

**State of California
AIR RESOURCES BOARD**

**JOINT COMMENTS
OF
KAWASAKI MOTORS CORP., U.S.A., and
YAMAHA MOTOR CORPORATION, U.S.A.**

**Public Hearing to Consider Amendments to the
California Regulation for New 1997 and Later
Off-Highway Recreational Vehicles and Engines,
Title 13, California Code of Regulations (CCR),
Sections 2411-2413 and 2415; Suggested Staff
Modifications Subject to 15-Day Notification
(March 29, 2007)**

April 13, 2007

INTRODUCTION

Kawasaki Motors Corp., U.S.A. and Yamaha Motor Corporation, U.S.A. (the “Companies”), two major distributors of off-highway recreational vehicles, appreciate the opportunity to comment on the Air Resources Board’s (“ARB”) proposed amendments, including post-public hearing modifications suggested by the ARB staff, to the regulations establishing emissions standards for new 1997 and later off-highway recreational vehicles, 13 CCR §§2411-2413, 2415.

The Companies support most of the proposed amendments and modifications. However, the Companies believe that one of the proposed modifications needs to be revised to harmonize more fully with the Federal regulation regarding certification of these vehicles. Accordingly, as explained below, the Companies request a single specific revision in the proposed definition of “off-road sport vehicle” in 13 CCR §2411(a)(17).

DISCUSSION

1. Staff Modification Regarding Proposed Addition of Definition of Off-Road Sport Vehicles.

The ARB staff’s description of the proposed regulatory action in the Notice for the July 20, 2006 Public Hearing stated that the proposal would benefit manufacturers by providing California and Federal regulatory consistency for eligible utility vehicles certifying to ATV standards. The staff description also noted that under the proposal, instead of certifying under California’s large off-road spark-ignition regulation,

manufacturers would certify certain types of utility vehicles under the OHRV regulation. The staff went on to explain that because these utility vehicles use engines that are used in other OHRVs (in particular ATVs), the proposal would reduce the cost of demonstrating the engine's compliance under two different regulatory categories that use different procedures. Finally, the ARB staff noted that if possible, manufacturers of utility vehicles and others covered by the large off-road SI regulation, but not yet specifically identified by the staff, might likewise seek such reclassification, and pointed out that the Board may consider such reclassifications under the proposed amendments.

At the July 20, 2006 hearing, the ARB staff presented a number of suggested modifications to the original proposal put forward in the Staff Report. One of these modifications was to replace the definition of "All-terrain Vehicle ("ATV") Class III" with a definition of "off-road utility vehicles" in Section 2411(18). The staff also suggested addition of a separate definition of "off road sport vehicle" in Section 2411(17). The staff explained that this latter definition would encompass vehicles "similar to a utility vehicle, but with less cargo carrying capacity and without the power cap of 30 kilowatts." The staff stated that it would continue to meet with industry after the Board Hearing to discuss the amendments, and noted that the proposed language could be refined if appropriate during these subsequent discussions.

In particular, the staff modification proposed to define an "off-road sport vehicle" as having all the following features and characteristics: four wheels, bench

or bucket seating for one or more persons, a steering wheel, designed for operation over rough terrain, an internal combustion engine with a displacement less than or equal to one liter, capable of speeds of 25 mph or more, and having a rear payload of less than 350 pounds. See Section 2411(17). Under this proposed definition, an off-road vehicle which has four wheels, bucket seating for two persons, a steering wheel, an internal combustion engine with displacement one liter or less, speed capability above 25 mph and is designed for “sport” usage apparently could not be categorized as an “off-road sport vehicle” under the recreational vehicle rule if it has a rear payload of 350 pounds or more.

2. Certification of Off-Road Sport Vehicles under the Federal Regulation

Currently available models of traditional single-rider all-terrain vehicles (“ATVs”) with a straddle seat and handlebar steering have cargo capacity approaching 300 pounds. An evolving trend in the off-road vehicle market is the development of four-wheel vehicles with bucket seating for two persons, a steering wheel, engine displacement of one liter or less, capable of speeds in excess of 25 mph, and a rear cargo capacity up to 600 pounds that are designed for recreational and sport usage. As the ARB staff has recognized, these “sport” vehicles have less cargo carrying capacity than similar utility vehicles, which can carry rear cargo payloads of 800 pounds or more. (The upper bound of 600 pounds represents the approximate cargo limit for such vehicles designed for recreational/sport-type activity as opposed to utility usage.)

Under the Federal recreational vehicle regulation, such off-road sport vehicles fall within the definition of “other all-terrain vehicles” and are thus subject to certification under the ATV test procedures and standards. See 40 C.F.R. §1051.801. However, it appears that such vehicles would not fall under the ARB staff’s proposed definition of “off-road sport vehicle” because of its limitation of rear cargo capacity to less than 350 pounds. This would result in the engines in such vehicles remaining subject to certification as large spark-ignition engines rather than under the recreational vehicle regulation, an outcome that seems clearly contrary to the expressed purpose underlying the proposed amendments.

3. Request for Specific Revision in Proposed ARB Definition of “Off-Road Sport Vehicle”

The ARB public notice regarding these additional modifications indicates that the purpose for adding the new definition “off-road sport vehicle” in §2411(17) is to allow industry to streamline certification efforts, as much as possible, with Federal requirements. Unfortunately, as illustrated above, the proposed definition could result in a vehicle that can be certified as an “other all-terrain vehicle” under the Federal regulation not qualifying for certification as an “off road sport vehicle” under the OHRV regulation simply because it has a rear payload capacity of 350 pounds or more.

In Resolution 06-23, the Board adopted the proposed amendments to the OHRV regulation with the staff’s suggested modifications and “such other conforming modifications and technical amendments as may be appropriate, after

making the modified regulatory language ... available for public comment for a period of 15 days....” The Board directed the staff “to continue to meet with interested parties including industry on the best way to categorize various kinds of vehicles that are or may be subject to the OHRV regulation....” The Board also noted in the Resolution that the “conforming modifications ... may reflect refinements resulting from these discussions as long as the refinements do not reduce the overall stringency of the standards that currently apply to these vehicles.”

In accordance with these directives, the Companies request that the proposed definition of “off-road sport vehicle” in §2411(17) be revised to specify that it includes such vehicles “having a rear payload up to 600 pounds.” This requested revision in the proposed definition is consistent with Board Resolution 06-23, as well as with the intentions and expectations of the ARB staff which underlie the proposed amendments to the OHRV regulation. It is also necessary in view of the evolving market trend in four-wheel off-road vehicle design toward vehicles with bucket seating for two persons, one liter or less in engine displacement, speed capability above 25 mph and rear cargo capacity up to 600 pounds that are designed and marketed for recreational purposes, including sport usage. These vehicles are very likely to make use of engine families that are used in other OHRVs, in particular ATVs, and certify as ATVs under the Federal regulation. The proposed ARB definition restricting “off road sport vehicles” to such vehicles that have rear payload capacity less than 350 pounds is therefore not only inconsistent with the Federal

regulation and underlying ARB staff intentions, but also unnecessarily design-restrictive in the face of current trends in the recreational vehicle market.

CONCLUSION

For all these reasons, the Companies request that ARB make the above-described revision in the proposed definition of “off-roads sport vehicle” in 13 CCR §2411(17).

Respectfully submitted,

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