



Memorandum of Exemption for Investigations

I. Authority

Section 203(b)(1) of the Clean Air Act (Act) as amended, and 40 CFR part 85, provide that the Administrator of the Environmental Protection Agency may exempt any new and in-use motor vehicles or motor vehicle engines from the prohibitions of §203(a)(3)(A) and (B) of the Act upon such terms and conditions found necessary for the purpose of research, investigations, studies, demonstrations or training, or for reasons of national security. A March 30, 1980 Federal Register Notice, Volume 45, No. 43, revision extended the exemption to include any person (rather than manufacturers only). Furthermore, this change of the Clean Air Act Testing Exemption Requirements provides that the appropriate state enforcement divisions within the state or local government, which have jurisdiction over the I/M covert audit program, may conduct audits upon acknowledging the terms and conditions of this memorandum of exemption. This memorandum of exemption covers vehicles used in covert audits of I/M programs being implemented in response to the requirements of 40 CFR, Part 51, Subpart S.

II. Applicability

This exemption from the prohibitions of Section 203(a) of the Act is applicable to vehicles that are used by the state agencies in conducting covert vehicle operations for the purposes of overseeing the I/M program. The vehicles are classified as exempt only for undercover quality assurance auditing of state I/M programs and are subject to the terms and conditions of the exemption as explained in Part III below. This exemption authorizes the following state agency to perform the necessary alterations to vehicles used in covert operations, or the state agencies may authorize a regulated party to perform such alterations.

Agency Name/Address:

Contact Person:

Phone Number:

III. Terms and Conditions

The investigation program must be conducted in accordance with conditions identified below:

- (a) Create the initiation of the investigation program and maintain a record of vehicles used in covert audits over the duration of the program which includes the vehicle identification numbers, make, model year, date vehicle is modified and restored to original specifications. The record must be maintained for the duration of the program and made available at reasonable times for review or copying by appropriate EPA employees.
- (b) When a vehicle is retired from use in the covert audit program, the state must perform the following:
 - (1) Regain physical possession of the subject vehicles and engines and remove them from commerce by storing or scrapping; or
 - (2) Regain physical possession of the vehicle or engine and, with respect to emission control components and emission related parameters being modified for purposes of the covert audit, restore it to the same design specifications as a certified motor vehicle or engine of the model year of manufacture or newer. If necessary, re-label the vehicle as prescribed under 40 CFR Part 85 for the appropriate model year.
- (c) Effective date of exemption and expiration of exemption will be the option of state I/M program officials, unless otherwise determined by EPA.
- (d) A breach of any term or condition with respect to any vehicle or engine shall cause the exemption to be void.

IV. Acceptance and Agreement

The exemption with terms and conditions set forth above are hereby accepted and agreed to.

Signature of EPA Official:

Date of Signature:

Signature of State Official:

Date of Signature: