

State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

**Supplement to the
Final Statement of Reasons for Rulemaking**

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

Public Hearing Date: January 22, 2009
Agenda Item No.: 09-1-3

This Supplement to the Final Statement of Reasons (FSOR) describes and provides the reasoning for non-substantive changes that the Air Resources Board (ARB or Board) has made to the evaluation procedures for aftermarket critical emission control parts for highway motorcycles. All of these corrections were made in response to concerns raised by the Office of Administrative Law. The ARB is submitting this supplement to the FSOR for insertion in Office of Administrative Law (OAL) File Number 09-0721-02S.

ARB has made some minor, non-substantive changes for punctuation, grammar, and purposes of clarity to the "California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles" to replace the procedures filed with OAL on July 21, 2009. The changes made do not materially alter any requirement, right responsibility, condition, prescription, or other regulatory element of any California Code of Regulations (CCR) provisions. These changes are set forth below.

- (c)(2)(A)(ii) ~ Non-substantive edit made. Substitute "after" for "of" in second line.
- (c)(2)(D)(ii) ~ Substitute (c)(2)(C) for (c)(2)(c).
- (c)(4)(A)(i)(a)-(i) ~ Non-substantive edits made to clarify section referencing scheme.
- (c)(6)(A) ~ Non-substantive edits made. Substitute "meets or exceeds" for "meet or exceed." Substitute "units" for "vehicles" in second sentence.
- (c)(6)(B) ~ Non-substantive edits made. Add "of any aftermarket critical emission control part produced for sale in California under any individual Executive Order" after (10%). Substitute "units" for "vehicles" in first sentence.
- (c)(7)(B)(ii)(a)-(i) ~ Non-substantive edits made to clarify section referencing scheme.

- (c)(7)(B)(ii)(d)~ Non-substantive edits made. Substitute (c)(7)(B)(ii)b. for (c)(7)(B)(ii)(b)
- (c)(7)(C)(iv)(a)-(i) ~ Non-substantive edits made to clarify section referencing scheme.
- (c)(7)(C)(vi) ~ Non-substantive edit made. Substitute (c)(7)(B)(ii)h. for (c)(7)(B)(ii)(h).
- (c)(7)(H)(i)(a)-(m) ~ Non-substantive edits made to clarify section referencing scheme.
- (c)(7)(H)(ii) ~ Non-substantive edits made. Substitute (c)(7)(H)(i)c. for (c)(7)(H)(i)(c). Substitute (c)(7)(H)(i)c. for (c)(7)(H)(i)(c). Substitute (c)(7)(H)(i)d. for (c)(7)(H)(i)(d). Substitute (c)(7)(H)(i)e. for (c)(7)(H)(i)(e). Substitute (c)(7)(H)(i)f. for (c)(7)(H)(i)(f). Substitute (c)(7)(H)(i)g. for (c)(7)(H)(i)(g). Substitute (c)(7)(H)(i)h. for (c)(7)(H)(i)(h). Substitute (c)(7)(H)(i)i. for (c)(7)(H)(i)(i).
- (c)(7)(H)(i)(k) ~ Non-substantive edits made. Substitute “for which the manufacturer has not been invoiced for corrective action” for “but for whose corrective action the manufacturer has not been invoiced.”
- (e) ~ Non-substantive edits made. Substitute “part” for “parts” in first sentence.

Executive Officer’s Determination Whether Additional Test Vehicle Criteria is Necessary to Select a Test Vehicle. Section (c)(1) of the “California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles,” adopted January 22, 2009, as incorporated by reference in title 13, CCR section 2222(j) states that “[i]n addition to the criteria specified above in section (c)(1)(A), the Executive Officer may also utilize good engineering judgment and/or test data to determine if additional criteria are necessary to select a test vehicle for a specific aftermarket critical emission control part.”

The term “good engineering and/or test data” is a term of art that is readily understood by the regulated industry. For example, section (e)(5)(B)1. of the “California Evaluation Procedures for New Aftermarket Catalytic Converters,” adopted October 25, 2007, and incorporated by reference in title 13 CCR section 2222(h)(1), similarly states that the Executive Officer may approve manufacturer requests to utilize alternate catalytic converter aging methods “if the manufacturer submits data and/or engineering evaluations adequate to demonstrate that the aging process is representative of real world catalytic converter deterioration and/or provides for aging comparable to ARB approved methods.”

In the context of these evaluation procedures, “good engineering judgment and/or test data” informs the regulated industry that because selecting a test vehicle for a specific aftermarket critical emission necessarily requires considering many technical and

engineering factors, there may be instances where, based on the Executive Officer's engineering judgment or test data, he or she determines that criteria beyond loaded vehicle weight, engine-speed-to-vehicle speed ratio, and projected sales must be considered to select a test vehicle.