Air Resources Board

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Matthew Rodriquez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

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Dear Manufacturers of Highway Motorcycles and Off-Highway Recreational Vehicles:

The Air Resources Board (ARB) and the United States Environmental Protection Agency recently found undisclosed AECDs and defeat devices on a number of light-duty vehicles and, as a result, have implemented a screening test program to augment the certification process. Likewise, ARB will expand its certification confirmatory testing of highway motorcycles (HMC) and off-highway recreational vehicles (OHRV) to include newly developed screening tests that include special driving cycles and conditions that may reasonably be expected to be encountered in normal operation and use. The screening tests will be conducted only after a manufacturer's test vehicle has successfully completed the confirmatory test.

Under California Code of Regulations, Title 13, Sections 1958 and 2410-2415, and the incorporated test procedures, no new HMC or OHRV shall be equipped with a defeat device. Under these regulations and test procedures, a defeat device is defined as an auxiliary emissions control device (AECD) that reduces the effectiveness of the emissions control system under conditions which may reasonably be encountered in normal urban vehicle operation and use, unless certain conditions are met (for example, the AECD is substantially included in the federal test procedures, or the need for the AECD is justified in protecting the vehicle against damage or accident, or the AECD does not go beyond the requirements of engine starting and warm-up). All AECDs must be disclosed by the manufacturer and approved by ARB at the time of certification. Failure to disclose or properly identify an AECD or employing a defeat device is a violation of California law, including, but not limited to, Health and Safety Code Sections 43150-43154 and 43016, and will invalidate an Executive Order.

Before the start of the confirmatory test, the manufacturer will be consulted regarding the safe operation of the test vehicle under conditions in the screening tests. It is expected that the screening tests, including preconditioning drives, would be completed in about two weeks. Because the screening tests are one of ARB's investigatory tools, observation by manufacturer's representatives is not allowed at this time.

In the event that a suspected defeat device or undisclosed AECD is discovered through the screening tests, the manufacturer will be provided with summary test results and the opportunity to explain the operation of the emission control systems under conditions of the screening tests. Additionally, the manufacturer may be expected to deliver new production vehicles, or procure in-use vehicles for additional compliance evaluation by ARB at the manufacturer's expense, pursuant to California Code of Regulations, Title 13, Sections 2111-2140. ARB may require remedial measures to be taken at the manufacturer's expense, and the manufacturer may be subject to penalties, as allowed by law. As always, if there are other violations of regulations discovered, ARB will take appropriate action, as allowed by law.

Should you have any questions or comments regarding this letter, please contact Ms. Jackie Lourenco, Chief, New Vehicle and Engine Programs Branch, at (626) 450-6152 or Jackie.Lourenco@arb.ca.gov.

Sincerely,

Annette Hebert, Chief
Emissions Compliance, Automotive Regulations and Science Division