

MODIFIED DRAFT REGULATORY PROCEDURES FOR THE EVALUATION OF NEW AFTERMARKET CRITICAL EMISSION CONTROL PARTS FOR HIGHWAY MOTORCYCLES

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Main supplemental changes to the draft regulatory proposal issued by the Air Resources Board on July 23, 2008, are listed below.

All existing language is indicated by plain type. All proposed additions to language are indicated by **bold underlined** text. All proposed deletions to language are indicated by ~~strikeout~~.

Modify paragraph (b)(3):

- (3) "Highway motorcycle" means a ~~motor vehicle~~ **motorcycle** that does not qualify for any of the exclusions specified in title 13, California Code of Regulations, section 1958(a), as it existed on January 4, 2008.

Modify paragraph (c)(1)(A):

- (A) Test Vehicle Selection. As specified below in section (c)(4) of these procedures, a manufacturer must designate in its application for exemption of an aftermarket critical emission control part any highway motorcycle engine family that the part is designed or intended to be installed in.

For each such highway motorcycle engine family that has been designated, the manufacturer must select a highway motorcycle that is determined to be the worst-case configuration for exhaust emissions. This highway motorcycle will be deemed the manufacturer's test vehicle for the corresponding aftermarket critical emission control part. The test vehicle selection must ~~meet~~ **include consideration of** the following minimum criteria:

Modify paragraph (c)(2)(B):

- (B) The manufacturer or installers, as applicable, must also warrant that each of the aftermarket critical emission control parts is installed correctly in accordance with the manufacturer's specified instructions, and that the installation will not cause failure of the part to conform to the applicable requirements in these procedures or cause damage to any original part on the highway motorcycle due to incorrect installation. **The installation warranty shall be two years or 12,000 kilometers (7,456 miles) from the date of the installation of the aftermarket critical emission control part.**

Modify paragraph (c)(2)(D)(i):

- (i) The manufacturer must retain records of the number of warranty cards supplied annually, records of the number of returned warranty cards, and records of the information provided in the returned warranty cards, as specified above in paragraph (c)(2)(c). **The manufacturer may account for and consequently retain records of the number of parts that have not yet been sold when estimating the percentage of warranty cards returned.** Such records must be maintained for a period of five years from the date of sale of aftermarket critical emission control parts. The manufacturer must provide this information upon request by Air Resources Board staff. The manufacturer is responsible for ensuring that at least 50 percent of the warranty cards are returned by ultimate purchasers. If the warranty card return rate falls below 50 percent, the manufacturer must implement measures, including but not limited to, the offering of various incentives by the manufacturer, and reminder statements/labels in the installation instructions and/or attached to the part itself.

Delete paragraph (c)(4)(A)(vi):

- ~~(vi) A written statement that the manufacturer complies with other applicable federal and state statutes and regulations such as noise requirements, safety codes, and other safety regulations. The Air Resources Board will not test for or determine compliance with such other statutes or regulations.~~

Modify paragraph (c)(5)(B):

- (B) The Air Resources Board reserves the right to inspect facilities and records and may select production units for audit testing. The Air Resources Board may select up to five aftermarket critical emission control parts per manufacturer per year for audit testing. At the manufacturer's expense, aftermarket critical emission control parts selected by the Air Resources Board shall be sent to the Air Resources Board facility or a designated independent laboratory for testing in accordance with the test procedures in paragraph (c)(1)(C), **with the exception of service accumulation requirements. Audit testing will be conducted on motorcycle(s) selected by the Air Resources Board. Each motorcycle selected for testing must be checked to verify that all engine settings and emission control components are within the manufacturer's specifications. Baseline emissions of the test motorcycle must be typical for that particular make, model, and year, and shall be within the applicable emission standards using the deterioration factors provided by the original motorcycle manufacturer. The aftermarket critical emission control part shall be**

installed in accordance with the written instructions provided by the part manufacturer. All measured emissions must be projected to the vehicle's useful distance using the deterioration factors generated by the part manufacturer for its exemption Executive Order.

Initial testing costs, including test vehicle procurement and maintenance, will be borne by the Air Resources Board. For those parts installed on highway motorcycles that do not comply with the applicable emission standards, the manufacturer will reimburse the state for the costs of the audit testing. If one or more of the aftermarket critical emission control parts fails to meet the applicable emission standards in an appropriate test vehicle, the Air Resources Board may rescind a previously granted Executive Order, request further analysis and data from the manufacturer, or require, at the manufacturer's expense, additional parts to be tested. Additional parts to be tested shall be limited to no more than five aftermarket critical emission control parts from the same Executive Order as the failed part per calendar year

Modify paragraph (c)(6):

(6) Warranty Defects Reporting.

(A) Manufacturers shall **retain and** review unscreened warranty claim records for each California-exempted aftermarket critical emission control part covered under each Executive Order on a production year basis for a period of five years following the production year. **If the cumulative number of unscreened warranty claims meet or exceed four percent (4%) or 10 vehicles, whichever is greater, of any aftermarket critical emission control part produced for sale in California under any individual Executive Order, the manufacturer** and shall submit an **emission** warranty information report semi-annually to **the Air Resources Board** ARB during the five year period. The warranty information report shall contain the following information, **as applicable, prescribed by title 13, California Code of Regulations, section 2167(b).** **Unscreened emission warranty claims include both valid emission warranty defect claims and claims resulting from causes such as cosmetic defects, neglect, improper maintenance, and abuse:** the manufacturer's name, a description of each class or category of California-exempted aftermarket critical emission control part, including model year and name or model number of the part number associated with the aftermarket critical emission control part, the cumulative number and percentage of aftermarket critical emission control parts covered by the Executive Order for which a warranty replacement or other warranty work was identified, the type of repair or replacement work performed, and

the number of each type of aftermarket critical emission control parts produced for sale in California.

(B) If **the cumulative number of**, after removing unscreened emission warranty claims, **reaches or exceeds ten percent (10%) or 20 vehicles, whichever is greater the manufacturer will be required to submit a supplemental emission warranty information report containing information, as applicable, prescribed by title 13, California Code of Regulations, section 2168(j). This includes a determination of whether** the cumulative number of valid emission warranty claims exceed four percent (4%) or ~~25 claims~~ **10 vehicles**, whichever is greater, of any aftermarket critical emission control part produced for sale in California under any individual Executive Order, ~~the manufacturer must include in the report a description of the type(s) of failure that have occurred, the probable causes of failure, and data or an engineering evaluation of the impact of the failures on vehicle emissions. Unscreend emission warranty claims may include non-emissions-related causes such as cosmetic defects, neglect, and abuse.~~

(C) ~~For valid emission warranty claims greater than four percent, the Executive Officer may suspend or rescind an Executive Order if it is determined that a particular aftermarket critical emission control part is systematically failing in a way that significantly impacts emissions from the vehicles on which they are installed.~~

(~~D~~ C) ~~All~~ **E**mission warranty information reports and updates shall be submitted to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731.

Modify paragraph (c)(7):

(7) **In-Use Recall and Corrective Action. If, after review of a manufacturer's supplemental emission warranty information report pursuant to paragraph (c)(6)(B) above, the Executive Officer determines that the valid failure rate of an aftermarket critical emission control part has reached or exceeded four percent (4%) or 10 vehicles, whichever is greater** Reported emission warranty claims of four percent (4%) or 25 highway motorcycles, whichever is greater as determined in paragraph (c)(6)(B) for an aftermarket critical emission control part covered by an Executive Order issued pursuant to these procedures may subject the manufacturer to a violation of these procedures. ~~T~~**he** manufacturer may be required, at the sole discretion of the Executive Officer, to implement the recall procedures specified below in paragraphs (c)(7)(A) et al of these procedures.

Modify paragraph (c)(7):

Global changes throughout Paragraph (c)(7) include modifying the term “repair” or the like to “corrective action.” Other language is included to account for corrective actions that involve installation of replacement parts by ultimate purchasers.

Modify paragraph (c)(7)(D):

(D) Repair label **Identification**. The manufacturer shall **must permanently identify by direct embossment or stamping each replacement aftermarket critical emission control part included in the corrective action plan**, require those who perform the repair under the recall plan to affix a label to each affected aftermarket critical emission control part repaired or, when required, inspected under the recall plan. The label **identification** shall be placed in a location **in close proximity to the labeling required by paragraph (c)(3)**, as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable. The label **identification** shall contain the recall campaign number. **If the replacement aftermarket critical emission control part is too small to stamp or emboss the recall campaign number, the manufacturer must supply a legible and visible identification plate or label with the part that contains this information, as well as instructions regarding a visible location upon which it must be permanently affixed on the highway motorcycle, and a code designating the** **Additionally, any** facility, **as applicable**, at which the repair, inspection for repair, **corrective action** was performed **must affix a label with a code that is specific to that facility. The label must be in the same general location of the manufacturer’s repair identification.**

Add paragraph (d):

(d) Compliance with the provisions of these evaluation procedures does not exempt aftermarket critical emission control parts from compliance with other applicable federal and state statutes and regulations such as noise requirements, safety codes, and other safety regulations, nor will the Air Resources Board test for or determine compliance with such other statutes or regulations.