

UPDATED INFORMATIVE DIGEST

This Updated Informative Digest is prepared pursuant to California Government Code section 11346.9(b).

Sections Affected:

Proposed amendments to title 13, California Code of Regulations, sections 2411, 2412, 2415, 2416, 2418, and 2419.4.

Documents Incorporated by Reference:

The following documents will be incorporated in the regulation by reference in California Code of Regulations, title 13, sections 2412(c)(1) and 2419.4(b)(5)(C):

- Title 40, Part 1060, section 1060.515(a)(1), Code of Federal Regulations, last amended on February 19, 2015, and incorporated by reference in section 2418(c)(2)(A).
- ASTM D471-06, Standard Test Method for Rubber Property -Effect of Liquids, approved October 1, 2006 (ASTM D471), incorporated by reference in section 2418(c)(2)(A).
- Title 40 Part 1051, section 1051.515, Code of Federal Regulations, last amended on July 13, 2005, and incorporated by reference in section 2418(c)(2)(B).
- Title 40, Part 1060, Code of Federal Regulations, last amended September 16, 2010, or on the date otherwise specified by each of the aforementioned provisions of Title 40, incorporated by reference in section 2419.4(b)(5)(C).
- Title 40, Part 1051, Code of Federal Regulations, last amended April 30, 2010, or on the date otherwise specified by each of the aforementioned provisions of Title 40, incorporated by reference in section 2419.4(b)(5)(C).
- California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines, last amended October 9, 2019, incorporated by reference in section 2412(c)(1) and (d)(1).

Summary of Existing Laws and Regulations and Effect of the Proposed Regulatory Action:

The California Air Resources Board (CARB or Board) has authority under the Federal Clean Air Act to adopt and enforce rules to control mobile source emissions within the state. In order to attain the state and federal ambient air quality standards by the earliest practical date as required by the California Clean Air Act (CCAA), CARB seeks the maximum cost-effective emissions reductions possible from all sources, including vehicular and other mobile sources, to protect the health and welfare of all California residents.

In 1994, CARB set exhaust standards for all off highway recreational vehicles (OHRV) that were to go into effect starting in 1998. The exhaust standards were

technology forcing, and additional time was needed for manufacturers to produce a full range of compliant vehicles. Dealers expressed concern that certified models would not be available and that California OHRV dealerships would go out of business. In 1998, CARB met with affected stakeholders and developed a temporary compromise that allowed for the certification of vehicles that do not meet emissions standards. CARB adopted this compromise into regulation in 1999, which have become known as the red sticker program. It allows for certification and sale of OHRV that have no emissions control systems. In order to reduce excess emissions, red sticker OHRV cannot be operated on public lands in ozone non-attainment areas during the summer months. The red sticker program was envisioned as a temporary measure to provide stability in the market while manufacturers developed a full range of OHRV that complied with California's emissions standards. This temporary measure has now been in effect for more than twenty years, and the majority of off-highway motorcycles (OHMC) sold in California are red sticker vehicles with no emissions controls.

To comply with the federal ambient air quality standards and the CCAA, California adopted the following regulations:

- Title 13, California Code of Regulations, section 2411 (Definitions)
- Title 13, California Code of Regulations, section 2412 (Emission Standards and Test Procedures – New Off-Highway Recreational Vehicles and Engines)
- Title 13, California Code of Regulations, section 2415 (California Off-Highway Vehicle Areas and Riding Seasons for Off-Highway Recreational Vehicles with Use Restrictions)
- Title 13, California Code of Regulations, section 2416 (Applicability)
- Title 13, California Code of Regulations, section 2418 (Evaporative Emission Standards and Test Procedures)
- Title 13, California Code of Regulations, section 2419.4 (Evaporative Emissions Control System Testing and Certification Requirement)

The proposed amendments will do the following:

- End red sticker certification of new OHRV with no emissions controls beginning in model year 2022 (sections 2412, 2415, and 2416);
- Establish transitional standards from 2020 through 2026 (sections 2412 and 2418);
- Lift the seasonal riding restrictions on existing red sticker vehicles starting on January 1, 2025 (sections 2412 and 2415);
- Harmonize with U.S. Environmental Protection Agency (U.S. EPA) evaporative emissions standards for OHMC of model years 2020 through 2026 (sections 2418 and 2419.4);
- Establish cost-effective alternative requirements for controlling evaporative emissions from OHRVs starting in 2020 (section 2418);

- Set more stringent exhaust emission control standards for all-terrain vehicles (ATVs), off-road sport vehicles, and off-road utility vehicles from 2022 through 2027 (section 2412);
- Amend the current emissions fleet averaging and zero emission vehicle credit provisions to provide manufacturers with flexible compliance pathways and accelerate development of zero emission OHRVs (sections 2412 and 2419.4); and
- Set more stringent California-specific emissions standards for all new OHRV beginning in model years 2027 (evaporative) and 2028 (exhaust) (sections 2412 and 2419.4).

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments will reduce ozone-forming emissions from OHRVs sold and operated in California, furthering progress toward the state's air quality goals as well as protect public health and the environment. It will also eliminate the current inconsistency between California's Red Sticker program and the U.S. EPA exemption for competition vehicles. The proposal will allow manufacturers to transfer proven evaporative and exhaust emissions control technologies from on-road and off-road vehicles to currently uncontrolled red sticker models. The proposal provides sufficient flexibility, fairness, and time so OHRV manufacturers can incorporate these emissions control technologies and comply with applicable standards through harmonization with the U.S. EPA. This will likely result in increasing the availability of emissions-compliant models, and a reduction in the recreational use of competition-oriented models with no emissions controls.

Description of Regulatory Procedural Action:

On March 5, 2019, CARB released the Notice of Public Hearing (45-Day Notice) and Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), titled "Public Hearing to Consider Proposed Amendments to the Red Sticker Program for Off-Highway Recreational Vehicles," for public review. The Staff Report contains a description of the rationale for the proposed amendments. On March 5, 2019, all references relied upon and identified in the Staff Report were made available to the public. CARB received written comments from numerous stakeholders and organizations during the 45-Day Notice comment period.

On April 25, 2019, CARB conducted a public hearing where OHRV manufacturers, riders, and other stakeholders presented oral comments. At the conclusion of the hearing, the Board approved Resolution 19-11 for adoption of the proposed amendments to CARB's existing OHRV regulations. In accordance with Government Code section 11346.8, the Board directed the Executive Officer to adopt the proposed amendments after making any appropriate conforming modifications, as well as any additional supporting documents and information, available to the public for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be

submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

CARB released a Notice of Public Availability of Modified Text and Availability of Additional Documents and Information (15-Day Notice) on July 8, 2019. The 15-Day Notice placed an additional document into the regulatory record and presented modifications to the regulatory text in response to public comments made during the 45-day comment period. The 15-Day Notice included proposed modifications to the originally proposed amendments, which are incorporated by reference in California Code of Regulations, title 13, sections 2411, 2412, 2415, 2416, 2418, and 2419.4, respectively. The text of the proposed regulatory amendments was posted on CARB's website at <https://www.arb.ca.gov/rulemaking/2019/redstickeramendments>, accessible to all stakeholders and interested parties.

The 15-Day Notice also presented minor corrections, updates and clarifications to the Staff Report, none of which changed the Staff Report conclusion that the costs are considered negligible. The 15-Day Notice modifications to the originally proposed amendments and Staff Report do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the modifications do not alter the compliance responses. Consequently, no additional environmental analysis or recirculation of the environmental analysis is required. During the 15-Day Notice comment period, stakeholders submitted a few comments. The comments requested additional changes to the 15-Day Notice modifications. Staff considered these comments and determined that no further amendments were warranted. Staff subsequently prepared written responses to the comments received during the 45-Day and 15-Day comment periods, as set forth in the Final Statement of Reasons. The Executive Officer adopted the regulatory amendments after addressing all appropriate modifications.

Summary of 15-Day Notice Modifications:

The 15-Day Notice modifications included refinements, clarifications, and minor corrections to the standards, certification requirements, and test procedures of the originally proposed amendments. In addition, to better meet the intent of the corporate averaging provisions, the proposal removed text in a table to refer more generally to the applicable hydrocarbon (HC) or hydrocarbon plus oxides of nitrogen (HC + NOx) standard rather than a specific standard. CARB also revised the fuel hose permeation standard to more fully harmonize with the U.S. EPA requirements, which provide a reasonable degree of emissions control while ensuring a range of certified fuel hoses will be available. This change allows manufacturers to market the same OHRV products in the California and U.S. markets, and eliminates the need for duplicative testing.

The 15-Day Notice modifications include an increased displacement for youth models (from 110cc to 112cc) to capture all OHRV manufacturer's youth models that are marketed as 110cc or less. The proposal also allows for the Executive Officer to approve evaporative emission control system components that have been approved by the U.S. EPA in accordance with 40 CFR Parts 1051 and 1060, which will reduce compliance costs by eliminating duplicative testing and allowing OHRV manufacturers to use certified small off-road engine (SORE) fuel hoses for OHRV. The proposal also revises various sections of the test procedures "*California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines*" to make it consistent with the changes to Title 13 that were proposed in the 45-day comment period.

Non-substantive 15-Day Notice modifications include updates to existing revision dates for the test procedures "*California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines*." In addition, clarifications were made to allow for the alternative certification process outlined in title 13, California Code of Regulations, section 2418(e) when certifying evaporative emissions control systems for the design-based certification process, which was inadvertently not included in the original regulation order and was updated for consistency.

Comparable Federal Regulations:

OHRV emissions are currently regulated under federal regulation 40 CFR Part 1051 and Part 1060. CARB's exhaust and evaporative emissions requirements are partially harmonized with the U.S. EPA requirements, but are more stringent in certain areas.

There is no federal program that is similar to CARB's current Red Sticker program in California. Most OHRV that are certified as Red Sticker vehicles in California are considered competition exempt by the U.S. EPA, and are not allowed to be used recreationally on specified public lands.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory actions, staff conducted a search for any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.