

UPDATED INFORMATIVE DIGEST

AMENDMENTS TO THE CALIFORNIA REGULATIONS FOR NEW 1997 AND LATER OFF-HIGHWAY RECREATIONAL VEHICLES AND ENGINES

SECTIONS AFFECTED

Amendment of the following section of title 13, California Code of Regulations (CCR): chapter 9, Off-Road Vehicles and Engines Pollution Control Devices; article 3, Off-Highway Recreational Vehicles and Engines; section 2415.

BACKGROUND

The California Clean Air Act as codified in the Health and Safety Code sections 43013 and 43018 grants the ARB authority to regulate off-road mobile source categories, including off-road motorcycles and off-highway vehicles. In 1994, the board approved regulations to control emissions from off-highway recreational vehicles (OHRV). These regulations affected off-road motorcycles and all-terrain vehicles manufactured on/after January 1, 1997.

In order to ensure product availability in California, in December 1998, the Board amended the regulations to allow only seasonal use of vehicles that do not meet the applicable exhaust emissions standards (non-emissions-compliant) in California's OHRV riding areas. That is, noncompliant vehicles could be operated in OHRV riding areas located in ozone attainment areas year-round but only during the non-peak ozone season in ozone nonattainment areas. The regulations as amended are codified at title 13, CCR, sections 2410-2415.

Following the 1998 amendments, non-emissions-compliant OHRVs were to be registered by California's Department of Motor Vehicles (DMV) with a red sticker. OHRVs meeting exhaust emission standards (emissions-compliant) were to be registered with a green sticker. The stickers were to enable California's Department of Parks and Recreation (DPR) to enforce the limited usage of non-emissions-compliant OHRVs in California's off-highway vehicle riding areas.

Since the adoption of the amendments in 1998, ARB staff have worked with the Department of Motor Vehicles (DMV) and the Department of Parks and Recreation (DPR) to implement the seasonal riding program. One step in that effort was ARB's regular enforcement of its certification requirements against manufacturers and dealers who allowed vehicles to reach the California market with incorrect or no California certification. The violating manufacturers have made corrections and paid penalties to the Air Pollution Control Fund. Another step is DMV's recent commitment to automate their registration system to better ensure that OHRVs are registered correctly as either emissions-compliant (green sticker), or non-emissions-compliant (red sticker). DPR in turn has committed to enforce the riding season limitations beginning in 2003.

This regulatory amendment is proposed simply to reflect the delay in riding season enforcement. In crafting the proposal, the ARB staff met numerous times with DMV and DPR staff. The goal of the proposal is to facilitate effective and equitable implementation and enforcement of the OHRV regulation as originally intended. This goal can best be met by acknowledging by regulation that as a practical matter riding season use restrictions are enforceable beginning with the 2003 model year.

As a result of public input and its own investigation, ARB staff prepared an Initial Statement of Reasons (ISOR) for the amendment that served as the report on the need for the amendment.

In accordance with Government Code section 11346.4, the ISOR and proposed regulatory text were made available for a 45-day public review and comment period that began on June 9, 2003, and ended at a public hearing on July 24, 2003. At the hearing, the staff presented and the Board approved the amendment that staff had proposed.

Description of the Regulatory Action

The amendment modifies the existing off-highway recreational vehicle regulations to indicate that riding season use restrictions set forth in section 2415, title 13, CCR, apply to all 2003 and later model year non-emissions-compliant California off-road motorcycles and all-terrain vehicles. The amendment does not change exhaust emission standards or certification requirements, but does provide for a workable enforcement program in the California riding areas. As a result, the amendment reflects that we are now achieving the air quality benefits intended by the 1998 riding season amendments to the OHRV regulations.

This 2003 amendment reflects that the emission reductions originally intended by the 1998 riding season amendments will now be achieved because the Department of Motor Vehicles is now correctly registering OHRVs and Department of Parks and Recreation has begun riding season enforcement with the 2003 riding season. The amendment supports program changes that will reduce registration inconsistencies that resulted in lack of enforcement in the field. The amendment confirms the actual date of enforcement of the riding season limitations, and will avoid confusion for the riding public. The Board's adoption of the amendment reflects that riding season program problems have been substantially corrected and that riding area enforcement has begun. The amendment to postpone the riding season use restrictions to the 2003 model year also supports DMV's registration of all 2002 model year and older OHRVs with a green sticker, and supports DPR's enforcement actions beginning with the 2003 riding season.

COMPARABLE FEDERAL REGULATIONS

The U.S. Environmental Protection Agency does not currently have emission control regulations for the 1997 and later model year vehicles and engines that are subject to the proposed amended regulations. Pursuant to Clean Air Act section 209(e), the ARB may need to seek a determination from the federal Environmental Protection Agency that the amendment is within the scope of the previously authorized OHRV regulations.

BENEFITS OF THE PROPOSAL

To date, non-emissions-compliant OHRVs 2002 model year and older have not been restricted to the riding times as intended by the regulation due to lack of enforceability. Consequently the delay in enforcement means ARB cannot accurately determine the level of emissions reductions achieved from the riding season restrictions to date. This is because there has been no enforcement in the California riding areas and, therefore, the non-emissions-compliant OHRVs have had the ability to ride year-round. The lack of use restriction likely has not provided for the anticipated hydrocarbon reductions. Therefore this amendment will not result in any additional emissions; at most it acknowledges reductions that may not have been achieved. The proposed amendments will reflect that we will now begin to realize the full benefits anticipated from the riding season provisions of the 1998 regulatory amendments.