

**From:** [steve.cole](#)  
**To:** [ARB Clerk of the Board](#)  
**Subject:** ampts2020  
**Date:** Monday, July 13, 2020 7:49:19 PM  
**Attachments:** [ARB001.pdf](#)

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All Board members

Please see the attached file for comments on the AMPTS 2020 proposed changes. While my comments are straight and to the point, I have been involved with emissions and CARB for the past 35 years of my life. It is with a sad heart that I have had to bring these things contained in my comments to light but enough is enough. There are big problems at the ARB El Monte, CA facility and how it is being run and it can just no longer be swept under the carpet. I am a CA tax payer and a CA business owner that pays the taxes that allow you all to have a job.

Steve Cole  
TTS Inc.

## “Procedures for Exemption of Add-On and Modified Parts,”

I am writing you to oppose the proposed changes to “Procedures for the Exemption of Add-On and Modified Part(s) for On Road Vehicles/Engines”. The first thing I would like the board to understand are a few words in the dictionary and there meaning as stated in the dictionary.

### **cor·rup·tion**

Corruption is a form of dishonesty or criminal offense undertaken by a person or organization entrusted with a position of authority, to acquire illicit benefit or abuse power for one's private gain

*noun*

1. dishonest or fraudulent conduct by those in power, typically involving bribery.
2. the process by which something, typically a word or expression, is changed from its original use or meaning to one that is regarded as erroneous or debased.

### **Fraud**

*Noun*

1. wrongful or criminal deception intended to result in financial or personal gain.
2. a person or thing intended to deceive others, typically by unjustifiably claiming or being credited with accomplishments or qualities.

In law, *fraud* is intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right.

### **li-ar**

a person who tells lies

According to your published comments about these proposed changes you claim the following:

*“CARB staff is proposing amendments to replace the...”*

*“Accordingly, staff is proposing new “Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines” (procedures) to improve the exemption process in light of these changes.”*

*“The new procedures will clarify and streamline the processes associated with a VC section 27156 exemption. They will facilitate compliance by making the process easier for manufacturers to submit applications, conduct necessary testing, and receive exemptions, potentially resulting in some cost savings on a per application basis.”*

*“Notwithstanding, faster turnaround on staff review and approval is expected to result from use of the new procedures, providing a pathway for manufacturers to bring products to market faster. ”*

Each and every claim that is being made is False and let's address just some of these totally false and misleading claims that are being made. Let's start with the first item and work our way through each of them.

*“CARB staff is proposing amendments to replace the....”*

This is misleading as no where do you state who is the “Staff” really is, and it is very important that we do here. So let's start by answering this question as it will be very important as we continue through the all of the false claims. The persons behind these proposed changes are Ms. Jackie Lourenco, Branch Chief and Antonio (Tony) Martino, Manager (Staff). The person writing the changes at the direction of Jackie and Tony is Mr. Richard Muradliyan, Air Resources Engineer. So now we know the names of the people rather than just “Staff” and we can then name the people who have been creating the illegal activities at the CARB facility in El Monte, CA for the past 10 years.

So you may ask how, can I say these two people are the “Staff”? Since I have personally been involved in the activities of these two people and have been issued EO Test plans that do not follow the rules and regulations as prescribed by the “*Procedures for Exemption of Add-On and Modified Parts,*” I have first-hand knowledge of this both from numerous emails and meetings with them both at the CARB facility in El Monte and with Staff engineers who have personally told me that it is Jackie and Tony. In one EO application it took ARB El Monte nine (9) months to respond once they admittedly received (Dec 17, 2012) the application in the ARB office. There was no request for additional information from ARB during this time. There was the occasional phone call from TTS asking when we might receive something from ARB, the answer was always “*we will look into it and get back to you*”, this never happened! They finally responded with Test Order A-2013-245 on Sept 23 2013! The Test Order they issued is in violation of CA “*Procedures for the Exemption of Add-On and Modified Part(s) for On Road Vehicles/Engines*”. First violation was assigning more than one test vehicle as required by the rules and then the second violation was assigning a vehicle for testing that was never manufactured! I contacted the test engineer myself and pointed this out on or about Sept 26, 2013. The Test Engineer was none other than Mr. Richard Muradliyan. In our conversation I referred him to Section III sub section “A” where it clearly spells out how test vehicles are to be selected and the quantity of vehicles required for testing. In Section III sub section “H3” It states the following “*In such cases the applicant may be required to emission test NO MORE THAN ONE VEHICLE OR ENGINE*”. This is the section that our application falls under. Richard stated that he need to take this information to “Staff” and at that time I asked who is “Staff” if it's not him? His response stated it is Jackie and Tony. Confirmation of these facts can be found in the appendix of this document in the emails between Alex Wang ARB Senior Staff Attorney and myself. I have also spoke with others in the industry and they have state they also are receiving the same treatment as we have of 9 months to one year to get response from ARB if they get them at all.

So anywhere that “Staff” is referred to in these documents it really means Ms. Jackie Lourenco, Branch Chief and Antonio (Tony) Martino, Manager

So let's now move forward one of the next claims “Staff” stated.



*"Accordingly, staff is proposing new "Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines" (procedures) to improve the exemption process in light of these changes."*

A legal regulation requires that it clearly spells out what each party is to do and what is required to achieve it. These proposed amendments do not and they even violate current Federal and CA laws. Staff have purposely remove any and all requirements for themselves and proposed test requirements that 75% of the vehicles on the road were never tested for by the OEM manufacture.

The current regulations have 10 pages dedicated to clearly spelling this out ( pgs 1- 11)

In the new proposed amendments it has removed most all sections on how a test vehicle(s) is to be selected, the test procedures and how the test vehicles required to be tested. It also removes all requirements that ARB must comply with and replaces it with the following statement "*Executive Officer*" and there are NO rules that the Executive office has to follow. I personally pointed this out to both Richard and Jackie at one of the workshops I attend for these changes. Industry had asked that there be a section that clearly spells out the rules that the "*Executive Office must follow*". On page 17 Section "V" there is a poor attempt to insert some text but once you read through it there are no rules, the "*Executive Officer*" can do whatever they like! Rules need to clearly state what both sides must do or there are no rules. This is being done so that "*Staff*" can continue the Corruption and Fraud they have currently been doing for the past 10 years.

So these proposed rules makes the "*Executive Officer*" Prosecutor, Judge, and Jury with no rules they have to comply with!

It also changes testing requirements to new test standards that over 80% of the vehicles on the road in CA have never been tested too. ARB has zero tested data to show what the results of this new testing will results in. What it will do is raise the cost of industry 10 to 100 fold just to get started. In a simple example the Executive Officer could require 10 vehicle under the proposed rules to be tested where todays rules say only 1. With average cost of a test vehicles in the \$50,000 range that would bring the cost of an ARB EO from \$50,000 to \$500,000 before we even get started. So how can the board really believe any of this is going "*to improve the exemption process*", common sense tells you that's never going to happen with the current corruption going on at the El Monte ARB facility. It also violates CA regulations that require the rules to provide for a reasonable cost process. There is nothing in these propose regulations that address "*to improve the exemption process*" claim being made and it clears admits that many more applications most likely will be required. Under the current regulations it takes ARB between 6 months to one year to respond to applications so how are they going to handle a 3 to 5 time increase in applications!

In the proposed rule changes page 8 Section "IX" subsection "8" they have added new requirements for Reporting. Industry told ARB at the last workshop this would not be possible and that if they put this in the new proposal for "*Procedures for Exemption of Add-On and Modified Parts,*" that most of the companies that fall under these requirements would just no longer do any business in the state of CA. This loss of business to the state of CA is going to be losses of millions of dollars in sales and tens of thousands in tax revenue! Then there are the job losses on top of these figures. Not only that but this section is in violation of current CA and Federal laws. See CA Consumer Privacy Act and Federal "Code of Fair Information Practice" and the Privacy Act of 1974. All require that the consumer can opt out of any information gathering. Even if it was legal to do which it's not, this would raise the cost to industry tens of thousands of dollars each year for Industry and ARB to add staff to handle the reporting and in most

cases is impossible to do as the equipment being sold is not possible for it to be done. The manufacture has no way of telling what vehicle a camshaft is being installed in or a computer calibration as the devices are sold through distribution channels and the manufacture has little to no interaction with the final user.

On page 11 Section 1 subsection A1 *"required test: US06 and OBD evaluation"* As previously spelled out most vehicles currently on the road have never been tested under these conditions and ARB has zero emissions data on them in these advance test conditions. So how can industry be required to test to these levels? Industry asked for the propose regulation to clearly state that *"no vehicle can be required testing at a higher level than it was originally certified at by the OEM manufacture"* So if it was certified with an FTP test that is all that the ARB can require. This would allow for newer vehicles to be tested to the higher standards as they were certified too and older vehicle to be tested as they were certified too. You can go through the entire document and find these issues over and over again so I am not going to point them all out here, but it should easy enough for anyone with a little common sense to understand the issue if you apply a little common sense here. In many cases the proposed requirements change from the current one test procedure to multiple test procedures again driving the cost through the roof to industry.

Now on to page 17 Section "V" subsection (a) *"manufactures shall perform the testing in these procedures as prescribed by the Executive Officer"* Again there are no rules or standards that the Executive Officer must follow in the proposed new regulation making it useless as written today. Industry has no idea of what might be required as it's not covered clearly in the proposed rule changes. The current regulations spell this out pretty well but "Staff" has removed all for their own benefit.

Now on to page 21 section (e) and continuing on to page 22 in the second paragraph it states *"must not increase by more than 10.0 percent for each regulated pollutant"* The current regulation requires a completely different standards and there are very good engineering and test equipment reasons why.

On page 17 of the current requirements documents it states the following:

*Hydrocarbon 0.10 grams per mile or 10% of baseline*

*Carbon Monoxide 1.0 grams per mile or 15% of baseline*

*Oxides of Nitrogen 0.10 grams per mile or 10% of baseline*

*Particulates (diesel only) 0.03 grams per mile or 15% of baseline*

*Evaporative Emissions 0.2 grams per mile or 10% of baseline*

So when asked why the change Richard informed me that is how "Staff" wants it. Well, what documentations can ARB provide to support these change? Richard's answer to me was *"None"* this is just how "Staff" wants it.

The Engineering reason that these levels were previously set was because as emission levels got lower and lower it was found that the emission equipment measuring tolerances and test procedures could not be any more accurate than these levels. You may ask how I personal know this and it is because I attend the workshops for the rule making changes back in 1988 - 1990 and was involved in these very discussions. ARB back then worked with industry to come up with these levels of accuracy! Now nothing



has currently changed that I am aware of to allow these levels to be any better today and "Staff" refused to provide any supporting documents, so this becomes just more of the "Staff" not wanting to supply anything or cannot supply anything in supporting engineering documents, emission results or testing quality to allow these changes. Let's propose an example that would be easy for the board members to understand, the measured emission level of say Carbon Monoxide is found to be 1.9. The current regulation would allow for a 15% change or 1.0 grams per mile, so an acceptable change of 0.285 under the 15% or 1.0 is allowed. Under the new propose regulations "Staff" has change this to be 10% only which would be a change of 0.19. The test to test variability along with the test equipment measuring accuracy are greater than this amount from and on a purely engineering standpoint this is an unacceptable change.

Now if we continue on page 22 paragraph 3 it states *"Modified emissions test must be completed within three months of the completed baseline emissions test, and mileage accumulation shall not exceed 750 miles between the baseline and modified emission test"*. A simply question on this one again the ARB could not or would not answer Why these requirements? Are the emissions really going to change because it's driven for more than 750 miles or because it's taken longer than 3 months? Hell, ARB takes 9 months just to respond to application and then fails to ever follow up on application disputes other than to send out a cancelation notice of the application. Should there be a reasonable time constraint, yes but that same needs to be done on ARB "Staff" as well within the rules document yet there are none.

*"The new procedures will clarify and streamline the processes associated with a VC section 27156 exemption. They will facilitate compliance by making the process easier for manufacturers to submit applications, conduct necessary testing, and receive exemptions, potentially resulting in some cost savings on a per application basis."*

Please explain in detail how any of this statement is possible. ARB could not provide anything to support any of this at the ARB workshops and with everything I have point out above, it clearly shows how these proposed changes would greatly increase cost, increase number of applications, make it harder on Industry to fulfil new requirements all of which will increase cost. There is ZERO chance of any reduction in cost and ARB will have to process more applications and they currently take between 9 months and a year to process one application!

*"Notwithstanding, faster turnaround on staff review and approval is expected to result from use of the new procedures, providing a pathway for manufacturers to bring products to market faster. "*

These are completely impossible statements, ARB is currently unable to turn around applications in less than 9 months and these changes will require more applications to be submitted (up to 5 times as many), it will be impossible for industry bring products to market faster and impossible for ARB to process this many more applications required.

At the last workshop for these proposed rule changes on Jan. 10, 2020 Jackie approach me and said she had test plans ready for me on her desk and I asked her a simple question, "You have told me time and time again for over two years you would provide me with legal documentation and reasons why you are not following the current regulations, why have you not done it and do these test plans on your desk as you stated, follow the current regulations? She tucked her head like a teenager would do, when then

knew they were caught in there lies and walked away with no answers. I also approach a new member at ARB, Kimberly Pryor. Richard had introduced me to her as the new Chief for the aftermarket area at ARB. I handed her a copy of the current regulations and asked her to read to me page 13 section "H" subsection "C" she did and then I asked if an application was for a "Single Manufacture Application how many vehicles were required for testing and she answered "ONLY ONE" I then asked Richard Muradliyan to do the same thing and he did and came up with the exact same answer, no more than one vehicle! So I asked them both why they would be issuing test plans with three or more vehicles required for testing. Kimberly stated she did not know and Richard state because "Staff" made him.

Upon the close of this workshop meeting Richard came to me and asked me to resubmit our applications again (mind you this would be the third time) and that he would take care of it and get me test plans that complied with current regulations. On multipliable phone conversations we discussed test vehicles on phone calls after the meeting and he and I agreed upon 2 test vehicles which is 100% over the regulation requirement and I supplied the vehicle ID's and emission information to him. So I have done it again and am now waiting for the agreed upon test plans to come from "Staff". I was told via email that he received the applications on 6/23/20 and that he would get back to me by Monday 6/29/20. Well Monday came and went and nothing. On 7/1/20 Richard sent me an email requesting Form A for the applications as Tony wanted them, I could not believe what I am hearing as they were already included with the applications that they received on 6/23/20! I responded to this later email and clearly told them to open the damn attachments as they already have them but I've attached them again! Richard acknowledged that the signed forms were indeed in the original application and that he also receive the additional attachment with them again.

So there should be no more excuses and we now waiting on the agreed upon test plans that I was supposed to already have. Wonder how long it going to be this time since he asked me to resubmit, we spent hours on the phone discussing what is required by the regulations, agreeing on testing two vehicles instead of one, which vehicles would be used in testing and supply ARB with competitive EO that have already been issued and a complete engineering review of how that product works and the limits involved, Richard was the test engineer for the EO'ed competitive product, so he was very familiar with it and how our product works and our limits. So we were down to just him writing the test order and getting it signed is what I was told.

As a California tax payer and a California business paying taxes how can the ARB waste so much of my tax money? When attending the workshops for these proposed changes I counted no less than 14 ARB employees and as many as 20 employees at the workshops. Only 4 of them participated in the workshop at all. This just shows how bad the department is currently being run! If industry tried to work like that we would be broke and out of business. I am asking the board who is responsible for all this? Since the entire ARB produced on average between 8 and 10 EO's per year for the last 10 years, that have to do with these procedures and why is it they cannot respond in a timely manner? 9 months to a year is there typical response time to an application from my own experiences and those of other industry members. With 5 times more EO request to ARB due to the proposed regulation changes where does the money come from?

ARB El Monte "Staff" has been playing these games for years and are now trying to cover up what they're currently doing. If we do an honest review of the current regulations there is very little if anything that needs changing. It is my opinion that the only reason for this and other changes they are trying to send to the board is to cover up what they have been doing for years to industry. I could continue to point out errors in the proposed changes as it's not very hard to do, and believe me when I



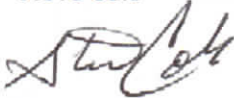
tell you there is plenty more in the proposed document, but I think I have provided enough information for the Board to at least reject these proposed changes. According to your ARB Senior Staff Attorney Alex Wang, he told me I only need to point out one.

I eagerly await the Boards responses in writing, to all that I have provided and if the board requires more, I have plenty more emails to support each and every one of my claims and at least three more issued Test Plans that violate current regulations. I would hope the Board opens an independent investigation into the Corruption, Fraud and lies coming out of the "Staff" at the EL Monte ARB office and find out how far up the chain of command this corruption goes, at the ARB.

Also that each of the "Staff" (two people) should be held responsible and we hope that the board will open an independent investigation into their actions as well as any others involved, relieve them of their positions at ARB and that they be prosecuted to the fullest extent of the law for their illegal activities.

As the board can see each of these email were referred to Ms. Jackie Lourenco, Branch Chief From both Alex Wang and Michael McCarthy of the ARB and are still open awaiting on ARB El Monte to respond, it's currently going on three years with no response from Ms. Jackie Lourenco.

Steve Cole



TTS Inc.

cc. Fox News

## Appendix:

### **Email string between myself and ARB Senior Staff Attorney Alex Wang**

Steve,

As I stated during our phone call last Friday, I am aware that you are displeased with how the ARB's aftermarket parts section is handling some current exemption requests. Please be aware that I do not manage or supervise the aftermarket parts staff or management, but can inform them of your call and concerns.

Alex



**From:** Steve Cole [<mailto:steve@ttspowersystems.com>]  
**Sent:** Monday, August 07, 2017 1:00 PM  
**To:** Wang, Alex@ARB <[alex.wang@arb.ca.gov](mailto:alex.wang@arb.ca.gov)>  
**Subject:** El Monte ARB office misconduct

Alex

It was a pleasure speaking with you about our issues with the El Monte office ARB ECARS division, Management and Staff, on 8/4/17. As I said in our conversation, the Staff is not complying with Title 13, specifically the "Procedures for Exemption of Add-on and Modified Parts" ("Procedures") called out in 13CCR2222(e), which is the current law in the State of California for aftermarket parts. When I pointed out to both Staff and Management that the test orders (A-2013-245 and A-2017-215) they sent us do not comply with the number of test vehicles required in the Procedures, they told me personally they did not have to, and that they believed they could do other than what the Procedures say. I was told this by Anthony Martino on the way in to attend a meeting at the ARB El Monte facility on 6/14/2017, and supported by Jackie Lourenco. In a subsequent conversation with Jackie regarding the 135 EO PRA request, I asked Jackie to supply me any regulation or rule of law that allowed them to not follow the Procedures. She had Staff send me a 1989 staff report (Dec 22, 1989 Mailout #89-40). Upon review of this document I found that it stated the exact same thing as the approved Procedures regarding vehicle requirements. In fact, on page 3 regarding the number of test vehicles, it states that it "...memorializes established policies and procedures of the board..." I had asked Jackie why they were applying a different set of standards to TTS than they do for others, and she said she would have to look into it. I also mentioned in our conversation that we had reviewed the last 130+ EO's in the four categories that we have applications submitted for. So to help Staff look into it, we supplied them with our summary for these same EO's. The data clearly shows that the Aftermarket Parts Section followed the procedures for all these other manufactures, by testing one or fewer vehicles per generic category per manufacturer fitment. By their inability to provide any documented proof to the contrary, and the data supplied to them, it's clear they have nothing and believe they are above the law when it comes to TTS Inc.

During our conversation, you stated that our request for 135 PRA's was a large undertaking for the ARB, and I stated I need those documents, in full, to prove beyond a reasonable doubt how ARB has been following them for previously issued EO's. I still need them all, but you stated that only one would be enough to prove my point, so here it is. Then we can compare it to what Staff is requiring of TTS.

We received an incomplete PRA set of documents on EO K-006-3 (attached). The company applied for an EO by writing a letter to ARB dated July 19, 2016, and it is marked received on Aug 01, 2016 by ARB. A test order signed by Jackie Lourenco (Reference No. A-2016-275) is returned to the company on Sept 16, 2016. So, it took a total of 46 days from the time the application letter was received at ARB to a test order being issued. This application covers multiple kits that cover one vehicle manufacturer, but multiple generic categories, models, and years. Each kit includes a never before approved header, air cleaner assembly, and ECU calibrations. In conversations with Tony, he made it clear that Stage Kits (Kits) are not a generic category. This EO was approved on April 14, 2017, only 8.5 months after receipt of the initial request. We have to wait for the remaining documents to find out what was involved in achieving this. One thing to note is that the EO is for a complete kit/s only but there are no kit part

numbers in the EO and from the company web site, you buy the individual parts one at a time. The staff has told us that you cannot do this and we must supply complete Kit part numbers for our applications, why all the double standards for TTS?

In contrast, TTS' application for MasterTune Calibrations was first submitted to ARB staff on Dec 17, 2012. TTS received an initial test order (A-2013-245) 9 months later on Sept 23 2013. There were NO communications from the ARB during this time. The test order issued was invalid as it did not follow Title 13 requirements as it requested three test vehicles for a single manufacturer application, and it contained a test vehicle that was never certified or produced. After reviewing this, I contacted Richard Muradlyan by phone and told him the same on or about Sept 26, 2012. He told me the test order reflects what management wanted, so I told him I wanted to have a meeting with management, so they could explain their request. After not hearing back from Richard for a few weeks, I again called him and asked for a status update. He informed me that management refused to have a meeting with me. I then asked when a compliant test order would be issued, and he said he would have to get back to me on it. ARB never issued a new compliant test order, never contacted TTS in anyway, and on Oct 16, 2014 ARB issued a letter (A-2014-387) closing the application due to inactivity. We had been waiting the entire time for the ARB to respond and was told they would, so El Monte ARB ECARS division was the reason for inactivity as they were not doing their job.

Additional recent examples of the delays TTS has encountered are three of the current applications under consideration (Air Cleaner, Camshafts, and Throttle Body). They were received at ARB on 5/23/16 and the first action was taken by the ARB 9 months later on 3/14/2017. The same game as before is playing out all over again.

Since the 7/21/17 EO request, it appears the whole situation may be deteriorating. It appears ARB Staff is responding in a retaliatory nature. In addition to ARB emails to TTS being held until after 6pm on Fridays before being sent, new information requests are continuing to pile up. We have documents in the three 5/23/16 applications that were fine before 7/21, but suddenly starting on 7/28 they now need more, with more detail and clarity, so an engineering evaluation can be done. Why did it take 14 months to determine this? And how did our camshaft application, which is the only one of four submitted in May 2016 with a test order, get through without the same information being requested now of the others.

I do not think it takes an ARB Senior Staff Attorney like yourself to see something not right, is clearly going on at the El Monte ARB Office. Please respond to this email in the next 10 business days and let me know how we might get this straighten out.

Steve Cole

President

TTS Inc.



## Email string between myself and ARB Board advisor Michael McCarthy

I think I've made progress on the cams too so we can talk.

On air cleaners, I think we have a path and the only thing that I think lacks enough clarity for you to know what to do is how detailed the install instructions need to be. As a general rule of thumb, the instructions should stand on their own to allow a competent person to install the part without the need to consult other sources of information (like the service manual). I would think that would be fairly easy to do for something like air cleaners that is more than 'remove air cleaner—see service manual' and perhaps not quite as elaborate as the HD example I sent you. That would end up with a clean application for air cleaners, including photos/parts diagrams explaining how your part works relative to the OE part (e.g., especially in the context of the three crankcase ventilation types you mentioned), and install instructions that stand on their own. I see no reason why our folks wouldn't end up with engineering evaluation for the approval.

On throttle body, I think it is the same as above with the exception that it may need an emission test. (My personal opinion is that the better the job you do of explaining how your part is different from the OE part and what the expected impacts are on fueling, the more comfortable the reviewer gets with the need or not for an emission test).

On cams, we should probably talk but I'll give you what I think is the punchline. Of the 4 specific examples you sent, the HPD mid/high cams approved by engineering evaluation only were for a 'red sticker' dirt bike (which means it meets no emission standards). Frankly, I'm not even sure why they had to get an EO for it but that category of dirt bike is exempt from all emission stds so it doesn't make any sense to ask for emission tests. The S&K was a conversion from a belt-driven cam to a gear driven cam --with the exact same cam profile as the OEM cam. So, again, engineering evaluation made sense as there was no change in cam profile and only the differential change on the drag on the engine from a belt driven cam or gear driven cam. That leaves the HD SE585 cam and if anything, they tested more than the minimum required—two twincams tested for coverage that spanned only 2 model years and only 2 displacements of the Touring bike. The reviewer said he was only going to require one test given both twincam engines were of the same tech group and it was only 2 MYs but HD said they already had the data so they provided it. In that same EO, there were also two more tests done with a complete kit (including the cam) and again, they tested the whole kit on both bikes (which was probably beyond what we would have required). That EO gave them permission to sell the cam alone for either displacement in either MY and gave them permission to sell the kit as a whole. Had they only wanted approval of the cam, they would have only needed the cam testing, not the kit testing. And then there was the Dinan BMW cams where they offered 1 cam per vehicle (not two different choices like a mid or high range cam) and had a total of 5 cams covering 6 MYs of various BMWs. There the engineer picked what he felt

was a worse case vehicle (one meeting the most stringent emission standards) and had them test that. This one seems most consistent with the plain read of the reg at 1 test per OEM per part. Now, had they offered multiple cam profiles for the same car, I'm not sure if they would have ended up requesting both be tested or tried in some other way to estimate which one would be more worst case. But that wasn't the situation in this particular example.

So where does that leave us. I think the reality is that vast majority of the time, the coverage is more limited than yours (because folks are more routinely applying every 2 years or so) and we end up with one test per a narrower coverage than what you are requesting. Is that per the reg or a lucky coincidence or some combination—I think it is probably some part of the reality of how folks do business. Here's where I think we find middle ground. While I don't disagree with our engineer classifying three tech groupings of the engines in your coverage (non-FI twincam, FI twincam, and Milwaukee), I don't think we really can demand testing for 3 bikes or really need it. I would think it would be appropriate to focus on the FI twincam and the Milwaukee. Knowing you expect to be in this for the longhaul, I would expect you will be back for coverage going forward on new MYs as they come out. So whether you test a twincam and a Milwaukee now or you test an FI twincam now and they ask for a Milwaukee when you ask for the next MY to be covered in the next year or so, I think you are going to end up with testing both. I'm having a hard time to figure out what to do about the two different cam profiles and how to make a reasonable determination of one of them being more worst case. I think maybe we split the baby covering 2 cam profiles and the multiple engines and test an FI twincam with one of the profiles and a Milwaukee with the other profile and then we have a little smattering of both engines and cams. I'm not sure if that would be an amenable end result for you or not but it seems one that is fairly consistent with 1 test per part per OEM (considering the two different cam profiles for the same bike as two parts).

Lastly, I have asked Jackie to get Enforcement Division involved in reviewing what HD is offering via the website because there looks like there are cases where they are taking liberties they are not allowed to do. It's complex given they have a mix of aftermarket EO approvals and some recent OEM certifications covering multiple parts (which also invokes emission warranty, durability requirements, in-use compliance/enforcement testing liability, and additional reporting) but it looks like they are offering some combinations that are not consistent with what their EO explicitly gave them approval to do. And it also looks like some of their other parts (like cams) are not up to snuff on installation instructions so Jackie will have her folks go after that as well so that they can level the playing field.

Give me a call when you have some time.

Mike

626-771-3614



**From:** Steve Cole [<mailto:steve@tspowersystems.com>]  
**Sent:** Thursday, September 07, 2017 2:41 PM  
**To:** McCarthy, Mike@ARB <[michael.mccarthy@arb.ca.gov](mailto:michael.mccarthy@arb.ca.gov)>  
**Subject:** progress

Mike

Just touching base with you. Have I supplied you with enough information? If you need more just let me know as I would like to get this moving forward. We're shortly pushing into year 5 on this project and that is just not acceptable. I know your trying to help me so I will wait a little longer but I need to see some forward progress soon.

Steve Cole

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