

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

Proposed Regulatory Order

Amend title 13, California Code of Regulations, section 2222:

- (j) The Executive Officer shall exempt aftermarket critical emission control parts for highway motorcycles from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles," as adopted on xxxx xx, 200x, which is hereby incorporated by reference herein.

Add above incorporated reference titled:

California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles

- (a) **Applicability.** These procedures apply to all ~~manufacturers of~~ any person who manufactures, supplies, distributes, offers for sale, sells, advertises, or installs an aftermarket critical emission control parts for use on highway motorcycles in California, ~~including those covered under the original vehicle emission warranty.~~
- (b) **Definitions.** The definitions in title 13, California Code of Regulations, section 1900(b), apply to these procedures with the following additions:
- (1) "Aftermarket critical emission control part" means any add-on or modified part or system that is intended to replace the or modify any original part designed and used primarily for the reduction of emissions (exhaust, evaporative, or both) from a highway motorcycle. Examples of aftermarket critical emission control parts include, but are not limited to, catalytic converters and oxygen sensors.
- (2) "Distributor" means any person to whom an aftermarket critical emission control part is sold or supplied for the purposes of resale or distribution in commerce. Manufacturers, retailers, and consumers are not considered to be distributors.
- (2) ~~3~~ "Highway motorcycle" means a motor vehicle ~~as defined in Vehicle Code section 400 and that does not qualify for any of the~~ is not subject to the exclusions specified in set forth in title 13, California Code of Regulations, section 1958(a), as it existed on January 4, 2008.

(4) “Installer” means any person that installs an aftermarket critical emission control part on a California motorcycle. Consumers are not considered to be installers.

~~(3) 5) “Manufacturer” means, for the purposes of this section and unless specified otherwise, any manufacturer of person that imports, manufactures, assembles, packages, or repackages an~~ aftermarket critical emission control parts for any highway motorcycle.

(6) “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.

- (c) **Exemption Procedures.** Manufacturers of aftermarket critical emission control parts for use on highway motorcycles in California, including those parts that are still covered under the terms of the by the original vehicle manufacturer’s emission warranty, must obtain an exemption from the prohibitions in Vehicle Code sections 27156 and 38391 before advertising, selling, offering for sale or installing any aftermarket critical emission control part on a highway motorcycle in California using these procedures. An exemption Executive Order is required before any aftermarket critical emission control part can be advertised, sold, offered for sale or installed on a highway motorcycle in California. All manufacturers of aftermarket critical emission control parts seeking an exemption Executive Order must comply with the requirements as set forth below.

The criteria for obtaining an exemption for aftermarket critical emission control parts for use on highway motorcycles in California are set forth below.

(1) **Emissions Testing.** A manufacturer must demonstrate that its aftermarket critical emission control part, when installed on a highway motorcycle, will can comply with any both the exhaust or and evaporative emission standard(s) applicable to the certified highway motorcycle for which the part(s) are designed or intended to be will be installed on, pursuant to title 13, California Code of Regulations, sections 1958(b) and 1976(b)(2), respectively.

- (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 The manufacturer must select choose a highway motorcycle that is determined to be the worst-case configuration for exhaust emissions. This highway motorcycle will be deemed

~~considered the manufacturer's test vehicle for the corresponding aftermarket critical emission control part. The test vehicle selection must be done for each highway motorcycle engine family that the manufacturer wishes to be covered by an exemption Executive Order and must meet the following minimum criteria.~~

- (i) Heaviest loaded vehicle weight per engine family, including all offered accessories and parts by the highway motorcycle manufacturer;
- (ii) Highest engine speed-to-vehicle speed (N/V) ratio, and;
- (iii) Highest projected sales for the manufacturer's aftermarket critical emission control part.

~~In 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 is necessary to select a test vehicle for a specific aftermarket critical emission control part. Other criteria as determined by the Executive Officer to be appropriate may be considered for the test vehicle selection. Manufacturers are advised to consult with the Air Resources Board staff before selecting a test vehicle or and conducting any testing in support of an application for their exemption application.~~

- (B) ~~The aftermarket critical emission control part must be installed manufacturer will install the aftermarket part on the test vehicle in accordance with the instructions the manufacturer it provides to its retailers, installers and ultimate purchasers. The test vehicle with the aftermarket critical emission control part installed shall be assumed to have zero miles kilometers of mileage service accumulation at the time the part is installed. Mileage accumulation on the test vehicle shall be conducted to determine deterioration factors in accordance with 40 CFR Sections 86.432-78 through 86.436-78.~~
- (C) The exhaust emission test procedures for determining compliance with applicable exhaust emission standards are set forth in title 13, California Code of Regulations, section 1958(c), as they existed on January 4, 2008, which incorporates by reference the U.S. Environmental Protection Agency's (U.S. EPA's) test procedures in Title 40, Code of Federal Regulations, Part 86, Subparts E and F, as they existed on July 7, 1986. These test procedures require a manufacturer to conduct service accumulation on the test vehicle and determine deterioration factors from the emission test results. The manufacturer may offer part configurations that are different from stock provided they comply with the highway motorcycle's applicable

~~emission standards as required by this section. The evaporative emission test procedures for determining compliance with applicable evaporative emission standards are set forth in title 13, California Code of Regulations, section 1976(c) as they existed on January 4, 2008. A manufacturer may request the Executive Officer to waive the evaporative emission testing requirements tests if it can provide technical justification that its the aftermarket critical emissions control part does not affect evaporative emissions. Any proposed modifications or alterations deviations to either of these test procedures are subject to advance approval by the Executive Officer, who shall utilize good engineering judgment and/or test data to determine if such modifications or alterations will generate test data that adequately characterizes the extent to which an aftermarket critical emission control part will affect the emissions from a highway motorcycle engine must be submitted by the manufacturer for consideration by the Executive Officer.~~

(D) Subject to advance approval by the Executive Officer, manufacturers may utilize carryover and/or carryacross of previously generated emission data to fulfill the emissions testing criteria of these exemption procedures. Manufacturers must provide documentation to show the similarities in terms of emissions performance between the aftermarket critical emission control parts and engine families considered for carryover and/or carryacross.

~~(E) Confirmatory Testing. The Executive Officer may require that any test vehicle be submitted to the Air Resources Board, at such place or places as the Air Resources Board may designate, for the purpose of conducting confirmatory emissions tests. The Executive Officer may also specify that such testing be conducted at the manufacturer's selected laboratory facility, in which case instrumentation and equipment specified by the Executive Officer must be made available by the manufacturer for test operations. Confirmatory testing will be performed done within 30 days after ARB's receipt of all required vehicle emission test data obtained pursuant to paragraph (c)(1)(C). If the confirmatory test results indicate that any regulated pollutant exceeds the applicable standards, the Air Resources Board will deny Failure to comply with the applicable standards for any regulated pollutant during the confirmatory test will result in the rejection of the manufacturer's exemption request.~~

(2) Emission Warranty.

(A) The manufacturer shall warrant to the initial and each subsequent purchaser of its highway motorcycle owner with the aftermarket

critical emission control part installed and to each subsequent purchaser of the modified vehicle that said the aftermarket critical emission control part is designed and manufactured to comply with the applicable requirements of these procedures and is free from defects in materials and workmanship which cause the part to fail to conform with the applicable requirements of these procedures or to cause damage to any original part on the highway motorcycle.

(i) If the aftermarket critical emission control part is installed on a motorcycle within four years of the date that the motorcycle is first acquired by an ultimate purchaser, this emissions warranty requirement will be valid for the applicable full warranty period specified in title 13, California Code of Regulations, section 2036(c), of each subject highway motorcycle pursuant to title 13, California Code of Regulations, section 2035 et seq. from the date of installation. A sample warranty statement in accordance with this paragraph must be submitted to the Executive Officer for approval.

(ii) If the aftermarket critical emission control part is installed on a motorcycle after the four years of the date that the motorcycle is first acquired by an ultimate purchaser, the warranty period will be three years or half the applicable useful life mileage specified in title 13, California Code of Regulations, section 2036(c), whichever occurs first, from the date of installation. A sample warranty statement in accordance with this paragraph must be submitted to the Executive Officer for approval.

(B) The manufacturer or ~~its~~ authorized 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.

(i) If the aftermarket critical emission control part is installed on a motorcycle within four years of the date that the motorcycle is first acquired by an ultimate purchaser, This the installation warranty will be valid for the applicable warranty period specified in section 2036(c), title 13, California Code of Regulations, of each subject highway motorcycle from the date of installation. A sample warranty statement in accordance with this paragraph must be submitted to the Executive Officer for approval.

- (ii) If the aftermarket critical emission control part is installed on a motorcycle after four years of the date that the motorcycle is first acquired by an ultimate purchaser, the installation warranty period will be three years or half the applicable useful life mileage specified in title 13, California Code of Regulations, section 2036(c), whichever occurs first, from the date of installation. A sample warranty statement in accordance with this paragraph must be submitted to the Executive Officer for approval.

- (C) The manufacturer must supply a warranty registration card with each aftermarket critical emission control part that it imports, manufactures, assembles, packages, or repackages. The card may inform the purchaser that the information requested may be transmitted either via U.S. mail or electronically, but in no case may the ultimate purchaser be charged to return the card. The cards must be addressed to the manufacturer.

The warranty registration card must include the general terms and conditions of the applicable emission warranties, and a statement that the aftermarket critical emission control part has been designed and manufactured to meet the warranty requirements. The card may request that the ultimate purchaser provide only the following information only:

- (i) Name of ultimate purchaser.
 - (ii) Address of ultimate purchaser.
 - (iii) Telephone number and e-mail address of ultimate purchaser.
 - (iv) Name/model of aftermarket critical emission control part purchased, associated part/serial number.
 - (iv) Date part was purchased and installed.
 - (v) Model year, make, and model of the highway motorcycle owned by the ultimate purchaser.
 - (vi) The mileage of the ultimate purchaser's highway motorcycle at the time the part was installed.
 - (vii) Vehicle identification number and license plate number of the highway motorcycle.
- (D) Recordkeeping Requirements.

- (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). 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.
 - (ii) Installers and retailers of aftermarket critical emission control parts shall keep documentation regarding the sale and/or installation of the aftermarket critical emission control parts, to include part number/model, date of sale and/or installation, purchaser name and address, vehicle make, model and vehicle identification number. This documentation shall be made available upon request by Air Resources Board staff. All such records must be maintained for a period of five years from the date of sale or installation.
- (3) **Labeling.** ~~The manufacturer must supply an identification label or plate that is to be permanently affixed either directly on the aftermarket critical emission control part or close to the original vehicle emission control identification label on the highway motorcycle~~ identify its exempted aftermarket critical emission control parts by direct stamping or embossment. The identification label or plate must be readily in a visible location, readable (i.e., block text that is a minimum of 2 millimeters in height), and resistant to heat, cold, and corrosive materials. The label or plate must be affixed by either the manufacturer or authorized installer upon complete installation of the aftermarket critical emission control part. A sample label of the identification must be submitted in the application for exemption to the Executive Officer for approval.
- (A) The label identification must contain the following information:
 - (i) The manufacturer's name. If another name is desired (e.g., a brand or equipment name), the manufacturer must make a request to the Executive Officer before proceeding.

- (ii) The name or model number and the part number associated with ~~of~~ the aftermarket critical emission control part. The part name/number must match the name/number stated on the exemption Executive Order.
- (iii) The exemption Executive Order number.
- (B) ~~The part number associated with the aftermarket critical emission control part must be either stamped on the part itself or listed on the identification label. This part number must match the part number provided in the exemption Executive Order.~~ If the aftermarket critical emission control part is too small to stamp or emboss the required information in paragraph (c)(3)(A), 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 motorcycle.

(4) Application Submittal.

- (A) The manufacturer of an aftermarket critical emission control part must ~~shall~~ submit an application for exemption for each highway motorcycle engine family that the part will be installed. The application shall be in writing, and must be signed by a person authorized to act on behalf of the manufacturer. The manufacturer must submit the all information specified above in sections from paragraphs (c)(1), (c)(2), and (c)(3) of these procedures to the Air Resources Board in the format prescribed by the Executive Officer. The manufacturer must also submit the following information in the application for exemption:
 - (A i) Description of the aftermarket critical emission control part. This includes drawings, dimensions, theory of operation, operational parameters, and a description of the part's configuration on the highway motorcycle if different from the stock configuration (e.g., a manufacturer uses a single exhaust system whereas the stock configuration is dual exhausts). If the part is, or includes, a catalytic converter system, the manufacturer must also provide the following specific information:
 - (i a) Catalyst supplier and address.
 - (ii b) General catalyst type: oxidation, single-bed three-way, dual-bed, etc.

- (iii c) Location: close-coupled, integrated muffler, bolt-on muffler.
- (iv d) Number and type of each catalyst used per converter.
- (v e) Substrate - configuration construction technique (e.g., extruded, laid-up, formed, Dravo disk, etc.), composition, supplier and address, composition of active constituents in substrate. For monolithic substrates, number of cells per square inch of frontal area with the design tolerances, and nominal cell wall thickness. For pelleted substrates, pellet shape and dimensions, pellet bulk density, and, if applicable, usage of more than one type of pellet (e.g., Rh or Pt/Pd), the geometrical distribution of pellets, and the mean impregnation depth of active materials with the production tolerances.
- (vi f) Washcoat - composition of active constituents, and total active material loading in washcoat.
- (vii g) Active material - composition of active constituents, loading of each active material including design tolerances, and total active material loading including design tolerances.
- (viii h) Container - dimensions, volume, materials used, technique of containment and restraint, method of constructing container, canner (if different from catalyst supplier), and insulation and shielding (converter and/or vehicle).
- (ix i) Physical description - dimensions (e.g., length, width, height, etc.), weight, volume including design tolerances, active surface area (BET), and total active surface area including design tolerances.
- (B ii) Installation instructions for each highway motorcycle model that the aftermarket critical emission control part can be installed on.
- (C iii) A list of any authorized installers and installation locations for the manufacturer's aftermarket critical emission control part.
- (iv) A detailed description of any tamper-resistance method(s) the manufacturer will employ to prevent the removal and/or modification, as applicable, of the aftermarket critical emission

control part. For example, a catalytic converter that is integrated in a highway motorcycle's exhaust muffler must utilize an adequate control measure to reduce the likelihood of its removal from the muffler. The manufacturer must provide the Executive Officer with actual samples of the tamper resistance methods upon request.

- (D v) A written statement that the aftermarket critical emission control part, if installed according to the manufacturer's installation instructions, will not in its operation, function, or malfunction result in any unsafe condition endangering the highway motorcycle, its occupants, or persons or property in close proximity to the highway motorcycle.
 - (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.
- (E B) After review of the submitted test data and required information, an exemption Executive Order will be issued to the manufacturer only if the application and its information are in compliance with all of the provisions of these procedures. An exemption Executive Order is valid for the parts and highway motorcycle engine families described in the application. The manufacturer must not use the exemption Executive Order as an endorsement or approval by the Air Resources Board.

(5) Audit Reporting.

- (A) A ~~The manufacturer must submit production reports of its for an exempted~~ aftermarket critical emission control part within 30 days after the last day in each calendar quarter ~~for each approved exemption Executive Order. These production reports must also specify the vehicle identification numbers (and corresponding explanation of the identification code) of the highway motorcycles that have the manufacturer's aftermarket critical emission control part installed on them.~~ be submitted in a format prescribed by the Executive Officer and provide the following information:
 - (i) Total number of aftermarket critical emission control parts produced that are covered by an Executive Order; and,

(ii) Total number of aftermarket critical emission control parts sold/installed in California, and the corresponding vehicle identification numbers, as available.

The production numbers and vehicle identification numbers shall be based on the warranty registration cards received by the manufacturer pursuant to paragraph (c)(2)(C), as well as other methods used by the manufacturer to obtain this information.

(B) The Air Resources Board may require the manufacturer to test one (1) aftermarket critical emission control part for every 500 sold. The part must be aged for at least 250 kilometers and tested in accordance with the test procedures in paragraph (c)(1)(C). 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). Initial testing costs, including test vehicle procurement and maintenance, will be borne by the Air Resources Board. For those parts 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.

(6) **Warranty Defects Reporting.** The manufacturer must report in-use failures of all aftermarket critical emission control parts covered by an exemption Executive Order to the Air Resources Board on a quarterly basis pursuant to title 13, California Code of Regulations, sections 2166 through 2174.

(A) Manufacturers shall 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 and shall submit a warranty information report semi-annually to ARB during the five year period. The warranty information report shall contain the following information: 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, after removing unscreened emission warranty claims, the cumulative number of valid emission warranty claims exceed four percent (4%) or 25 claims, 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. Unscreened 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) Emission warranty information reports and updates shall be submitted to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731.

~~(7) **In-Use Enforcement Testing.** Manufacturers of aftermarket critical emission control parts shall, upon order by the Executive Officer, perform in-use enforcement testing of their products but no more than 20 percent of the manufacturer's exempted engine family applications per year. In-use testing shall be performed pursuant to title 13, California Code of Regulations, sections 2136 through 2140.~~

~~(8) **In-Use Recall.** Reported Emission warranty claims failures 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 exemption Executive Order issued pursuant to these procedures will may subject the manufacturer to a violation of these procedures. The manufacturer must may be required, at the sole discretion of the Executive Officer, to implement the recall procedures pursuant to title 13, California Code of Regulations, sections 2166 through 2174 specified below in paragraphs (c)(7)(A) et al of these procedures.~~

(A) Notification of Required Recall or Corrective Action by the Executive Officer. The Executive Officer shall notify the manufacturer when recall or corrective action is required. The Executive Officer's notification shall include a description of each aftermarket critical emission control part encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date no earlier than 45 days from the date of receipt of such notification (no earlier than 90 days for recalls) by which the manufacturer shall submit a plan to remedy the nonconformity unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

(B) Ordered or Voluntary Corrective Action Plan.

(i) Unless a public hearing is requested by the manufacturer, the manufacturer shall submit a recall or corrective action plan to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731, within the time limit specified in the notification issued pursuant to paragraph (c)(7)(A). The Executive Officer may grant the manufacturer an extension upon good cause shown.

(ii) The recall or corrective action plan shall contain the following:

(a) A description of each aftermarket critical emission control part to be recalled or subject to corrective action, including the part number and other information as may be required to identify the parts to be recalled or subjected to corrective action.

(b) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the aftermarket critical emission control parts into conformity with the requirements of this article including a brief summary of the data and technical studies that support the manufacturer's decision regarding the specific corrections to be made. Nonconformities shall be addressed by replacing a non-conforming component with an improved, conforming component.

(c) A description of the method by which the manufacturer will determine the names and addresses of the ultimate purchasers of the affected aftermarket critical emission control parts and the method(s) by which they will be notified.

(d) A description of the procedure to be followed by the ultimate purchasers of the affected aftermarket critical emission control

parts to obtain correction of the nonconformity including the date on or after which the ultimate purchaser can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the ultimate purchaser delivers the highway motorcycle for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the ultimate purchaser can have the nonconformity remedied.

(e) If some or all of the nonconforming aftermarket critical emission control parts are to be remedied by persons other than retailers, installers, or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(f) A copy of the letter of notification to be sent to the ultimate purchasers of the affected aftermarket critical emission control parts.

(g) A description of the system by which the manufacturer will ensure that an adequate supply of parts will be available to perform the repair under the recall or corrective action plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(h) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall or corrective action plan.

(i) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan or other corrective action.

(iii) If the Executive Officer finds that the recall or corrective action plan is designed effectively to correct the nonconformity and complies with the provisions of paragraph (c)(7)(B) above, the manufacturer will be notified in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of the ultimate purchasers of the affected aftermarket critical emission control

parts and the implementation of repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

(iv) The Executive Officer may extend any deadline in the recall or corrective plan if he or she that a manufacturer has shown good cause for such extension.

(C) Notification of Owners.

(i) Manufacturers shall notify the ultimate purchasers of the affected aftermarket critical emission control parts of a recall or other corrective action by first class mail or by such other means as approved by the Executive Officer. For good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(ii) The manufacturer shall use all reasonable means necessary to locate highway motorcycle owners, including returned warranty cards. For good cause, the Executive Officer may require the manufacturer to use motor vehicle registration lists available from State or commercial sources to obtain the names and addresses of the ultimate purchasers of the affected aftermarket critical emission control parts to ensure effective notification.

(iii) The Executive Officer may require subsequent notification by the manufacturer to the ultimate purchasers of the affected aftermarket critical emission control parts by first class mail or other reasonable means. For good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(iv) The notification of the ultimate purchasers of the affected aftermarket critical emission control parts shall contain the following:

(a) The statement: "The California Air Resources Board has determined that an emission control component installed in your motorcycle has a problem that requires corrective action".

(b) A statement that the nonconformity of any such aftermarket critical emission control part will be remedied at the expense of the manufacturer.

(c) A clear description of the aftermarket critical emission control part that will be affected by the recall or other corrective action

and a general statement of the measures to be taken to correct the nonconformity.

(d) A statement that such nonconformity, if not repaired, may cause the highway motorcycle to fail an emission inspection.

(e) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or driveability of the highway motorcycle or to the function of other engine components.

(f) A description of the procedure which the ultimate purchasers of the affected aftermarket critical emission control parts should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities at which the nonconformity can be remedied.

(g) A card to be used by the ultimate purchaser of the affected aftermarket critical emission control part in the event the vehicle in which the aftermarket critical emission control part subject to the recall has been sold. The card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the highway motorcycle was sold.

(h) The statement: "In order to ensure your full protection under the emission warranty made applicable to your motorcycle by State or Federal law, and your right to participate in future recalls, it is recommended that you have your motorcycle serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your motorcycle."

(i) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(v) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the aftermarket critical emission control part or highway motorcycle except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair an aftermarket critical emission control part that has been removed or altered so that the recall action cannot be performed without additional cost.

- (vi) No notice sent pursuant to paragraph (c)(7)(B)(ii)(h) above, nor any other communication sent to the ultimate purchasers of the affected aftermarket critical emission control parts, retailers, or installers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.
- (vii) The manufacturer shall be informed of any other requirements pertaining to the notification under paragraph (c)(7)(C) which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.
- (D) Repair label. The manufacturer shall 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 shall be placed in a location 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 shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.
- (E) The manufacturer shall require those who perform the recall repair to provide the ultimate purchaser of the affected aftermarket critical emission control part repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer that indicates that the noncomplying aftermarket critical emission control part has been corrected under the recall program.
- (F) The Executive Officer may require the manufacturer to conduct tests on aftermarket critical emission control parts and/or highway motorcycles incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.
- (G) The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to retailers, installers, and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer concurrently with their transmission to retailers, installers, and other persons who are to perform the repair under the recall plan.
- (H) Recordkeeping and Reporting Requirements.
- (i) The manufacturer must maintain, and provide to the Executive Officer upon request, sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall or corrective action campaign. The records shall include, for each

affected aftermarket critical emission control part, but need not be limited to, the following:

- (a) Number of aftermarket critical emission control parts and engine families involved, and recall or corrective action campaign number as designated by the manufacturer.
- (b) Date manufacturer began notifying ultimate purchasers, and date manufacturer completed notifying ultimate purchasers.
- (c) Number of affected aftermarket critical emission control parts and highway motorcycles involved in the recall or corrective action campaign.
- (d) Number of affected aftermarket critical emission control parts and highway motorcycles known or estimated to be affected by the nonconformity.
- (e) Number of affected aftermarket critical emission control parts and highway motorcycles inspected pursuant to the recall plan and found to be affected by the nonconformity.
- (f) Number of inspected highway motorcycles.
- (g) Number of affected aftermarket critical emission control parts and highway motorcycles receiving repair under the recall plan.
- (h) Number of affected aftermarket critical emission control parts and highway motorcycles determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).
- (i) Number of affected aftermarket critical emission control parts and highway motorcycles determined to be ineligible for recall action due to removed or altered components.
- (j) A listing of the vehicle identification numbers of highway motorcycles subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage format to be specified by the Executive Officer. The frequency of this submittal, as specified in paragraph (c)(7)(H)(iii) below, may be changed by the Executive Officer depending on the needs of recall enforcement.

- (k) Any service bulletins transmitted to retailers and installers that relate to the nonconformity and that have not previously been submitted.
- (l) All communications transmitted to the ultimate purchasers of the affected aftermarket critical emission control parts that relate to the nonconformity and that have not previously been submitted.
- (ii) If the manufacturer determines that the original responses to paragraphs (c)(7)(H)(i)(c) and (c)(7)(H)(i)(d) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to paragraphs (c)(7)(H)(i)(e), (c)(7)(H)(i)(f), (c)(7)(H)(i)(g), (c)(7)(H)(i)(h), and (c)(7)(H)(i)(i) shall be cumulative totals.
- (iii) Unless otherwise directed by the Executive Officer, the information specified in paragraph (c)(7)(H)(i) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of the ultimate purchasers of the affected aftermarket critical emission control parts was initiated, or until all nonconforming aftermarket critical emission control parts involved in the campaign have been remedied, whichever occurs first. Such reports shall be submitted no later than 30 days after the close of each calendar quarter.
- (iv) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of the ultimate purchasers of the affected aftermarket critical emission control parts:
 - (a) To whom notification was given;
 - (b) Who received remedial repair or inspection under the recall plan; and
 - (c) Who was denied eligibility for repair due to removed or altered components.
- (v) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the aftermarket critical emission control parts involved, or one year beyond the reporting time frame specified in paragraph (c)(7)(H)(iii) above, whichever is later.

- (d) **Penalties.** ~~Failure~~ If the Executive Officer finds that any manufacturer, distributor, retailer, or installer is manufacturing, supplying, distributing, offering for sale, selling, advertising, or installing an aftermarket critical emission control parts for use on highway motorcycles in California in violation of these evaluation procedures, he or she may enjoin said manufacturer, distributor, retailer, or installer from any further manufacture, supply, distribution, offer for sale, sale, advertisement, or installation pursuant to section 43017 of the Health and safety Code to comply with any number of the provisions required by this section will be deemed a violation by the Executive Officer, and result in the revocation of any affected exemption Executive Orders issued to the subject manufacturer. The Executive Officer may also assess civil penalties to the extent permissible under Part 5, Division 26 of the Health and Safety Code.

DRAFT