



*Motorcycle Industry Council*

August 22, 2014

Clerk of the Board  
Air Resources Board  
1001 I Street  
Sacramento, California 95814

Subject: Motorcycle Industry Council Comments in Response to:

Third Notice of Public Availability of Modified Text;  
Public Hearing to Consider the Adoption of the Regulatory Proposal to Determine  
and Control Evaporative Emissions from Off-Highway Recreational Vehicles

In response to the August 7, 2014 notice referenced above, the Motorcycle Industry Council (MIC) provides the following comments regarding the Third Notice of Public Availability of Modified Text (3rd 15-day Change Notice) that addresses the concerns raised by OAL in their notice of disapproval and includes additional modifications to improve clarity and correct minor errors in the regulatory text and incorporated TP-933.

OAL's disapproval was based on objections to several specific references to provisions of the Health and Safety Code and, more importantly, nine specific provisions of the regulation that OAL believed needed clarification. Although some of the proposed amendments address OAL's concerns, many other amendments are also proposed that were not necessary to address OAL's concerns and which add new requirements that were not proposed prior to the public hearing. For example, a new section 2419.4(b)(6)(D) reads as follows:

(D) Within 30 days of receiving the notice of intent to disapprove, the OHRV manufacturer may choose to proceed with option 1 or 2 below. If no communication is received from the OHRV manufacturer within 30 days, the Executive Officer will formally disapprove the Executive Order of Certification application.

1. Option 1 - Request a hearing.
2. Option 2 - Repair the test OHRV and demonstrate by testing that it meets applicable evaporative emissions standards. One additional test OHRV, which is in all material respects the same as the repaired test OHRV, must be operated and tested in accordance with applicable evaporative emissions test procedures. The evaporative emissions test results for the repaired test OHRV and the additional test OHRV must be submitted to the Executive Officer within 30 days of the notice of intent to disapprove.

Read in context, the requirement under Option 2 to “repair” the certification test vehicle would need to include correcting a problem with test equipment, label content or location, and removal of components deemed “defeat devices.” Each of these possibilities is specifically listed in a new section 2419.4(b)(6)(C) as a possible reason for disapproval of a certification application. In such cases, there does not appear to be a technical basis for requiring an additional OHRV to be tested. In addition, since this requirement is being applied to evaporative emissions certification, the 30 day time limit for submitting data from an additional vehicle is insufficient for a manufacturer to perform the required preconditioning. Because this proposed requirement is impractical, and in many cases unnecessary, and because it was not subject to consideration at a public hearing, MIC proposes that Option 2 be revised as follows:

2. Option 2 - Repair the test OHRV and demonstrate by testing that it meets applicable evaporative emissions standards unless the Executive Officer determines that testing is unnecessary to demonstrate that the problem resulting in disapproval has been resolved. Alternatively, One additional test another OHRV, which is in all material respects the same as the repaired test OHRV, must may be operated and tested in accordance with applicable evaporative emissions test procedures to demonstrate that the problem has been corrected. The evaporative emissions test results for the repaired test OHRV and the additional test OHRV must be submitted to the Executive Officer within 30 days of the notice of intent to disapprove.

A second concern with the proposed amendments is the following new requirement added as 2419.4(d)(1)(C):

(C) The OHRV manufacturer must retain all test OHRV(s) used to generate certification or durability data for a period of one year, or for as many years as the emission data or durability data are carried over for certification. Except for running changes and field fixes, such test OHRV(s) must be kept in “as tested” condition, i.e., not modified, tampered with, or allowed to accumulate non-emission test related mileage.

The question of how long a manufacturer is expected to retain a test vehicle has arisen in previous discussions regarding carryover of emissions certifications to subsequent model years. MIC does not object to this issue being the subject of a proposed regulation change, but the issue was not even mentioned in the ISOR and manufacturers have not had the opportunity to address this important issue in detail during a full regulatory process that includes workshops and a public hearing. It is clearly beyond the scope of the current rulemaking.

A third concern with the proposed amendments is the following new requirement added as 2419.4(4)(I)1:

1. The test data must include laboratory test reports, name and address of test laboratory, a description of the test, test dates and mileages, test fuel specification, and test results. The test data must include invalid and or voided tests, and the reason such tests are invalid or void.

MIC opposes the requirement to include invalid and voided tests as this is a significant, unnecessary burden for manufacturers that has been added without adequate time for comment and discussion. We request that the last sentence in this section be deleted.

Regards,

A handwritten signature in cursive script that reads "Pamela Amette".

Pamela Amette  
Vice President

cc: Manjit Ahuja, Jim Watson