective actions, and thus the environmental benefits of such actions, are conducted on all affected vehicles prior to the vehicle owner being able to renew the annual registration of the vehicle.
39. Subsection (g)(7)(D). Staff is proposing to clarify a 30-day time period for a manufacturer to submit records maintained by the manufacturer for corrective action campaigns when requested by the Executive Officer to verify compliance with section 1962.7. A 30-day period for manufacturers to provide records in response to CARB’s request is necessary to reasonably balance the manufacturer’s need for time to collect the relevant records with CARB’s need for

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reasonably timely procurement of the records to allow timely review of the manufacturer's compliance with the requirements of the section.

40. Subsection (g)(8). Staff is proposing to modify this subsection so the requirements expressly include a requirement for manufacturers to describe their exercise of reasonable diligence in their explanation of why compliance is not or could not be timely. The express requirement for the manufacturer to demonstrate reasonable diligence is necessary for clarity and consistency with the standards that the Executive Officer will apply when responding to the request and to ensure that the manufacturer knows to provide the requisite information.
41. Subsection (h)(1). Staff is proposing to modify language concerning the enforcement actions a manufacturer faces for violations rather than specifying Executive Officer action. These revisions are necessary to eliminate potential ambiguity or an inadvertent implication that could bind or restrict CARB's otherwise available enforcement options. Staff is also proposing to omit some text from this subsection. The requirement to consider the Board's civil penalty policy is adequately provided for by the statute directing adoption of the policy. The reference is being removed from the proposed text as necessary for clarity and consistency and to avoid an implication it does not apply generally.

The cross-reference to section 1962.4 was deleted because it is not necessary to reference sections, like 1962.4, that themselves discuss penalties, or other sections, like 1962.3 (which is implemented by this section through the definition of nonconformance), for which violations are independently subject to statutory penalties.

42. Subsection (h)(2). Staff is proposing to add this subsection to make explicit that submitting incorrect or incomplete information to the Executive Officer is a violation of this section (in addition to 1962.4, where similar text was included in the 45-day proposal). While knowingly submitting false compliance information to a state agency is itself a crime (Cal. Penal Code, § 115; *People v. Powers* (2004) 117 Cal.App.4th 291, 297), this addition is necessary to make explicit that inadvertent submittal of incorrect information and intentional or inadvertent omission of required information are violations of this section subject to enforcement. CARB's enforcement and penalty decisions are made on a case-by-case basis based on relevant statutes, so the additional text is necessary to provide clarity and transparency to manufacturers and other stakeholders but does not create or change enforcement or penalty risks for violations of this section.
43. Subsection (i). Staff is proposing to modify the language in this subsection as necessary to make explicit that the submittal process applies to notices as well as the other document types listed.

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44. Note. Authority and Reference sections were added as necessary to reflect the proposed enforcement and penalty provisions that are authorized by, and are implementing and making specific, the cited sections: Section 38580, 43016, 43023, 43154, 43211, and 43212 of the California Health and Safety Code and Sections 1633.7 and 1633.8 of the California Civil Code.