

Appendix A

Proposed Regulation Order

CALIFORNIA CERTIFICATION PROCEDURES FOR LIGHT-DUTY ENGINE PACKAGES FOR USE IN NEW LIGHT-DUTY SPECIALLY-PRODUCED MOTOR VEHICLES FOR 2019 AND SUBSEQUENT MODEL YEARS

Adopt new Article 1.4. Light-Duty Engine Packages for Use in New Light-Duty Specially-Produced Motor Vehicles, sections 2209, 2209.1, 2209.2, 2209.3, 2209.4, 2209.5, 2209.6, 2209.7, 2209.8, 2209.9, and 2209.10, title 13, California Code of Regulations, to read as follows:

Title 13. Motor Vehicles

Division 3. California Air Resources Board

Chapter 4. Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Additives.

Article 1.4. Light-Duty Engine Packages for Use in New Light-Duty Specially-Produced Motor Vehicles.

§ 2209. Applicability.

- (a) This section applies to 2019 and subsequent model-year light-duty certified engine packages for use in a light-duty specially-produced motor vehicle (SPMV) and the manufacturers of SPMVs.
- (b) Each part of this article is severable, and in the event that any part of this chapter or article is held to be invalid, the remainder of this article continues in full force and effect.
- (c) This article, and the documents incorporated by reference herein, includes provisions for certification, labeling requirements, emissions standard enforcement, and warranty.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.1. Definitions.

- (a) For the purposes of this article, the definitions in section 1900(b), chapter 1, title 13 of the California Code of Regulations (CCR) shall apply, except as otherwise specified in this article. The following definitions shall also apply to this article:

- (1) "ASTM" means a standard published by the American Section of the International Association for Testing Materials.
- (2) "Certified engine package" means a new engine with emission control package, intended for use only in a SPMV with a gross vehicle weight rating (GVWR) at or below 8,500 pounds, including but not limited to a fully assembled and functioning engine, engine and transmission controllers, emission control components, emission control sensors and monitors, exhaust system (manifolds, connecting down pipes, and catalysts), evaporative emissions system control components (e.g. canister, purge control valves, etc.) and purge control logic, which has been certified as required by this article.
- (3) "Crankcase" is the volume that encloses the crankshaft and connecting rods.
- (4) "Crankcase emissions" means airborne substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.
- (5) Critical Components means any hardware and/or electrical component necessary for the proper function of the emission control system or the vehicle's on-board diagnostics ,
- (6) "Emission control system" or "ECS" includes any component, group of components, or engine modification which controls or causes the reduction of substances emitted from an engine or an SPMV.
- (7) "Engine identification codes" will decipher the engine identification number.
- (8) "Engine identification number" is a series of letters and numbers stamped into the block of the engine.
- (9) "Engine manufacturer" means the manufacturer granted certification for a certified engine package.
- (10) "Engine package" is a new engine with emission control package, intended for use only in a SPMV with a gross vehicle weight rating (GVWR) at or below 8,500 pounds, including but not limited to a fully assembled and functioning engine, engine and transmission controllers, emission control components, emission control sensors and monitors, exhaust system (manifolds, connecting down pipes, and catalysts), evaporative emissions system control components (e.g. canister, purge control valves, etc.) and purge control logic, which is proposed for certification as required by this article but has not yet obtained such certification.
- (11) "Exhaust emissions" means airborne substances emitted into the atmosphere from any opening downstream from the exhaust port of an engine.

- (12) “Exhaust emission system means manifolds, connecting down pipes, oxygen sensors and catalysts.
- (13) “Light-duty motor vehicle” refers to either a passenger car or light-duty truck.
- (14) “Motor vehicle inspection and maintenance program” means the program as set forth in sections 44000 through 44126 in Article 1 of Chapter 5, Part 5, Division 26 of the Health and Safety Code.
- (15) “Purge control logic” means the programmed calibration software that controls the evaporative canister purge.
- (16) “Smog Check inspection” means the program as set forth in sections 44000 through 44126 in Article 1 of Chapter 5, Part 5, Division 26 of the Health and Safety Code.
- (17) “Specially produced motor vehicle” or “SPMV” means a newly produced current model year passenger car or light-duty truck, with a gross vehicle weight rating (GVWR) at or below 8,500 pounds, that meets all of the following requirements:
 - (A) Resembles the body of an on-road motor vehicle, on an overall 1:1 scale (+/- 10 percent), that had been commercially manufactured for sale not less than 25 years ago, with a production run of at least 500 units, before the manufacture of the current model year motor vehicle;
 - (B) Meets any applicable National Highway Traffic and Safety Administration (NHTSA) provisions requiring the vehicle to be manufactured under a license agreement for the intellectual property rights for the replicated vehicle from the original manufacturer or its current owner, successor or assignee, as determined by NHTSA;
 - (C) Meets any applicable NHTSA requirements regarding vehicle safety, as determined by NHTSA;
 - (D) SPMVs are subject to state titling and registration laws and regulations, including smog check and emissions compliance, and must consider the following:
 - 1. Subject to smog check requirements starting with registrations first made or renewed on or after January 1, 2019.
 - 2. A SPMV shall be treated as a new vehicle for purposes of smog check, resale and previously registered outside the state shall be subject to a smog check inspection upon registration.

3. SPMV manufacturer's name must be listed in state titling and registration information.

- (18) "SPMV manufacturer" means a low volume motor vehicle manufacturer that produces an annual worldwide production (including by a parent or subsidiary of the manufacturer) of not more than 5,000 motor vehicles each year, including prior years. It may construct and sell up to 325 SPMVs in the U.S. each year, must meet all applicable NHTSA requirements including but not limited to being registered with and filing annual production reports with NHTSA. A SPMV manufacturer is subject to recordkeeping and defect/noncompliance notification and remedy requirements. A SPMV manufacturer may be subject to civil penalties for noncompliance.
- (A) A SPMV manufacturer must obtain a California Air Resources Board (CARB) Executive Order as set forth in the "California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years," adopted [INSERT DATE OF ADOPTION] to sell SPMVs in California.
- (19) "SPMV owner" means the ultimate purchaser of a new SPMV and subsequent owners.
- (20) "Ultimate purchaser" means ultimate purchaser as defined by California Health and Safety Code 39055.5.
- (21) "Useful life" means 150,000 miles or 15 years for exhaust and crankcase emissions for vehicles certified to the LEV III exhaust emission standards, or 120,000 miles or 10 years for exhaust and crankcase emissions for vehicles certified to the LEV II exhaust emission standards; and 150,000 miles or 15 years for evaporative emissions.
- (22) "Warrantable condition" means any condition of a certified engine package or SPMV manufacturer that triggers the responsibility of the engine manufacturer to take corrective action pursuant to sections 2209.6, 2209.7, or 2209.10, title 13, CCR.
- (23) "Warranted part" means any part installed on a certified engine package by the engine manufacturer or SPMV manufacturer, or installed in a warranty repair, which affects any regulated emissions from a certified engine package that is subject to any of the standards prescribed in this article and the documents incorporated by reference herein.
- (24) "Warranty period" means the period of time and mileage that the certified engine package or part are covered by the warranty provisions.

- (25) "Warranty station" means a facility authorized by the engine manufacturer, or a repair facility agreed upon by both the engine manufacturer and the SPMV manufacturer, to service the warranted engine or SPMV.
- (26) "Worst case vehicle" means:
- (A) For exhaust purposes, a vehicle configuration with a vehicle test weight, vehicle road load, vehicle frontal area, calibration, emission control system configuration and calibration, transmission, engine displacement, and engine speed to vehicle speed (N/V) ratio which (1) with respect to emission deterioration over the vehicle's useful life, produces the greatest stress on the emission related components or (2) with respect to certification testing, has the greatest probability of exceeding any of the applicable emission standards.
 - (B) For evaporative emissions purposes, a light duty vehicle which produces the highest evaporative emissions. The following criteria shall be considered when selecting the worst case vehicle: the canister working capacity, fuel tank vapor space, fuel tank configuration, and purge flow.
- (27) "Zero emission SPMV" means an SPMV with no combustion engine.
- (28) "ZEV" means zero emission vehicle.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.2. Emission Standards, Test Procedures, Package Requirements, and Reporting Requirements for New Certified Engine Packages for Specially-Produced Motor Vehicles.

- (a) This section applies to 2019 and subsequent model year new vehicle engine packages for SPMVs.
- (b) An engine manufacturer of a new vehicle engine package for SPMVs that obtains a new vehicle engine package certification from CARB may request certification of a new vehicle engine package that is identical in configuration to be certified under the "California Certification Procedures for Light-Duty Engine Packages for Use in Light-Duty Specially Constructed Vehicles for 2012 and Subsequent Model Years." The engine manufacturer may request approval to carry-over or carry-across data used to obtain California certification of a new vehicle engine package for SPMVs to demonstrate compliance with the emission testing requirements specified under the "California Certification Procedures for Light-Duty Engine Packages for Use in Light-Duty Specially Constructed Vehicles for 2012 and Subsequent Model Years." For purposes of this provision,

the term “identical” means that all engine parts on the engine package that affect emissions must be of the same design.

- (c) No person may manufacture for sale, sell, advertise for sale, or offer for sale in California a new engine package or certified engine package for SPMVs which does not comply with the requirements in this article. Any violation of this article shall be subject to the penalty provisions of Part 5 of Division 26 of the Health & Safety Code, and/or the revocation of any applicable Executive Order.
- (d) Exhaust Emissions. Exhaust emissions from new certified engine packages that are manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into California commerce and that are subject to any of the standards prescribed in this article and the documents incorporated by reference herein, must not exceed applicable exhaust emission standards, as set forth below:
 - (1) “Low Emission Vehicle (LEV II and LEV III)” Exhaust Emission Standards. A engine manufacturer must demonstrate that the certified engine package, when installed in a worst case vehicle, does not exceed the applicable useful life exhaust emissions standards set for new light-duty vehicles as set forth below:
 - (A) 2019 through 2021 model year new certified engine packages must be certified to either the LEV II exhaust emission standards set forth in section 1961(a)(1), title 13, California Code of Regulations (CCR) and in table 1 below or the LEV III exhaust emission standards in table 2 below.

Table 1 LEV II Exhaust Emission Standards

| Model Years | Durability basis (mi) | NMOG (g/mi) | CO (g/mi) | NO_x (g/mi) | HCHO (mg/mi) | PM (g/mi) |
|--------------------|------------------------------|--------------------|------------------|------------------------------|---------------------|------------------|
| 2019 through 2021 | 50,000 | 0.075 | 3.4 | 0.05 | 15 | n/a |
| | 120,000 | 0.090 | 4.2 | 0.07 | 18 | 0.01 |

Table 2 LEV III Exhaust Emission Standards

| Model Years | Durability basis (mi) | NMOG + NO_x (g/mi) | CO (g/mi) | HCHO (mg/mi) | PM (g/mi) |
|--------------------|------------------------------|-------------------------------------|------------------|---------------------|------------------|
| 2019 through 2021 | 150,000 | 0.160 | 4.2 | 4 | 0.01 |

- (B) 2022 and subsequent model year new certified engine packages must be certified to the LEV III exhaust emission standards set forth in the table below.

| Model Years | Certification standard | Durability basis (mi) | NMOG + NO_x (g/mi) | CO (g/mi) | HCHO (mg/mi) | PM (mg/mi) |
|----------------------------------|-------------------------------|------------------------------|-------------------------------------|------------------|---------------------|-------------------|
| 2022-2027 2028 and subsequent | LEV III LEV LEV III ULEV | 150,000 150,000 | 0.160 0.125 | 4.2 2.1 | 4 4 | 3 1 |

- (2) “50°F Exhaust Emission Standards.” Engine manufacturers must also demonstrate that the new certified engine package, when installed on a vehicle in a worst case configuration, does not exceed the following exhaust emissions standards set for new light-duty motor vehicles.

| Model Year | Standard | Durability basis (mi) | NMOG + NO_x (g/mi) | CO (g/mi) | HCHO (g/mi) | Notes |
|---------------------|-----------------|------------------------------|-------------------------------------|------------------|--------------------|--------------|
| 2019 and subsequent | LEV III LEV | 4,000 | 0.320 | 4.2 | 0.030 | A |

- (A) Compliance with the 50°F exhaust emission standards for NMOG+NO_x and formaldehyde (HCHO) must be demonstrated by measuring those emissions on the federal test procedure (FTP) (40 CFR, Part 86, Subpart B) conducted at a nominal test temperature of 50°F, as modified by Part II, Section D of the “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as last amended September 2, 2015, which are incorporated by reference herein. A engine manufacturer may demonstrate compliance with the NMOG+NO_x and HCHO certification standards contained in this subparagraph by measuring NMHC exhaust emissions or issuing a statement of compliance for HCHO in accordance with Section D.1.10 and Section G.3.1.2, respectively, of the “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as last amended September 2, 2015, which are incorporated by reference herein.

- (3) “Highway NO_x Standard,” and “Highway NMOG + NO_x Standard.”

- (A) A engine manufacturer of a 2019 through 2021 model year (MY) certified engine package that has elected to certify to the LEV II exhaust emission standards in section 2209.2.(d)(1)(A) must demonstrate

compliance with section 1961(a)(6), title 13, CCR. See LEV II standard in table below.

- (B) A engine manufacturer of a 2019 and subsequent MY certified engine package that is certifying to the LEV III exhaust emission standards in section 2209.2(d)(1)(A) or (B) must demonstrate compliance with the Highway NMOG+NO_x Standard shown in the table below.

| Model Year | Standard | Durability (miles) | NO_x (g/mi) | NMOG+NO_x (g/mi) |
|---|-----------------|---------------------------|------------------------------|-----------------------------------|
| 2019 through 2021 certifying to LEV II exhaust standards in 2209.2(d)(1)(A) | LEV II LEV | 50,000 | 0.07 | |
| | | 120,000 | 0.09 | |
| 2019 and subsequent | LEV III LEV | 150,000 | | 0.160 |

(4) “Supplemental Federal Test Procedure Off-Cycle Emission Standards.”

- (A) A engine manufacturer of a 2019 and subsequent MY certified engine package that is certifying to the LEV III exhaust emission standards in section 2209.2(d)(1)(A) or (B) must demonstrate compliance with the Supplemental Federal Test Procedure NMOG+NO_x and CO Stand-Alone Exhaust Emission Standards set forth in the following table:

| Durability basis (mi) | US06 | | SC03 | |
|-----------------------|-----------------------------------|------------------|-----------------------------------|------------------|
| | NMOG+NO_x (g/mi) | CO (g/mi) | NMOG+NO_x (g/mi) | CO (g/mi) |
| 150,000 | 0.140 | 9.6 | 0.100 | 3.2 |

(5) Testing Procedures

- (A) The test procedures for determining compliance with the LEV III exhaust emission standards in sections 2209.2(d)(1), 2209.2(d)(2), 2209.2(d)(3), and 2209.2(d)(4)(A) are set forth in the “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as last amended September 2, 2015, and the “California Non-Methane Organic Gas Test Procedures for 2017 and Subsequent Model Year Vehicles,” adopted September 2, 2015, which are incorporated by reference herein.

- (e) **Evaporative Emissions.** Evaporative emissions from new certified engine packages that are manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California into commerce and that are subject to any of the standards prescribed in this article and the documents incorporated by reference herein, must not exceed the evaporative emissions standards applicable to new light-duty motor vehicles as specified in section 1976, title 13, CCR. The test procedures for determining compliance with such evaporative emission standards are set forth in the “California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles,” last amended September 2, 2015, which is incorporated by reference herein.
- (f) **Crankcase Emissions.** The certified engine package must be equipped with a closed crankcase system and must not discharge crankcase emissions to the atmosphere.
- (g) **Worst Case Emissions.** All emissions testing must be performed on a worst case vehicle. As an alternative to performing testing on a worst case vehicle, a engine manufacturer may submit for Executive Officer approval carry over emission test data from a previously certified vehicle, meeting applicable California new light duty exhaust emission standards in section 1961, title 13, CCR, and California new light duty evaporative emission standards in section 1976, title 13, CCR having a similar certified engine configuration to the certified engine package. The Executive Officer shall approve such a request if the engine manufacturer demonstrates one of the following:
 - (1) In the case of durability data, the engine manufacturer must demonstrate successfully that the previously generated durability data represent a worst case or equivalent rate of deterioration for all applicable emission constituents compared to the configuration selected for durability demonstration.
 - (2) In the case of emission data, the engine manufacturer must demonstrate successfully that the previously generated emissions data represent a worst case or equivalent level of emissions for all applicable emission constituents compared to the configuration selected for emission compliance demonstration.
- (h) **Greenhouse Gas Emissions.** Greenhouse gas exhaust emission requirements, credits/debits calculation and test procedures set forth in section 1961.3, title 13, CCR, do not apply to a SPMV which has been certified as required by this article.
- (i) **On-Board Diagnostic System.** Except as allowed in (i)(1) - (3) below, the certified engine package must comply with section 1968.2, title 13, CCR for on-board diagnostic (OBD) requirements applicable to the model year of the engine. For the specific sections identified below, in lieu of complying with all applicable OBD requirements per section 1968.2, title 13, CCR, the following alternate criteria can be used:

- (1) 1968.2(e)(4.22) (B) and (C)—Evaporative system leak monitoring: The complete evaporative system contains a leak or leaks that cumulatively are greater than or equal to a leak caused by a missing fuel cap or a worse-case malfunction of a capless fuel storage system (e.g., capless sealing valve stuck open).
 - (2) 1968.2(j)(2.3)—Production vehicle evaluation testing evaluation requirements: As an alternative to performing testing on each individual diagnostic, a engine manufacturer may submit for Executive Officer approval, a request to carry over test data for all unchanged diagnostics from a previously certified vehicle, meeting applicable California OBD requirements in section 1968.2, title 13, CCR, using a certified engine configuration or an engine configuration that is representative of the certified engine configuration. Executive Officer approval shall be granted upon determining the proposed previously certified vehicle uses the same OBD II strategies and similar calibrations and is expected to have identical test results. Engine manufacturers using this alternative are still required to perform testing on each individual diagnostic that is new, changed, or materially recalibrated for the certified engine package relative to the previously certified vehicle.
 - (3) 1968.2(j)(3)—Production vehicle evaluation testing for in-use monitoring performance ratio: As an alternative to collecting and submitting data required in 1968.2(j)(3) on vehicles using the certified engine package, a engine manufacturer may submit for Executive Officer approval, a request to use data generated from previously certified vehicles, meeting applicable California OBD requirements in section 1968.2, title 13, CCR, using a certified engine configuration or an engine configuration that is representative of the certified engine configuration. Executive Officer approval shall be granted upon determining the proposed vehicles use the same OBD II strategies and similar calibrations and are expected to have similar in-use monitoring performance.
- (j) Zero Emission Exhaust Standards for SPMVs. New 2019 and subsequent model year SPMVs can certify to ZEV standards set forth in section 1962.2, title 13, CCR. No credits may be earned under section 1962.2 for zero emission SPMVs.
- (1) The test procedures for determining compliance with the ZEV emission standards in section 2209.10(b), are set forth in "California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes", last amended September 3, 2015, incorporated by reference herein.
- (k) Engine Manufacturer Reporting Requirements. For each certified engine package manufactured for sale in California, the engine manufacturer must provide the following information to the Executive Officer by June 30 of the year following the model year of the certified engine package (for example, for a MY

2019 certified engine package, the engine manufacturer would be required to report by June 30, 2020):

- (1) Engine identification number and an explanation of the engine identification codes.
- (2) Total number of certified engine packages marketed and produced for sale in California.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.3 Delivery of certified engine package to SPMV Manufacturers.

- a) When an engine manufacturer delivers a certified engine package under this article to a SPMV manufacturer, the certified engine package must be complete, including all components of the certified engine package.
- b) The following written materials must also accompany the certified engine package:
 - (1) The engine manufacturer must furnish with each certified engine package written instructions for the required maintenance and use of the certified engine package by the ultimate purchaser, and the written instructions shall be consistent with this section.
 - (A) The engine manufacturer must include fuel tank specifications, e.g., tank material, maximum capacity and vapor volume, minimum distance from the engine, gas cap seals, filler neck, pressure/vacuum relief settings, etc. in the installation manual to ensure that the SPMV will comply with the evaporative emission standard. Additionally, the nozzle access zone and the filler neck area, including the filler neck face, shall be free of sharp projections or edges which could foreseeably damage the bellows and faceplates of fuel vapor recovery nozzles during fueling activity.
 - (B) The engine manufacturer must submit the above instructions with the engine manufacturer's application for each certified engine package for approval by the Executive Officer.
 - (C) The engine manufacturer must include instructions that the certified engine package should be installed in the vehicle to ensure a Smog Check inspection may be performed.
 - (D) The Executive Officer may reject or require modification of written instructions for, among other reasons, incompleteness or lack of clarity. Approval by the Executive Officer of the written instructions shall be a condition of certification.

- (2) A statement that the certified engine package, exhaust ECS, and evaporative ECS must be installed in a SPMV with an N/V ratio less than the N/V ratio of the worst case vehicle and below the weight of the worst case vehicle. The statement must specify the N/V ratio and weight limits not to be exceeded. This statement may be included in the written instructions, in paragraph (1) above.
- (3) A statement that no changes may be made to the certified engine package and evaporative ECS, including, but not limited to: changes to the fuel metering system; changes to the ignition system, changes to the camshaft; and modifying, recalibrating, removing, or failing to properly install any other specified component. This statement may be included in the written instructions, in paragraph (1) above.
- (4) A statement that failure to meet the requirements of paragraphs (1) through (3) above will cause the SPMV to violate CARB's certification requirements which may subject the SPMV manufacturer to penalties. This statement may be included in the written instructions, in paragraph (1) above.
- (5) A label that meets the requirements of section 2209.5, title 13, CCR, and an explanation of where and how the label is to be permanently attached on the SPMV.
- (6) An engine owner's manual that is to be provided to the ultimate purchaser. The owner's manual provided by the engine manufacturer must contain maintenance instructions. The owner's manual must contain a statement that disconnecting, modifying, or altering any emission control system on a certified engine package constitutes illegal tampering that is prohibited by state law.
- (7) A notice, printed on a separate sheet of paper, explaining the documentation, record keeping, notification, and access to records requirements for SPMV manufacturers installing certified engine package in the state of California.
- (8) An affidavit, which must be completed by the SPMV manufacturer indicating that all of the above-described requirements for the proper installation of the certified engine package and the record keeping and notification requirements have been read and understood. Provide a mailing address for the affidavit to be sent.
- (9) A warranty card requesting the SPMV make and model, the serial number of the certified engine package installed, vehicle identification number, the date of installation, and the SPMV manufacturer's name (and company as applicable). Provide a mailing address for the warranty card to be sent.

§ 2209.4 Requirements for SPMV Manufacturers.

- (a) A SPMV manufacturer must be currently registered with and approved by National Highway Traffic and Safety Administration and the United States Environmental Protection Agency to produce for the current model year of the SPMV certification application.
- (b) SPMV manufacturers planning to commence installation of a certified engine package in California for the first time shall send a "Letter of Intent" to commence such installation to:

Chief
Emissions Compliance, Automotive Regulations and Science Division
California Air Resources Board
9480 Telstar Avenue, Suite 4
El Monte, CA 91731

The Letter of Intent shall include general information on the company's product offering and contact information including:

- (1) Copies of the filed federal registrations required by subsection (a) above,
 - (2) An Executive Order number and description of the certified engine package to be installed into the SPMV models,
 - (3) Persons authorized to sign documents for submittal to CARB,
 - (4) Persons authorized to submit signed documents to CARB, and
 - (5) Persons authorized to communicate with CARB staff during the certification review process. Upon receiving the "Letter of Intent", CARB will assign a manufacturer code to the SPMV manufacturer and register the authorized personnel.
- (c) A SPMV manufacturer shall install a certified engine package in accordance with installation instructions provided by the engine manufacturer, acquire other necessary parts per the engine manufacturer's instructions and install according to the engine manufacturer's instructions.
 - (d) A SPMV manufacturer shall not install a certified engine package in a vehicle that exceeds the weight or N/V limits used to certify the certified engine package.
 - (e) A SPMV manufacturer shall not modify the certified engine package and emission related components provided by the engine manufacturer.

- (f) A SPMV manufacturer shall permanently affix the required engine manufacturer's emission label in a readily accessible visible location on the SPMV as specified by the engine manufacturer and according to section 2209.5.
- (g) The SPMV manufacturer shall also permanently affix their own vehicle information label in a readily accessible and visible location on the SPMV and must meet the emissions labeling requirements as new passenger vehicles. In addition to those requirements, the label must clearly states the SPMV manufacturer's name and address, state that the vehicle is a replica, and designate the make, model, model year such vehicle replicates, and build completion date.
- (h) A SPMV manufacturer shall maintain, for a period of not less than five years, written and photographic records documenting (1) the N/V ratio; (2) weight; (3) evaporative canister installation (photograph required); (4) installation of the label meeting the requirements of section (b)(5) above (photograph required); (5) the appearance of the finished SPMV from both the right and left sides (photographs required); and (6) for ECS using one or more oxygen sensors, photographic evidence that the oxygen sensors were installed in the proper location. A SPMV manufacturer shall, upon request, provide such written and photographic records to CARB within 10 working days.
- (i) A SPMV manufacturer shall notify CARB of the location where installation of a certified engine package into SPMV will be performed, where inspections can be conducted, and where records will be kept.
- (j) A SPMV manufacturer shall provide an installation and parts warranty, as specified in section 2209.10, title 13, CCR.
- (k) A SPMV manufacturer shall complete and return to the engine manufacturer an affidavit, as provided by the engine manufacturer, that the certified engine package has been installed per the engine manufacturer's instructions into a SPMV. A copy of the completed affidavit must also be given to the SPMV owner.
- (l) A SPMV manufacturer shall not install in a new SPMV any certified engine package which was manufactured by the engine manufacturer more than twenty-four (24) months prior to the date of installation in the SPMV.
- (e) No person may manufacture for sale, sell, advertise for sale, or offer for sale in California a SPMV that does not comply with all the provisions of this article. Failure to comply with the requirements of this article shall subject a SPMV manufacturer to civil penalties and/or the revocation of any applicable Executive Order. Any violation of this article shall be subject to the penalty provision of Part 5 of Division 26 of the Health and Safety Code.

§ 2209.5 Emission Control Labels on Certified Engine Packages and Specially-Produced Motor Vehicles

- (a) *Purpose.* Require engine manufacturers to provide a label to the SPMV manufacturer and require SPMV manufacturers to apply the certified engine label and the SPMV label to the SPMV with information needed to properly maintain certified engine packages.
- (b) *Applicability.*
 - (1) All certified engine packages must comply with these labeling requirements.
 - (2) The responsibility for compliance with this section rests with the engine manufacturer and SPMV manufacturer, as applicable.
- (c) *Label Requirements for certified engine package.*
 - (1) Engine Identification number. The engine manufacturer must permanently identify a certified engine package by direct stamping or embossment on the engine block. The identification must be readily visible and readable using block text that is a minimum of 2 millimeters in height, and resistant to heat, cold, or corrosive materials. A visual sample of the identification must be submitted in the application for certification.
 - (2) *Emissions Control Label.*
 - (A) The engine manufacturer must provide a label with each certified engine package to the SPMV manufacturer to be affixed to a fully assembled vehicle. Engine manufacturers must provide instructions to the SPMV manufacturer to affix the label in such a manner that it cannot be removed without destroying or defacing the label and shall not be affixed to any part that is likely to be replaced during the vehicle's useful life.
 - 1. The labels on 2019 through 2021 MY certified engine packages that are certifying to the LEV II exhaust emission standards in sections 2209.2.(d)(1)(A) and 2209.2.(d)(3)(A) must comply with "California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," last amended September 2, 2015, which are incorporated by reference herein. The applicable section in each of the above cited exhaust emission standards and test procedures is part 1, subpart C, section 3, which incorporates by reference and amends 40 CFR 86.1807 "Vehicle Labeling."

2. The labels on 2019 and subsequent MY certified engine packages that are certifying to the LEV III exhaust emission standards in sections 2209.2.(d)(1)(A), 2209.2.(d)(2)(A), 2209.2.(d)(3)(B), and 2209.2.(d)(4)(A) must comply with “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” last amended September 2, 2015, which are incorporated by reference herein. The applicable section in each of the above cited exhaust emission standards and test procedures is part 1, subpart C, section 3, which incorporates by reference and amends 40 CFR 86.1807 “Vehicle Labeling.”

- (B) Additional Label Requirements: The label must also contain the following sentence lettered in the English language in block letters and numerals which must be of a color that contrasts with the background of the label: “This engine is intended only for use in a SPMV, as defined in section 2209.1, Title 13, California Code of Regulations.”

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.6. Defects Warranty Requirements for Certified Engine Packages for Use in Specially-Produced Motor Vehicles.

- (a) *Applicability.*

This section shall apply to 2019 and subsequent model year certified engine packages for use in SPMV.

- (b) *General Defects Warranty Coverage.*

The engine manufacturer of each certified engine package shall warrant to the ultimate purchaser of the SPMV and each subsequent SPMV owner, that the certified engine package:

- (1) Is designed, built, and equipped so as to conform with all applicable regulations adopted by the CARB pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code.
- (2) Is free from defects in materials and workmanship which cause the failure of a warranted part, including any defect in materials or workmanship which would cause the certified engine package’s on-board diagnostic malfunction indicator light to illuminate, for a period of three years or 50,000 miles, whichever first occurs.

- (3) Is free from defects in materials and workmanship which cause the failure of a warranted part described in subsection (c) within seven years or 70,000 miles, whichever first occurs.
 - (4) The warranty period for a certified engine package shall begin on the date an SPMV using that certified engine package is registered for use in California or two years after the certified engine package is purchased by the SPMV manufacturer, whichever first occurs. However, as an alternative to beginning the warranty period on the date an SPMV is registered for use in California or two years after the engine is purchased by the SPMV manufacturer, a engine manufacturer may instead begin the warranty period on the purchase date of the certified engine package and warrant for a period of five years or 50,000 miles, which ever first occurs, that the certified engine package is free from defects in materials and workmanship which cause the failure of a warranted part, including any defect in materials or workmanship which would cause the certified engine package's on-board diagnostic malfunction indicator light to illuminate.
- (c) *"High-Priced" Warranted Parts.*
- (1) Each engine manufacturer shall identify in its application for certification the "high-priced" warranted parts which are:
 - (A) Subject to coverage as a warranted part in subsection (b)(2) above; and
 - (B) Have an individual replacement cost at the time of certification exceeding the cost limit defined in subsection (c)(3) below.
 - (2) The replacement cost shall be the retail cost to the ultimate purchaser of a certified engine package and includes the cost of the part, labor, and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.
 - (3) The cost limit shall be the same value calculated for new light-duty vehicles according to section 13 CCR §2037(c).
 - (4) The cost limit shall be revised annually by the Executive Officer. The highest-cost metropolitan area in California shall be identified by the Executive Officer for use in this section. If an engine manufacturer seeks certification of a certified engine package before the applicable annual average CPI is available, the cost limit shall be calculated using the average of the monthly nationwide urban CPI figures for the most recent twelve-month period for which figures have been published by the United States Bureau of Labor Statistics.
 - (5) Each engine manufacturer shall submit to the Executive Officer the documentation used to identify the "high-priced" warranted parts required in

this section. The documentation shall include the estimated retail parts costs, labor rates in dollars per hour, and the labor hours necessary to diagnose and replace the parts. The documentation is not required for certified engine packages certified before July 15, 2019.

- (6) The Executive Officer may reject or require modification of the engine manufacturer's list of "high-priced" warranted parts to ensure that such list includes all emission-related parts whose replacement cost exceeds the cost limit defined in subsection (c)(3).
- (d) Subject to the conditions and exclusions of subsection (i), the warranty on emission-related parts shall be interpreted 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 applicable warranty period defined in subsection (b)(2). If any such part fails during the period of warranty coverage, it shall be repaired or replaced by the engine manufacturer according to subsection (d)(4) below. Any such part repaired or replaced under the warranty shall be warranted for the remaining warranty period.
 - (2) Any warranted part which is scheduled only for regular inspection for maintenance reasons as specified in the written instructions required by subsection (e) shall be warranted for the applicable warranty period defined in subsection (b)(2). 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 required 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 prior to the first scheduled replacement, the part shall be repaired or replaced by the engine manufacturer according to subsection (d)(4) below. Any such part required 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 SPMV 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 SPMV owner. In an emergency, repairs may be performed at any available service establishment, or by the SPMV owner, using any replacement part. The engine manufacturer shall reimburse the SPMV owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the engine manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the engine manufacturer's

recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A SPMV 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 engine manufacturer's written instructions required by subsection (e) advise the SPMV owner of this obligation.

- (5) Notwithstanding the provisions of subsection (d)(4) above, warranty services or repairs shall be provided at all of a engine manufacturer's dealerships, warranty stations or service providers which are franchised or under contract to service the subject vehicles or engines.
- (6) The SPMV owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is defective, provided that such diagnostic work is performed at a warranty station.
- (7) The engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.
- (8) Throughout the certified engine's warranty period defined in subsection (b)(2), the engine 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 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 (d)(4) above.
- (9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a engine manufacturer may be used in warranty repairs provided without charge to the SPMV owner. Such use shall not reduce the warranty obligations of the engine manufacturer, except that the engine 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 (d)(7) above).
- (10) Any add-on or modified part exempted by the California 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 engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.
- (11) The Executive Officer may request, and, in such case, the manufacture shall provide, any documents which describe the engine manufacturer's warranty procedures or policies.

- (e) Each engine manufacturer shall furnish with each certified engine package, written instructions for the maintenance and use of the engine by the SPMV owner, and the instructions shall be consistent with this article and section 5(b)(1) of the "California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years," adopted [INSERT DATE OF ADOPTION], which is incorporated by reference herein.
- (f) Each engine manufacturer shall furnish with each new certified engine package a list of the "high-priced" warranted parts established by subsection (c).
- (g) Each engine manufacturer shall submit the documents required by subsections (c)(5), (e), and (f) with its application for certification pursuant to section 7 of the "California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years," adopted [INSERT DATE OF ADOPTION] which is incorporated by reference herein. The Executive Officer may reject or require modification of any of the documents required by subsections (c), (e), and (f) for, among other reasons, incompleteness and lack of clarity. Approval by the Executive Officer of the documents required by subsections (c), (e), and (f) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (c), (e), and (f) within 90 days of the date such documents are received from the engine manufacturer. Any disapproval shall be accompanied by a statement of the reasons thereof. In the event of disapproval, the engine manufacturer may petition the Board to review the decision of the Executive Officer.
- (h) *Motor Vehicle Inspection and Maintenance Program.*
 - (1) This subsection applies to 2019 and subsequent model SPMV that have a 2019 and subsequent model certified engine package which fail to pass a Smog Check inspection after the warranty period of three years or 50,000 miles, whichever occurs first, has expired, but before the warranty period of seven years or 70,000 miles, whichever occurs first, has expired. The provisions of this section shall be contained in the warranty statement required pursuant to section 10 of the "California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years," adopted [INSERT DATE OF ADOPTION], which is incorporated by reference herein.
 - (2) The SPMV owner which fails a Smog Check inspection may choose to have the SPMV repaired at a warranty station.
 - (A) If the warranty station identifies that the Smog Check inspection failure was caused by the failure or malfunction of a "high-priced" part defined in subsection (c), then the engine 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, improper installation, or improper maintenance as specified in subsection (i).

- (B) If the warranty station demonstrates that the Smog Check inspection failure was caused by one or more conditions excluded from warranty coverage pursuant to subsection (i), the SPMV owner shall be liable for all diagnostic and repair expenses. Such expenses shall not exceed the maximum repair costs permissible under the motor vehicle inspection and maintenance program.
- (C) If the warranty station determines that the Smog Check 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 (i), then the SPMV owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.
- (D) In the alternative, the owner of a SPMV which fails the Smog Check inspection may choose to have the certified engine package repaired at other than a warranty station. If a warrantable defect is found, the SPMV owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The engine 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 defined in subsection (d)(4).

(i) *Exclusions.*

The repair or replacement of any warranted part otherwise eligible for warranty coverage under subsections (d) and (h) shall be excluded from such warranty coverage if the engine manufacturer demonstrates that the engine has been abused, neglected, improperly installed, or improperly maintained, and that such abuse, neglect, improper installation, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

(j) *SPMV Owner Obligations.*

- (1) The SPMV owner shall be responsible for the performance of all required scheduled maintenance specified in the written instructions furnished to the SPMV owner pursuant to subsection (e). Such maintenance may be performed by the SPMV owner, at a service establishment of the SPMV owner's choosing, or by a person or persons of the SPMV owner's choosing.
- (2) Except as specified in subsection (i), failure of the SPMV 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.

(k) *Warranty Card.*

The engine manufacturer shall provide a warranty card to the SPMV owner, or online warranty registration equivalent, with each certified engine package intended for California sale or use, as described in “California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years,” adopted [INSERT DATE OF ADOPTION], which is incorporated by reference herein.

(l) *Emissions Control System Warranty Statement.*

- (1) The engine manufacturer shall furnish a copy of the warranty statement with each 2019 and subsequent model year certified engine package for use in a SPMV, as specified in the “California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years,” adopted [INSERT DATE OF ADOPTION], which is incorporated by reference herein.
- (2) The engine manufacturer shall submit the warranty statement with the engine manufacturer’s application for new certified engine package to the Executive Officer. Approval by the Executive Officer of the documents shall be a condition of certification. The Executive Officer shall approve or disapprove the documents within 90 days of receipt from the engine manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the engine manufacturer may petition the Board to review the decision of the Executive Officer.

(m) *Mediation; Finding of Warrantable Condition.*

- (1) This section is intended to provide a mechanism for mediating unresolved emissions warranty disputes between SPMV owners and engine manufacturers or their agents.
- (2) An SPMV owner may request that the Executive Officer mediate a warranty claim.
 - (A) Upon receipt of such a claim the Executive Officer, or the Executive Officer’s representative, may make a determination regarding whether the claim is meritorious on its face and, if meritorious, shall notify the appropriate dealer, or engine 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.
 - (B) Upon examination of the facts submitted by the parties concerned, the Executive Officer, or the Executive Officer’s representative, may find that a warranted part, or a certified engine package’s nonconformity with any California statutorily authorized motor vehicle 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.

- (C) The Finding of Warrantable Condition shall include the name of the SPMV owner, SPMV manufacturer name, name of manufacturer of the certified engine package, engine family, odometer reading, date of inspection, identification of the defective part or other warrantable condition and the signature of the person issuing the Finding.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.7. Performance Warranty Requirements for Certified Engine Packages for Use in Specially-Produced Motor Vehicles.

- (a) *Applicability.*

This section shall apply to 2019 and subsequent model year certified engine packages for use in a SPMV.

- (b) *General Performance Warranty Requirements.*

A engine manufacturer shall warrant to the SPMV owner, beginning on the date an SPMV using the certified engine package is registered for use in California and each subsequent purchaser that the certified engine package:

- (1) Is designed, built, and equipped to conform with all applicable regulations adopted by the CARB pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code.
- (2) Will, for a period of three years or 50,000 miles, whichever first occurs, be capable of completing the smog check test and passing a smog check inspection.

- (c) *Written Instructions.*

- (1) Each engine manufacturer shall furnish with each certified engine package, written instructions for the required maintenance and use of the engine by the SPMV owner, and the written instructions shall be consistent with this article and Section 5(b)(1) of the "California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years," adopted [INSERT DATE OF ADOPTION, which is incorporated by reference herein.
- (2) Each engine manufacturer shall submit the documents required by subsection (c)(1) above with its application for certification pursuant to Section 7 of the "California Certification Procedures for Light-Duty Engine Packages for Use In

Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years,” adopted [INSERT DATE OF ADOPTION], which is incorporated by reference herein.

- (3) The Executive Officer may reject or require modification of the written instructions for, among other reasons, incompleteness or lack of clarity. Approval by the Executive Officer of the written instructions shall be a condition of certification. The Executive Officer shall approve or disapprove the written instructions within 90 days of the date such documents are received from the engine manufacturer. Any disapproval shall be accompanied by a statement of the reasons thereof. In the event of disapproval, the engine manufacturer may petition the Board to review the decision of the Executive Officer.

(d) *Proper Use and Maintenance.*

- (1) An emission performance warranty claim may be denied if the engine manufacturer demonstrates that the failure of the Smog Check inspection was directly caused by abuse, neglect, improper installation, or improper maintenance as reflected by a failure to maintain or use the SPMV or certified engine package in accordance with the written instructions.
- (2) Except as provided in subsection (d)(5), a engine manufacturer may deny an emission performance warranty claim based on noncompliance with the written instructions only if:
 - (A) An SPMV owner is not able to comply with a request by an engine manufacturer for evidence pursuant to subsection (d)(4); or
 - (B) Notwithstanding the evidence presented pursuant to subsection (d)(4), the engine manufacturer is able to prove that the SPMV failed a Smog Check inspection because the SPMV or certified engine package was abused, the required maintenance and use was performed in a manner resulting in a component being improperly installed or a component or related parameter being adjusted substantially outside of the engine manufacturer's specifications, or maintenance was performed on the certified engine package which resulted in the removing or rendering inoperative of any component affecting the certified engine package's emissions.
- (3) When determining whether an SPMV manufacturer has complied with the written instructions, a engine manufacturer may require an SPMV manufacturer to submit evidence of compliance only with those written instructions for which the engine manufacturer has an objective reason for believing:
 - (A) Were not performed; and

- (B) If not performed, could be the cause of the particular SPMV's failed Smog Check inspection.
- (4) Evidence of compliance with a maintenance instruction may consist of:
- (A) A maintenance log book which has been validated at the approximate time or mileage intervals specified in the written instructions by someone who regularly engages in the business of servicing light-duty vehicles or light-duty vehicle engines for the relevant maintenance; or
 - (B) A repair order, sales receipt, or similar evidence showing that the certified engine package has been submitted for scheduled maintenance at the approximate time or mileage intervals specified in the written instructions to someone who regularly engages in the business of servicing light-duty vehicles or light-duty vehicle engines for the purpose of performing the relevant maintenance; or
 - (C) A statement by the SPMV owner that the maintenance was performed at the approximate time or mileage interval specified in the written instructions using proper replacement parts.
- (5) In no case may an engine manufacturer deny an emission performance warranty claim on the basis of:
- (A) Warranty work or pre-delivery service performed by any facility authorized by the engine manufacturer to perform such work or service; or
 - (B) Work performed in an emergency situation to rectify an unsafe condition, including an unsafe drivability condition, attributable to the engine manufacturer, provided the SPMV owner has taken steps to put the SPMV back in a conforming condition in a timely manner; or
 - (C) Any cause attributable to the engine manufacturer; or
 - (D) The use of any fuel which is commonly available in the geographical area in which the SPMV is located, unless the written instructions specify that the use of that fuel would adversely affect the emission control devices and systems of the certified engine package, and there is commonly available information for the SPMV owner to identify the proper fuel to be used.
- (6) The SPMV owner may perform maintenance or have maintenance performed more frequently than required in the written instructions.
- (7) Except as specified in subsection (d)(2)(B) above, failure of the SPMV 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.

- (e) Repair, adjustment, or replacement of any part under the warranty provisions of this article shall be performed at no charge to the SPMV owner at a warranty station, except where a warranted part is not available to the SPMV owner within a reasonable time (in no case more than 30 days) after the SPMV is initially presented to the warranty station for repair. In case of such unavailability, repairs may be performed at any available service establishment, or by the SPMV owner, using any replacement part. The engine manufacturer shall reimburse the SPMV owner for his or her expenses including diagnostic charges for such repair or replacement, not to exceed the engine manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the engine manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A SPMV owner may reasonably be required to keep receipts and failed parts in order to receive reimbursement due to such unavailability, provided the engine manufacturer's written instructions advise the SPMV owner of this obligation.
- (f) The engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.
- (g) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a engine manufacturer may be used in warranty repairs provided without charge to the SPMV owner. Such use shall not reduce the warranty obligations of the engine manufacturer, except that the engine 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 (d) above).
- (h) Any add-on or modified part exempted by the California Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a SPMV or certified engine package. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.
- (i) *Warranty Claim Procedures.*
 - (1) A warranty claim may be submitted by bringing a SPMV to any repair facility authorized by the engine manufacturer to service that certified engine package.
 - (2) The engine manufacturer shall establish procedures as to the manner in which a claim under the emission performance warranty is to be processed. The procedures shall provide for a final decision and repair of a warrantable condition by the engine manufacturer within a reasonable time, not to exceed

30 days from the time at which the certified engine package is initially presented for repair, or unless a delay:

- (A) is requested by the SPMV owner, or
 - (B) is caused by an event not attributable to the engine manufacturer or the warranty station.
- (3) Within the time period specified in subsection (i)(2), the engine manufacturer shall provide the SPMV owner, in writing, with an explanation as to why the claim is being denied.
- (4) Failure to notify a SPMV owner that a warrantable condition does not exist within the required time period of subsection (i)(2), for reasons other than those provided for in subsections (i)(2)(A) and (B), shall result in the engine manufacturer being responsible for repairing the certified engine package free of charge to the SPMV owner.
- (5) The engine manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.
- (j) Warranty services or repairs shall be provided at all a SPMV manufacturer's dealerships, warranty stations, or service providers which are franchised or under contract to service the certified engine package in the SPMV.
- (k) The SPMV owner shall not be charged for diagnostic labor which leads to the determination of a warrantable condition provided that such diagnostic work is performed at a warranty station.
- (l) Throughout the certified engine package's warranty period defined in subsection (b), the engine 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 the repairs within a reasonable time period, not to exceed 30 days from the time the certified engine package is initially presented to the warranty station for repair, shall constitute an unavailability of parts for purposes of subsection (e).
- (m) The Executive Officer may request, and, in such case, the engine manufacturer shall provide, any documents which describe the engine manufacturer's warranty procedures or policies.
- (n) *SPMV Owner Obligations.*
- (1) The owner of any SPMV, warranted pursuant to this article, shall be responsible for the performance of all required scheduled maintenance specified in the written instructions furnished to the SPMV owner pursuant to subsection (c)(1). Such maintenance may be performed by the SPMV owner,

at a service establishment of the SPMV owner's choosing, or by a person or persons of the SPMV owner's choosing.

- (2) Except as specified in subsection (d), failure of the SPMV 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.

(o) *Mediation; Finding of Warrantable Condition.*

- (1) This section is intended to provide a mechanism for mediating unresolved emissions warranty disputes between owners of SPMV and engine manufacturers or their agents.

- (2) A SPMV owner may request that the Executive Officer mediate a warranty claim.

(A) Upon receipt of such a claim the Executive Officer, or the Executive Officer's representative, may make a determination regarding whether the claim is meritorious on its face and, if meritorious, shall notify the appropriate dealer, or engine manufacturer of the claim. The party against whom a complaint is made shall be given a reasonable time to respond. The Executive Officer may conduct an informal conference and may request additional information and evidence.

(B) Upon examination of the facts submitted by the parties concerned, the Executive Officer, or the Executive Officer's representative, may find that a warranted part, or a certified engine package'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.

(C) The Finding of Warrantable Condition shall include the name of the SPMV owner, engine manufacturer and model, engine identification number, engine family, odometer reading, date of Smog Check inspection, identification of the defective part or other warrantable condition and the signature of the person issuing the finding.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

2209.8. Warranty Reporting Requirements for Certified Engine Packages for Use in Specially-Produced Motor Vehicles.

(a) Applicability.

This section shall apply to 2019 and subsequent model year certified engine packages for use in a SPMV.

(b) Warranty Reporting Requirements.

(1) A engine manufacturer shall retain and review unscreened warranty claims for each certified engine package family on a production year basis for a period of three years following the production year and shall submit a warranty information report quarterly to CARB during the three-year period. The warranty information report shall contain the following information:

- (A) The engine manufacturer's name;
- (B) A description of each class or category of certified engine package, including the model year and engine family;
- (C) The cumulative number and percentage of certified engine packages covered by the Executive Order for which a warranty replacement or other warranty work was identified; and
- (D) The number of each type of certified engine package produced for sale in California.

(2) Alternative Procedures.

- (A) A engine manufacturer may use an alternative procedure to those specified in Section 2209.8 (b)(1), provided the Executive Officer has determined that the alternative procedure will produce substantially equivalent results. In making such a determination, the Executive Officer shall consider the capacity of the alternative procedure to:
 - 1. Ensure early detection of failing components within the useful life of the SPMV or engines;
 - 2. Track failing components by engine family;
 - 3. Assure prompt notification of the Executive Officer when a systematically failing component is indicated;
 - 4. Provide objective, complete and easily monitored data; and

5. Be audited by the Executive Officer.

- (3) Any exhaust and/or evaporative emission control components that are used in the engine manufacturer's regular production California-certified vehicles and also used in the certified engine package would be subject to corrective action when the warranty claim trigger levels (four percent or 50 parts, whichever is greater) in section 2143, title 13, CCR, are exceeded.
- (4) For confirmed warranty rates greater than four percent or 50 parts, whichever is greater, including a certified engine package or ECS in California-certified vehicles produced by the same engine manufacturer and equipped with the same engine components or ECS components, the Executive Officer may initiate an ordered recall as provided in section 2217, title 13, CCR.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.9. Recall Procedures for Certified Engine Packages for Use in Specially-Produced Motor Vehicles.

(a) *Applicability.*

This section shall apply to 2019 and subsequent model year certified engine packages used in a SPMV.

(b) *Recall Procedures.*

A engine manufacturer shall be notified whenever the Executive Officer has determined, based on emissions warranty information reports, enforcement testing results, or any other information, that more than four percent of the certified engine packages covered under each Executive Order, or more than four percent of California-certified engine packages produced by the engine manufacturer and having the same components as the certified engine package, although properly maintained and used, contain a failure in an emission-related component which, if uncorrected, may result in the vehicles' or engines' failure to meet applicable standards. In such a situation, the certified engine package and/or specific components used in the certified engine package or ECS will be subject to corrective action, including recall, to correct such failures, as specified in the "Procedures for Reporting Failure of Emission-Related Components," sections 2141 through 2149, Article 2.4, Chapter 2, Division 3, title 13, CCR.

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.

§ 2209.10. Requirements for Specially-Produced Motor Vehicle manufacturers who install Certified Engine Packages for Use in Specially-Produced Motor Vehicles.

(a) *Applicability.*

This section shall apply to an SPMV manufacturer of 2019 and subsequent model year SPMVs.

(b) *Requirements.*

- (1) **Affidavit.** A SPMV manufacturer must sign and date the affidavit provided by the engine manufacturer, as required in section 2209.4.(l), confirming under penalty of perjury that the certified engine package has been installed into an SPMV per the engine manufacturer's written instructions. The signed and dated affidavit must be submitted to the engine manufacturer and a copy must be submitted to the ultimate purchaser.
- (2) **Record Keeping.** The SPMV manufacturer must maintain written and photographic records, for not less than two years, of each vehicle built with a certified engine package. Upon the request of CARB, SPMV manufacturer must immediately provide records documenting the proper assembly of each SPMV.

(c) *Installation Warranty.*

Each SPMV manufacturer who installs a certified engine package for use in an SPMV shall warrant to the SPMV owner that the certified engine package was installed per the engine manufacturer's instructions.

- (1) The SPMV manufacturer shall install the certified engine package in a configuration certified pursuant to this article, and shall agree to indemnify the ultimate purchaser for the cost of repair of any SPMV as a result of an improper installation of the certified engine package or ECS.
- (2) The SPMV manufacturer shall agree to indemnify the ultimate purchaser for any penalties that may be imposed as a result of an improper installation of the certified engine package or ECS.
- (3) The warranties and agreements to indemnify shall be effective for 1 year or 12,000 miles, from the date of installation, whichever first occurs. This warranty shall cover customer service and the full repair or replacement costs including the cost of diagnosis, labor, and parts, including any part on the certified engine package or ECS that is damaged due to the improper installation of the certified engine package or ECS.

- (d) The SPMV manufacturer shall warrant the SPMV owner that the supplied and installed fuel tank assembly, fuel filler neck, gas cap, fuel hoses, fuel pump, and fuel sender unit:
- (1) Is designed, built, and equipped so as to conform with all applicable regulations adopted by the CARB pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code.
 - (2) Is free from defects in materials and workmanship which cause the failure of a warranted part, including any defect in materials or workmanship which would cause the certified engine package's on-board diagnostic malfunction indicator light to illuminate, for a period of three years or 50,000 miles, whichever first occurs.
- (e) *"High-Priced" Warranted Parts.*
- (1) Each SPMV manufacturer shall identify in its application for certification the "high-priced" warranted parts which are:
 - (A) Subject to coverage as a warranted part in subsection (d)(2) above; and
 - (B) Have an individual replacement cost at the time of certification exceeding the cost limit defined in subsection (e)(3) below.
 - (2) The replacement cost shall be the retail cost to the ultimate purchaser of a certified engine package and includes the cost of the part, labor, and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.
 - (3) The cost limit shall be the same value calculated for new light-duty vehicles according to section 13 CCR section 2037(c).

Note: Authority cited: Sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, Health and Safety Code, and 580 Vehicle Code.