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Motorcycle Industry Council

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Motorcycle Industry Council/Specialty Vehicle Institute of America Comments on Proposed Amendments to the California Regulations for New 1997 and Later Off-Highway Recreational Vehicles and Engines

July 19, 2006

These comments are submitted by the Motorcycle Industry Council, Inc. (MIC) and the Specialty Vehicle Institute of America (SVIA)* and are intended to supplement the oral testimony presented on behalf of MIC and SVIA during the Board hearing on July 20, 2006.

As stated in the Initial Statement of Reasons for the proposed amendments, the CARB staff is proposing to harmonize the California regulations for All-Terrain Vehicles (ATVs) and Off-Highway Motorcycles (OHMs) with the recently adopted federal evaporative emissions standards, to harmonize with EPA on which utility vehicles may certify using the ATV test procedures, and to revise the riding season for non-complying off-highway recreational vehicles (OHRVs). The staff is not proposing harmonization with the new federal exhaust emissions standards based on the following rationale:

> *The federal exhaust standards are not as stringent as California's, even though oxides of nitrogen (NOx) are also regulated, and they do not establish riding season restrictions. Moreover, even less stringent standards apply to small displacement OHRV engines.*[†]

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* The MIC is a national, nonprofit trade association representing over 300 manufacturers and distributors of motorcycles, all terrain vehicles, parts and accessories and members of allied trades. The SVIA is a national, nonprofit trade association representing twelve all terrain vehicle (ATV) manufacturers and distributors. MIC and SVIA members include the following twelve off highway motorcycle and ATV manufacturers/ distributors, among others: AlphaSports (Tomberlin Group), Arctic Cat Inc., American Honda Motor Co., Inc., American Suzuki Motor Corp., Bombardier Recreation Products US, Inc., Bush Hog, LLC, John Deere Company, Kawasaki Motors Corp., USA, KTM North America, Patriot Motorcycle Corp., Polaris Industries, Yamaha Motor Corp., USA. In this document, positions and opinions expressed on behalf of "MIC" reflect the views of SVIA as well.

† Notwithstanding the staff's basic rejection of harmonizing exhaust standards, it is proposing to "harmonize California's less stringent CO standard with that of EPA's" in the case of utility vehicles.

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MIC's position on the proposed amendments can be summarized as follows:

1. The proposed evaporative emissions regulations need to be revised slightly to achieve the stated objective of harmonization with the federal standards. As proposed, the CARB regulation does not include the "pull ahead" or "deficit credit" provisions in the federal regulation. These provisions allow for a delay in meeting the ultimate gas tank permeation standard for manufacturers who either generate offsetting credits by certifying to a less stringent standard ahead of schedule or who overcomply in subsequent years.

2. The California exhaust emissions standards for ATVs should also be harmonized with the federal standards. This will not result in a loss of emissions control, as explained below.

3. MIC supports the staff's efforts to achieve greater harmonization with the definitions for ATVs and utility vehicles, but believes greater harmonization can be accomplished than has been proposed with a minor change to the proposed definitions. As discussed below, and as we have communicated with the staff verbally, we are particularly concerned that utility vehicles not be referred to as "ATVs" under the California regulations.

4. Relatively minor changes to the labeling requirements are proposed; however, the amendments are drafted in a way that would make the changes immediately applicable. Since lead time is required to comply with the proposed changes, and since model year 2007 vehicles are already in production, it is necessary for compliance to be delayed until model year 2008.

5. There are some obviously unintentional errors in the proposed amendments regarding the optional standards and permeation equation that need to be corrected. We have already given staff the language necessary to address this problem.

A more detailed explanation of MIC's position is set forth below.

Evaporative Standards - MIC supports the concept of harmonizing with the federal evaporative emissions standards; however, because the "pull-ahead" and "deficit credit" provisions of the federal regulations were not proposed for adoption, full harmonization has not been achieved. These provisions made the new federal standards technologically feasible by giving manufacturers additional time to comply with the ultimate gas tank permeation standard if they certified to a less stringent standard ahead of schedule or overcomply in subsequent years. EPA accepted these provision because the agency agreed it was in the interest of air quality. We have provided CARB staff with a simple language change that would make the pull-ahead and deficit credit provisions apply under the California regulations.

Exhaust Standards for OHMs and Non-Utility ATVs – We understand how CARB staff reached the conclusion that its current standards are more stringent than the federal standards. On the chassis dynamometer test procedure, the HC+NOx emissions of ATVs just meeting the 1.2 g/km California HC standard are about 5% lower than the emissions of vehicles just meeting the 1.5

g/km federal HC+NOx standard. The California standard appears to be more stringent for ATVs with engines <100 cc because the federal regulation allows such vehicles to meet a less stringent standard when using the "optional" steady-state engine dynamometer test procedure. Similarly, the federal 2.0 g/km HC+NOx standard for OHMs appears to be less stringent than the California 1.2 g/km HC-only standard. However, the apparent advantages of the California standards are not real because almost all ATVs are certified under the "optional" standards for engine dynamometer testing. California's optional standards are identical to the federal optional standards for all ATVs with engines ≥100 cc. For ATVs with engines <100 cc, it is true that the federal standard is less stringent; however, even higher emission vehicles can be sold in California under the "red sticker" program. Even if perfect enforcement of the red sticker program is assumed, the staff's analysis fails to account for the fact that red sticker vehicles emit evaporative emissions in non-attainment areas even when they are not being ridden. For this reason, MIC believes full harmonization of the ATV standards would be in the interest of air quality.

It should also be noted that the optional test procedure and standards are scheduled to be replaced by a new ATV-specific engine dynamometer test under the federal program. Data collected by Southwest Research Institute show that the new test procedure, which better represents ATV operation, will result in greater control of HC+NOx emissions. As the ISOR points out, the new ATV-specific test procedure has not yet been adopted, but it is possible that EPA will be issuing a direct final rule in the immediate future. To maximize the chances that the proposed amendments will qualify for a waiver of federal preemption, MIC requests that the Board delegate to the Executive Officer the authority to harmonize with the new ATV-specific standards and test procedure as soon as they are adopted, provided a staff analysis supports our belief that the new standards will provide greater control of HC+NOx emissions than the California standards.

We recognize that the current California standards for CO emissions are more stringent than the new federal standards. However, as demonstrated in our January 18, 2002 comments to EPA (attached), there is no air quality argument for stringent CO standards for ATVs or OHMs because CO emissions from ATVs and OHMs do not cause or contribute to violations of ambient air quality standards for CO. EPA agreed to less stringent CO standards for ATVs and OHMs because the agency agreed with our analysis of this issue and because it recognized that unnecessarily stringent CO standards would increase the cost of compliance with HC+NOx standards for some models and adversely affect driveability. By harmonizing with the federal CO standards, CARB will give up nothing in terms of protecting air quality.

Category Definitions – Under the new federal standards, certain utility vehicles are subject to the ATV standards. MIC supports the adoption of similar provisions in California. As we have discussed with the staff, we would like the proposed new definitions modified so that utility vehicles are not referred to as "ATVs." In addition, to achieve greater harmonization, we recommend that the definition be revised so that the speed criterion for utility vehicles is changed from ">25 mph" to "≥25 mph."

Labeling Requirements – Under the current regulations, labeling requirements are incorporated by reference and subject ATVs and OHMs to the same labeling requirements that apply to highway motorcycles. The revised labeling requirements are proposed to be included in the text of section 2413 rather than in CARB's general labeling specifications incorporated in section 1965. The proposed requirements will require changes to the tune-up label. Specifically, the

label for OHMs and ATVs will now have to include the engine family name and engine displacement (section 2413(c)(4)(C)). OHMs and ATVs are exempt from this requirement under section 3(a)(iv) of the current requirements. This change means that the tune-up labels currently being used on 2007 model year production may not meet the new labeling requirements. Manufacturers will need reasonable lead time to conform their labels to the new requirements. Because 2007 model year vehicles are already in production, compliance during the 2007 model year is not feasible. MIC therefore requests that the "applicability" provision in section 2413(b)(1) be changed as shown below, rather than as proposed by staff, such that the current labeling requirements continue in place for the 2007 model year and the new requirements apply beginning with the 2008 model year.*

> (1) All 2007 and earlier model year off-road motorcycles, all-terrain vehicles, and engines used in such vehicles, except those certified according to section 2412(f), produced on or after January 1, 1997, for sale, lease, use of introduction into commerce in California, shall comply with the labeling requirements of Title 13, California Code of Regulations, Chapter 1, Article 2, Section 1965, and the incorporated "California Motor Vehicle Emission Control and Smog Index Label Specifications," adopted March 1, 1978, as last amended June 24, 1996 (as corrected September 20, 1996), and which are incorporated by reference herein. Any reference to motorcycles in the incorporated documents applies to off-road motorcycles, all terrain vehicles, and engines used in such vehicles. All 2008 and later model year motorcycles, all terrain vehicles and engines used in such vehicles, except those certified according to Section 2412(f), shall comply with the labeling requirements in this section.

In addition to the above change, there is one other aspect of the proposed label requirements that should be amended. Under section 2413 there is a requirement that the label include the phrase, "is certified to (specify applicable HC standard) HC engine family exhaust emission standard in California." Since most ATVs are certified to the optional, engine dynamometer standards, the phrase should be revised to read "is certified to (specify applicable HC or HC+NOx standard) ~~HC~~ engine family exhaust emission standard in California."

Miscellaneous Errors – Both the proposed amendments and the current regulations point to the wrong set of optional standards for ATVs. We are prepared to describe the issue in detail, but that is probably unnecessary as long as the staff is in agreement with the analysis we submitted and our suggested amendments.

The proposed amendments incorporate an equation for the calculation of the coefficient of determination (r^2) value used in determining whether the permeation test results are acceptable. Rather than copy the text of the EPA regulation directly (which refers to an equation in 40 CFR 1065.602), the staff has extracted the referenced equation from the CFR and proposes to adopt it directly. That approach is fine; however, the definition of two terms used in the equation were inadvertently omitted. The proposed California version of section 1051.515(b)(7) needs to be modified by adding the following:

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* We also note that the requirement for a vacuum hose routing diagram in the current specifications (section 3.(c)) has been eliminated in the new requirements. We would like CARB staff to confirm that this was not a mistake.

Calculate a least-squares regression slope, a_{1y}, as follows:

$$a_{1y} = \frac{\sum_{i=1}^{N}\left(y_i - \bar{y}\right)\cdot\left(y_{ref_i} - \bar{y}_{ref}\right)}{\sum_{i=1}^{N}\left(y_{ref_i} - \bar{y}_{ref}\right)^2}$$

Calculate a least-squares regression intercept, a_{0y}, as follows:

$$a_{0y} = \bar{y} - \left(a_{1y}\cdot\bar{y}_{ref}\right)$$

Finally, we would like to suggest that clarifying language be added to the reference to the federal averaging, banking, and trading (ABT) provisions that are incorporated by reference to the federal regulations. Under the California version of 1051.110(a), the following language is proposed for adoption:

> *Beginning with the 2008 model year, permeation emissions from your vehicle's fuel tank(s) may not exceed 1.5 grams per square-meter per day when measured with the test procedures for tank permeation in subpart F of this part of these test procedures. You may generate or use emission credits under the averaging, banking, and trading (ABT) program, as described in Subpart H, Part 1051, Title 40, Code of Federal Regulations.*

To clarify what we assume is the staff's intent, we suggest adding to the end of the last sentence "provided the credits and debits are from vehicles produced for sale in California."