

## UPDATED INFORMATIVE DIGEST

### CALIFORNIA EVALUATION PROCEDURES FOR AFTERMARKET CRITICAL EMISSION CONTROL PARTS ON HIGHWAY MOTORCYCLES

#### Sections Affected

Addition of California Code of Regulations, title 13, subsection 2222(j), Add-On Parts and Modified Parts, which incorporates by reference the document, "California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles."

#### Background

California Vehicle Code sections 27156 and 38391 prohibit the sale, offer for sale, advertisement, or installation of any device that alters the design or performance of any required motor vehicle pollution control device or system. The Air Resources Board (ARB) has the statutory authority to exempt add-on and modified parts from this prohibition if it finds that such modifications will not reduce the effectiveness of any required pollution control device or will not cause vehicle emissions to exceed applicable standards. The ARB has previously adopted several regulations applicable to aftermarket parts in various vehicle and equipment categories, and has recently adopted provisions specifically applicable to aftermarket catalytic converters. However, these catalytic converter regulations were specifically developed to address issues regarding passenger cars and light-duty and medium-duty vehicles only; aftermarket catalytic converters to control motorcycle emissions had not yet been investigated. Still, aftermarket converters for motorcycles are considered to be aftermarket critical emission control parts because they are primarily designed to reduce emissions and are necessary for vehicles to comply with emission standards. They are also the main reason for the development of the evaluation procedures. Other examples of currently available aftermarket critical emission control parts for highway motorcycles include oxygen sensors and hydrocarbon adsorbers.

While exhaust systems for cars or trucks are typically not modified until a repair is needed, an informal survey conducted by ARB staff showed that 85 percent of motorcycle owners modify or replace their motorcycles' exhausts while relatively new, and still covered under the original emission warranty. This frequently means that the original exhaust system, which today likely includes a catalytic converter(s), is being replaced with an aftermarket exhaust system that does not. This increases a motorcycle's exhaust emissions and is an illegal modification under state law. As ARB staff investigated this common practice, manufacturers of motorcycle aftermarket exhaust systems suggested that ARB develop an

aftermarket exhaust system approval process that would allow the legal sale of aftermarket exhaust systems with converters, and other motorcycle aftermarket critical emission control parts in general, that did not degrade emissions given the high rate of modifications occurring. Staff agreed for the need for new evaluation procedures for these motorcycle parts and developed the resulting rulemaking.

The evaluation procedures were developed after considering the unique nature of the motorcycle industry and motorcycle owners, and the procedures subsequently allow exempted parts to replace fully functional original equipment manufacturer (OEM) emission control systems that are still within the original emission warranty period. The procedures also incorporate safeguards to ensure that any exempted parts do not reduce the effectiveness of any required pollution control device or cause motorcycles to exceed applicable emission standards, as required by Vehicle Code sections 27156 and 38391. Such safeguards essentially mirror the enforcement requirements applicable to OEM motorcycle manufacturers. Establishment of a process for evaluating and approving aftermarket critical emission control parts will help reduce the effects of tampering by allowing emissions compliant aftermarket parts to be sold and installed on highway motorcycles in California.

### **Description of the Regulatory Action**

On January 22, 2009, the Air Resources Board (ARB) unanimously approved the regulation that provides evaluation procedures for aftermarket critical emission control parts on California highway motorcycles. The evaluation procedures establish specific criteria for the legal exemption of aftermarket critical emission control parts on highway motorcycles in California. Because these parts will likely be installed on relatively new highway motorcycles that are still within the coverage of the original manufacturer's warranty, the evaluation procedures incorporate many existing ARB certification provisions applicable to new highway motorcycles to help ensure that exempted parts will be as reliable and durable as the original emission controls in certified highway motorcycles for their intended useful lives.

The procedures would require manufacturers to demonstrate that their aftermarket critical emission control parts, when installed and aged on a designated test vehicle, would not cause the vehicle to exceed applicable exhaust or evaporative emission standards over the useful life of the motorcycle.

The procedures would also require manufacturers to warrant their aftermarket critical emission control parts are free from defects for up to the full useful life of the highway motorcycle if the part is installed within four years of the date that the motorcycle is first acquired by an ultimate purchaser. Shorter warranty periods apply if parts are installed on older motorcycles. Manufacturers or

installers would also be required to provide an installation warranty for two years or 7,456 miles, whichever occurs first.

The procedures also establish warranty reporting requirements, labeling requirements, and audit reporting and testing and recall procedures that essentially mirror requirements applicable to manufacturers of new motorcycles.

### **Comparable Federal Regulations**

The United States Environmental Protection Agency (U.S. EPA) has adopted regulations applicable to aftermarket parts in Code of Federal Regulations, title 40, part 85. However, these regulations only establish a voluntary self-certification program. In contrast, ARB's aftermarket parts regulations require aftermarket part manufacturers to receive and obtain an exemption before they can sell parts in California.

Aftermarket catalytic converters are legal for sale federally under an enforcement policy established by U.S. EPA in 1986, but the policy does not constitute a regulation. Moreover, U.S. EPA's policy was established to address issues regarding aftermarket converters for light-duty vehicles and light-duty trucks, not highway motorcycles. Since issuing its enforcement policy, U.S. EPA has thus far decided not to issue regulations specific to aftermarket converters, and has not announced any plans to do so in the near future.