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UNITED STATES ENVIRONMENTAL PROTECTION AGENCYOFFICE OF NOISE ABATEMENT AND CONTROLPUBLIC HEARINGPROPOSED MOTORCYCLE NOISE EMISSION REGULATIONSANDMOTORCYCLE REPLACEMENT EXHAUST SYSTEMSVOLUME I

Friday, April 28, 1978,  
9:00 o'clock, a.m.,  
Garden Grove Room,  
Anaheim Convention Center,  
Anaheim, California.

Environmental Protection Agency  
Regional Office  
Anaheim, California  
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I N D E X

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SCOTT EDWARDS, Program Manager, Office of Noise Abatement and Control

RICHARD KOZLOWSKI, Director, Noise Enforcement Division

RONALD NAVEEN, ESQ., EPA Office of General Counsel

VICTOR PETROLATI, Noise Enforcement Division

PUBLIC PARTICIPANTS:

MRS. JAN CHATTEN-BROWN, Assistant Attorney, Los Angeles City Attorney's Office . . . . . p. 7

THOMAS HIGGINS, Right to Quiet . . . . . p. 28

ALAN GIRDLER, Editor, Cycle World . . . . . p. 35

ALAN ISLEY, President, Motorcycle Industry Council . . . . . p. 53

JOHN W. SWING, Noise Control Engineer, California Office of Noise Control . . . . . p. 101

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JERRY JARDINE, Jardine Header Company . . . p. 165

HON. RALPH B. CLARK, Supervisor, Orange

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JOHN HECTOR, Oregon Department of

Environmental Quality . . . . . p. 206

ROSS LITTLE, California Highway Patrol,

Engineering Section . . . . . p. 236

P R O C E E D I N G S

CHAIRMAN THOMAS: Good morning, ladies and gentlemen. I am Henry Thomas, of the United States Environmental Protection Agency.

Today is Friday, the 28th of April, 1978, and the time is 9:07, and we are, at this time, convening Public Hearing, to take public comments on regulations issued on Wednesday, March 15, 1978, published in the Federal Register, regulations by the United States Environmental Protection Agency, proposing Noise Emission Standards for Motorcycles and Motorcycle Replacement Exhaust Systems.

Before we begin to receive comments this morning, let me first establish a few administrative procedures. This is a Public Hearing to receive comments from any interested parties who care to present their views to the United States government in this federal rule-making action. It is an administrative hearing designed to receive comments -- testimony of any nature -- affecting these regulations. Rules of evidence will not apply, nor will sworn statements be appropriate.

Comments made here will become a part of the official public record associated with these rule makings, and will be available for public inspection, and copies, approximately ten days after these hearings, and



1 will be available at each of the EPA regional offices.

2           Additionally, copies may be acquired by purchase  
3 directly from the commercial firm providing the transcription  
4 service. The address of that organization may be obtained  
5 from our administrative personnel at the registration desk.

6           Those who would care to speak today, we have  
7 already received a list of individuals and organization who  
8 have indicated a desire to speak, and anyone in the audience  
9 who would care to present their comments later, you should  
10 so indicate to the administrative personnel at the registration  
11 desk, and we will be pleased to hear from anyone in the  
12 audience at any time during the day as the schedule permits  
13 between those who are already scheduled to speak.

14           Following the formal presentations by those who  
15 care to make representation to the Agency, the panel here,  
16 representing the United States Environmental Protection  
17 Agency, will direct certain questions to those making  
18 presentations. Additionally, anyone in the audience who  
19 cares to address comments, or questions, to the individual  
20 making the presentation, may do so by submitting those  
21 comments, in writing, to me, here at the panel. I believe  
22 that in each of the packages of information you received on  
23 registration, there was a question card provided there.  
24 You are not limited to only one question. You may pick up  
25 additional cards if you like.

26           Those questions will be posed by me if I believe

1 them appropriate to the individual making the presentation.  
2 If I do not believe the question appropriate to be posed at  
3 this time, the question will be made a part of the official  
4 record for this rule making, and will be considered by the  
5 government as a question of the government, in the process  
6 of analyzing the comments and testimony received during the  
7 public response period.

8 Let me now introduce the individuals who are  
9 sitting up here, in front of you, representing the United  
10 States EPA:

11 I am the Director of Standards and  
12 Regulations Division for Noise Control Programs, and, as  
13 such, have general responsibility for the governing of this  
14 rule making.

15 To my left is Mr. Richard Kozlowski,  
16 Director of the Noise Enforcement Division of the US  
17 Environmental Protection Agency. Mr. Kozlowski will be the  
18 official charged with enforcing such regulations as the EPA  
19 may issue under this rule making action.

20 To Mr. Kozlowski's left is Mr. Victor  
21 Petrolati, who is the Noise Enforcement Division official  
22 responsible for developing the noise enforcement rules  
23 associated with this rule making.

24 To my right is Mr. Scott Edwards, the EPA  
25 Project Officer, who is responsible for the development of  
26 the specific regulations.

1 And, to his right, Mr. Ronald Naveen,  
2 representing the Office of the General Counsel. We, like  
3 most of the industry, don't go too many places, these days,  
4 without our lawyers close at hand.

5 Although this may look something like the  
6 Supreme Court sitting in front of you minus the black robes,  
7 let me assure you, first, that we intend to run the session  
8 as a public hearing, to receive your candid comments. It  
9 is non-adversarial in nature. Our business is fact finding.

10 The Federal government has published its position  
11 as proposed regulations. It has presented the information  
12 on which it based its decisions, and we are now soliciting  
13 views from all interested parties as to the veracity of the  
14 information presented, the actual data. We are endeavoring  
15 to obtain better information, and even if you have not  
16 taken issue with the specific data, or have other data to  
17 provide us, we, nonetheless, would still like to receive  
18 your general thoughts, subjective or objective, and this  
19 particular ruling.

20 Let me ask now if there are any comments from  
21 anyone in the audience with respect to the administrative  
22 procedures to be followed here. (No response from the  
23 members of the audience.) There being none, I believe we  
24 are, therefore, prepared to ask the first person who has  
25 asked to speak today to come forward, and I believe this is  
26 Jan Chatten-Brown, representing the Los Angeles City

1 Attorney's Office.

2 Good morning.

3 MRS. JAN CHATTEN-BROWN

4 Good morning, panel members. Now that I have  
5 provided you with a copy of my prepared presentation, I will  
6 assure you that I will divert from that and attempt to just  
7 highlight our thoughts about these proposed regulations.

8 My name is Jan Chatten-Brown, Assistant L.A.  
9 City Attorney, in charge of the Environmental Protection  
10 Section.

11 All of us, I believe, recognize the serious  
12 nature of the noise problem in the United States, and I  
13 believe, particularly in the greater Los Angeles area. All  
14 urban areas experience high levels of noise.

15 I was <sup>2P</sup>surprised by one EPA representative, that  
16 approximately fifty per cent of the motorcycles sold in the  
17 United States are sold in the State of California, and due  
18 to our climatic conditions, they are undoubtedly used more  
19 extensively than in most parts of the United States.

20 In an urban area, and probably -- especially --  
21 Los Angeles, which has a low density as compared to other  
22 urban areas, and where much of even the City of Los Angeles  
23 is more of a suburban area with a substantial number of  
24 hilly areas, we find that residents in the City of Los  
25 Angeles are exposed to high noise levels, generally, in their  
26 place of work, and many of them go home -- myself, living

1 in a hilly area, know that motorcycles are used not only  
2 for transportation in those areas, but also for recreation --  
3 and we find motorcyclists traversing the same streets over  
4 and over again.

5 Now, our Section receives substantial numbers of  
6 complaints, probably more than any other area, from people  
7 complaining to be adversely affected by noise, and without  
8 question, I can see that these people seem to be more  
9 distressed than any other complainants that we have.

10 The adverse physiological impacts of noise are  
11 well documented, but I think more and more evidence is  
12 going to be developed about the psychological stress  
13 experienced by persons with noise impact; and my own  
14 personal experience in one case, although I believe her a  
15 hypersensitive noise complainant, nevertheless I had one  
16 woman, after trying to resolve a problem with an air  
17 conditioner in a helipad near her residence, for some time  
18 actually threatened, I believe, seriously, suicide, if she  
19 could not find quieter accommodations, and this was a woman  
20 who was living on social security, with very limited income.

21 Now, that particular complainant was not  
22 complaining about motorcycle noise, but we have found that  
23 our most frequent complaints are about vehicular noise,  
24 and specifically, motorcycle noise.

25 Because of that, we recently undertook a fairly  
26 comprehensive program to try to improve enforcement of

1 existing laws -- which we believe most adequate in  
2 California -- within the City of Los Angeles. Myself, and  
3 several other representatives of the LA City Attorney's  
4 Office, met with high level LAPD representatives, and  
5 through those efforts, have established that within the  
6 Police Department much higher priority is now being given  
7 to enforcement of the Vehicular Code provisions on modified  
8 and defective mufflers.

9 We also recently sent a letter to the presiding  
10 judge of the Los Angeles municipal court system requesting  
11 modification of their current policy which is, that with  
12 both modified and defective mufflers a fine will not be  
13 imposed if the person presents a certificate of compliance  
14 upon appearance, and after discussing the matter with the  
15 LAPD, and being informed by them that they have good reason  
16 to believe that many people actually have two exhaust  
17 systems in their garages, this seemed most appropriate.

18 We want the courts to distinguish between the  
19 situation where there is a defective muffler, and where  
20 there is a modified muffler, in which case a fine should  
21 be imposed regardless.

22 So, having spent a considerable amount of time  
23 in terms of the small amount, admittedly, we give to noise  
24 control, within the last several months, on motorcycle  
25 noise in particular, I was most interested when I saw the  
26 notice of your hearings in the Federal Register, and it is

1 at that point that we began review, knowing that the 1972  
2 Noise Control Act requires, rather than makes discretionary,  
3 preemption of state laws once new regulations are adopted.

4 Our concern is that the efforts we have made in  
5 trying to begin to achieve more effective enforcement of  
6 California law are enhanced, not undermined, by the action  
7 you will take in adopting noise control regulations.

8 As I have already noted, when you consider the  
9 number of motorcycles which are sold in California alone,  
10 and the fact that there is some other state, Montana, I  
11 believe, that has the same standard -- ultimate standard --  
12 that we do, which is 70 dB(A), and several other states,  
13 Vermont, Maryland and Florida, have 75 dB(A) ultimate  
14 standards, it is very significant that your proposed  
15 ultimate standard is at 78 dB(A) standard.

16 Essentially, when we compare the existing  
17 California laws as opposed to your proposed standards, you  
18 start out slightly more stringent than we do, and over the  
19 period up to 1986, are, in fact, slightly more stringent.  
20 After 1986, we go down to the 75 dB(A).

21 It is critical to us that you really carefully  
22 evaluate the impact of what you are doing on operation of  
23 over fifty per cent of the motorcycles sold in the United  
24 States -- if that figure is, in fact, correct.

25 What is the impact of those differences? We  
26 think, because of the regulations of other states, and of

1 California, that it is appropriate for you to seriously  
2 consider the current California law in adopting the  
3 standards; and my feeling is that, working on numerous  
4 occasions with the California legislature, that they do not  
5 readily adopt standards more stringent than the industry is  
6 capable of meeting.

7 We have had motorcycle standards on the books  
8 of California since 1967. On numerous occasions they have  
9 been modified, and they have been constantly modified to  
10 push back the attainment date.

11 In 1976, a bill was introduced by Senator Chaffey  
12 that was supported by the Motorcycle Industry Council.  
13 Admittedly, as introduced, it had an ultimate standard of  
14 75, but I would suggest that, since that bill was introduced,  
15 I went over the staff report on the bill, and the primary  
16 proponent was the Motorcycle Industry Council. If they  
17 were willing to lobby for 75 dB(A) in California, why  
18 should you adopt anything less than that?

19 Now, ultimately, the California legislature  
20 refused to come up to 75 from this existing 70 dB(A)  
21 standard, but they did push back the attainment date until  
22 1990, and this seems to us a most reasonable kind of  
23 approach.

24 In my opinion, the 1970 Noise Control Act, in  
25 the same manner as the Clean Air Act and the Federal Water  
26 Pollution Act, is meant to be technology forcing. Now, in



1 your supplementary information, included in the March 15th  
2 Federal Register, you stated that the appropriate levels  
3 were those "achievable to the application of best available  
4 technology," and, "the lowest sound level which can be  
5 reliably predicted."

6 We are in no position to take issue with that.  
7 I mean, we don't have any particular experts on our staff,  
8 although we frequently work with experts in other areas in  
9 government and outside of government, but it is hard for  
10 me to believe that the California legislature was that far  
11 off base when they adopted the 1990 70 dB(A) standards,  
12 and what we are essentially here saying is, please don't  
13 appreciably undermine California's program by adopting a  
14 less stringent ultimate standard.

15 Now, it seems that it is to the benefit, if we  
16 are ever going to get to that standard which is the most  
17 desirable one, to give the motorcycle industry the longest  
18 possible lead time possible, in the way that Congress had  
19 had more stringent air emission standards and then stepped  
20 back, that seems the best way to force the development of  
21 technology.

22 If the industry can not achieve it using its  
23 best efforts, which are certainly warranted in this case,  
24 then, at that time, you step back, but by saying 78 is the  
25 best we can do now, we feel that you are undermining the  
26 good efforts that have been made by, certainly, parts of

1 the industry, at this point, and by the various regulatory  
2 agencies.

3 After I have criticized all the bad parts of the  
4 regulations, which is basically just saying, you are not  
5 going far enough in the long term, not right away, but  
6 let's set a higher goal because that is the only way we are  
7 really going to force the change that is needed, I would  
8 like to specifically commend at least two parts of the  
9 regulations, one of which is the Accoustical Assurance  
10 Period, which makes a lot of sense in the protection of the  
11 consumer, and in getting the kind of impact that you really  
12 want, and also, in the regulation of replacement parts,  
13 which seems to be a large part of the problem in California.

14 So, as you may have guessed, I am basically  
15 here to say that the establishment of your standards has a  
16 has a tremendous potential for helping us obtain the  
17 harmonious place in which to live, that the Congress has  
18 certainly declared, via the National Environmental Policy  
19 Act, and mostly, the regulatory laws that we want, and I  
20 think it is of mutual interest, and I know that the document  
21 that we see eventually adopted will not be weakened by  
22 industry protests as to what can be done some twelve years  
23 from now, but in fact, will be strenghtened with the  
24 commitment from EPA, which is a reasonable one, that if it  
25 does not work then -- and we can do an awful lot of  
26 technology -- the legitimate interests of industry at that

1 time will certainly be accommodated.

2 Thank you very much. Are there any questions?

3 CHAIRMAN THOMAS: That you very much, Mrs.

4 Chatten-Brown. I am sure we will have some questions.

5 Don't go away yet, please. After an attorney from the  
6 City, we are probably going to have several questions that  
7 we want to ask you.

8 I would like to start off with just one. Your  
9 reading of the law under which these regulations have been  
10 proposed differs in some respects from our reading of the  
11 law -- I will let my counsel do that. Since everyone plays  
12 a legal interpretation game, I want to put my oar in for a  
13 minute.

14 You have suggested, I believe, that your reading  
15 of this law is similar to the Clean Air Act in that it  
16 should be technology forcing. Is that a fair statement?

17 MRS. CHATTEN-BROWN: I think that is the intent  
18 of Congress. I would certainly readily admit that it does  
19 not have the same provisions in it, or really, the asking  
20 of provisions that the Clean Air Act has. The Clean Air  
21 Act, and the requirements under the implementation plan,  
22 specifically does not mention that something be economically  
23 feasible, and that is where, possible, the courts have gone  
24 off and said, you know, said that it must be technology  
25 forcing, and while the Noise Control Act specifically  
26 refers to the economic considerations, but when you're

1 talking about determining best available control technology --  
2 and I did not bring a copy of the Act with me, and admit, we  
3 happen to have somebody in our office, who is tied up today,  
4 that is much more familiar with applicable noise laws than  
5 I am, but whatever the precise language in the Noise Control  
6 Act, it certainly does require that the economic and  
7 technical feasibility be considered; but what I am saying  
8 is that I think that Congress has well demonstrated it is  
9 content to air it, if we must air, on the side of projecting  
10 the type of control that may reasonably be obtained, and  
11 then backing away; and I think that the findings that you  
12 made really seem to go more to what is technically feasible  
13 at this time, and so I am urging that you kind of give the  
14 benefit of the doubt to technology and say, "You may wind  
15 up getting that," and in that sense I think that is  
16 consistent with, when you look at the policy language in  
17 the declaration of Congressional intent, that is consistent  
18 with that intent, and to that effect I think that it is  
19 technology forcing.

20 CHAIRMAN THOMAS: I think if that were to be what  
21 we were to do, you might look to Mr. Naveen over here for  
22 a possible position in our Washington Counsel's office,  
23 because I am sure we would have sufficient ensuing litigation  
24 that we would have to add considerably to our lawyers,  
25 which leads to the next element. It's an important question.  
26 We have not been sued on this point yet under this Act, and

1 so, the interpretation from the courts' perspective is still  
2 to be determined.

3 But, the next point that you raise is one that  
4 does intrigue me. I'm sure you will hear, if you stick  
5 around today to listen to others on the program, the  
6 California standard of 70 decibels in 1990 for motorcycles,  
7 I guess we don't know how you build motorcycles that quiet  
8 in the next ten years, which says, "I can't believe that the  
9 industry can do that at this point."

10 There might be one or two that can meet that  
11 noise level, and there's a few mopeds out there that  
12 probably can do it, but large motorcycles, as I understand  
13 it just -- there is no design -- the technology right now --  
14 that would be true technology forcing in every sense of the  
15 word, which then says that California would clearly, if that  
16 continues to be true, would have to keep moving those  
17 effective dates back, as you have suggested they do.

18 Yet, when EPA issues a regulation, and we set  
19 an effective date, we must set that effective date, as you  
20 have properly and rightly said, based on the key elements  
21 of the law, which are, technological availability, cost of  
22 compliance, and impact on the public health and welfare.

23 The thing that we question is, in this sense,  
24 what basis does California use -- and I realize you are  
25 with the City of Los Angeles -- what basis did California  
26 use to arrive at 70 decibels as being a right level; why 70?

1 MRS. CHATTEN-BROWN: I would be happy to attempt  
2 to provide you with that information by the end of the June  
3 15th date.

4 I had requested the authors of both of the bills  
5 that established the standards and then pushed the date  
6 back, the staff representation, the staff analysis, of that  
7 legislation.

8 We don't have the best legislative history in  
9 California, which I regret. There are certain situations  
10 in which you can, perhaps, garner more information than  
11 others, but there seems to have been no comprehensive staff  
12 report.

13 However, I did get the staff report from Senator  
14 Chaffey's office, which was the one that moved the date  
15 back, but I have not get gotten that from Senator Lanterman's  
16 office, who is the one that originally passed the 70 dB(A)  
17 standard, and as soon as I get that, I will forward it to  
18 you.

19 If there is any additional information, then I  
20 can come up with either presenting specific questions to  
21 the staff, or whatever, I would be happy to do that and see  
22 if we can't dig something out from their past hearings; but,  
23 as I said, you know, I don't claim any technical understanding  
24 of these, but I just think that, with my own experience  
25 with the California legislature, I can't believe they, just  
26 willy-nilly, adopted standards that are beyond the realm of

1 technical feasibility.

2 And, there's one thing from a legal standpoint  
3 that very much troubled me, and that was the fact that your  
4 EIS did not even consider that as an alternative, and I  
5 would say that that is a point in which it is deficient,  
6 that it is just . . . .

7 CHAIRMAN THOMAS: Excuse me. Did not consider  
8 what?

9 MRS. CHATTEN-BROWN: 70 dB(A), or anything more  
10 stringent than what you proposed. You know, you kind of  
11 set the stage when you have an EIS that says, "These are the  
12 alternatives," when all of them are less stringent than  
13 what you're proposing, "and therefore, this is the most  
14 stringent thing we can possibly do."

15 Well, maybe it will turn out that that's it,  
16 although, again, the fact that the motorcycle industry  
17 supported 75 dB(A) in California, in '76, leaves me to  
18 believe that you should at least go down that far, but even  
19 75 dB(A) was not considered a hairy item.

20 CHAIRMAN THOMAS: That's right, and I think, if  
21 you listen to a few motorcycle organizations later today or  
22 tomorrow, that you will hear that that 75, at least in  
23 their views, is not possible.

24 In fact, even some of the levels that we're  
25 proposing, they are going to tell us, probably, are not  
26 possible, or at least, will be exceedingly difficult, and

1 very costly.

2 Let me ask Mr. Kozlowski his opinion.

3 MR. KOZLOWSKI: First, I'd like to say, it's a  
4 good way to get the hearing off, is to have someone tell us  
5 we're not doing enough. That is probably going to be  
6 unusual testimony. (Laughter)

7 First, you understand too, Mrs. Chatten-Brown,  
8 that California can set its own operating standards ...

9 MRS. CHATTEN-BROWN: Yes.

10 MR. KOZLOWSKI: ... as opposed to the kind of  
11 standards that we're trying to establish.

12 You mentioned -- and we have found in our  
13 analysis and our study -- that tampering is the worst  
14 problem in motorcycle noise, and I would suggest, and not  
15 be argumentative, but would just suggest to you that it may  
16 not matter all that much whether we are at 78 or 75 for the  
17 new products standards, if you can cure the tampering  
18 problem; or, conversely, if you can not cure the tampering  
19 problem.

20 So, if one gets the major environmental benefits  
21 from curing tampering, maybe 89 is almost as good as 75 --  
22 which is just an opinion.

23 The modification of bikes can be -- literally,  
24 even if you went down to 75, and someone takes the muffler  
25 off, or 70, you're up five to twenty decibels higher than  
26 you began with, as a result of that.



1 I would like to ask you, however, you have done  
2 some prosecuting of anti-tamperers -- tamperers that have  
3 run into prosecution. What are the major problems you found  
4 in eliminating tampering of motorcycles?

5 MRS. CHATTEN-BROWN: Well, we have not done any  
6 prosecuting, because people have always come in with  
7 certificates of compliance, and avoid the fines.

8 I think the major problem up until recently has  
9 been that, first of all, the vehicles being, obviously,  
10 mobile, it is very difficult, when you get a citizen  
11 complaint, to get an LAPD officer out there in time to do  
12 anything about it, and citizens feel very frustrated, and  
13 I have had experience trying to deal with other areas, such  
14 as automotive air pollution emissions, where, you know,  
15 people become justly enraged at violations of the law  
16 when it seems impossible to catch that, and that's just part  
17 of the problem when you have a vehicular source.

18 There are several things that the LAPD are  
19 trying to do to better address that.

20 I think, until recently, part of the problem  
21 has been, you know, attitudes of officers. It is difficult  
22 when you have officers that are on motorcycles themselves,  
23 perhaps, to have the same degree of sensitivity as some of  
24 the people that are being adversely impacted. We feel that  
25 is changing, and there is a higher level of sensitivity --  
26 at least now, I mean -- in the Los Angeles Police Department.

1           We have a problem in Los Angeles in that it is  
2 such a large area. In San Francisco, you may know, they  
3 have a couple of -- and I think one of them is here today --  
4 noise control officers, but that's a restricted geographical  
5 area.

6           Several people have suggested to us, "Why don't  
7 you have an Office of Noise Control?", which we would like  
8 to have. Our office has supported that for the City, but  
9 the City Council, so far, has not been willing to do that,  
10 and have certain police officers responsible for enforcing  
11 these laws. If you have three, or even five, you know, with  
12 an area the size of the City of Los Angeles, that simply  
13 would not work.

14           In terms of "what are the problems in court,  
15 if we went to trial on these," I don't think we would have  
16 any real problems, but right now they just go through  
17 traffic -- the traffic court -- as citations, and we haven't  
18 had any of them that have been contested at this point now.  
19 If they begin imposing the fines as we requested, even  
20 though there is subsequent compliance, I am sure we will  
21 have some experience, and I will be happy to relate that to  
22 you at that time.

23           I want to make one point on your point about  
24 we can still control our operators, it's the factual  
25 situation that I just outlined, which leads me to believe  
26 that that isn't a very effective remedy, certainly on the

1    tampering. We plan to go ahead and do everything that we  
2    can to go ahead and get a more effective enforcement  
3    program on the tampering.

4            But, setting operating levels that requires, at  
5    least, to go into court with what we would be comfortable  
6    with, that would require a sound meter; and it just means  
7    that the manufacturing levels where they can be tested at  
8    the time of manufacture; and the modification laws are  
9    really the only way to effectively reduce noise, I don't  
10   believe, at least at this point, for us, unless we can get  
11   a much greater number of sound meters out; and then, in the  
12   noise cases, where we had -- where we have gotten into  
13   court -- which haven't been motorcycle cases; but, in the  
14   other cases, the questions about calibration, and the  
15   degree of variance, and where you stood, and, you know,  
16   which all would be compounded when you have a mobile rather  
17   than a stationary source, leads me not to be optimistic  
18   about getting any real reduction from the operating  
19   standards.

20           MR. KOZLOWSKI: Okay; fine. Listen, I would  
21   very much like to see your comments on the anti-tampering  
22   portion of this program today, of this regulation. We would  
23   appreciate that.

24           CHAIRMAN THOMAS: Any questions?

25           MR. EDWARDS: Mrs. Chatten-Brown, we get many,  
26   many complaints, as do you, on motorcycle noise, and in

1 many cases the people who are complaining do not make a  
2 distinction between the kind of motorcycle source that was  
3 causing them distress. We are attempting, in these hearings --  
4 at least, what I am hoping to get out of this -- a clearer  
5 understanding of exactly what is the motorcycle noise  
6 problem -- mufflers; and one of the things we're trying to  
7 get at is, how many of these complaints are caused by  
8 modified motorcycles, and how many are caused by motorcycles  
9 that have not been modified.

10 At least, by your comments, we should be getting  
11 motorcycles quieter and quieter, down to 70 decibels, and  
12 I would assume that you have a feeling, anyway, that  
13 unmodified motorcycles are, indeed, too loud, right now, and  
14 should be quieted further, and I appreciate the comment on  
15 that.

16 But, beyond that, you know, many people complain  
17 about motorcycle noise, perhaps not straight motorcycles,  
18 but perhaps they are off-road motorcycles that are used in  
19 your jurisdiction, like in a back yard, neighborhood lot,  
20 or something like that, or perhaps it's in a wilderness area,  
21 and perhaps you have some comments as to whether this  
22 occurs in Los Angeles or not.

23 MRS. CHATTEN-BROWN: The off-road bikes are a  
24 problem in certain areas of Los Angeles, the Palos Verdes  
25 area, the Hollywood Hills. A number of areas are adversely  
26 impacted, and only very, very recently did the LAPD start a

1 program that, hopefully, will, in some way, control that  
2 problem.

3           They found that they couldn't get anywhere using  
4 their current vehicles, and the people were always gone,  
5 or into another part of the property, or whatever they would  
6 decide to do then, so they got their own dirt bikes, and  
7 they have them on a trailer, and they take them to an area  
8 where they know there are recurring problems, and they get  
9 off, and they're not dressed as LAPD -- like undercover;  
10 and they think that is a very, very effective program, and  
11 they seem to be controlling a high level of off-road noise  
12 in a number of areas.

13           In terms of your first question about, have they  
14 distinguished between modified and unmodified mufflers:  
15 Residents don't, but just hearing the areas of complaints,  
16 I tend to think that there are a number of unmodified  
17 vehicles that are amongst the culprits, and that's been --  
18 a lot of them tend to be -- in the hills, in residential  
19 areas, which are -- I'll be showing my own biases -- but,  
20 you know, very -- people without -- not with big Harley  
21 Davidsons -- they're people that are just -- you know, your  
22 next door neighbor, who loves to drive up and down, and up  
23 and down, and maybe, because of the geographical areas,  
24 and the terrain, and all of the other things that can affect  
25 the noise, that you get more attenuated problems there than  
26 in other areas, but we get a high percentage of our

1 motorcycle noise complaints -- are from people living in  
2 the hills; and it's just my own kind of instinct that leads  
3 me to believe that that isn't necessarily from modified  
4 mufflers.

5 MR. EDWARDS: Just to clarify your first one,  
6 you said you referred to Hollywood Park area? Is this what  
7 you said?

8 MRS. CHATTEN-BROWN: Hollywood Hills.

9 MR. EDWARDS: Hollywood Hills area? Now, is this  
10 a place that is set aside for motorcycles -- off-road  
11 motorcycles? Is it . . .

12 MRS. CHATTEN-BROWN: Oh, no.

13 MR. EDWARDS: . . . private property, public  
14 property, or what is it?

15 MRS. CHATTEN-BROWN: Well, there's a niche.  
16 There's a large -- Griffith Park is very, very large park  
17 in the Hollywood Hills, and there aren't any dirt trails,  
18 but, you know, people do ride bikes around there, and  
19 especially, I'm familiar with the western edge of it, and  
20 there's a lot of dirt bike, and motorcycle riding, up there.  
21 That's all public land.

22 But, where we get most of our complaints are  
23 from residential areas that are private property, on the  
24 public streets.

25 MR. EDWARDS: I thank you very much.

26 CHAIRMAN THOMAS: Mr. Naveen?

1 MR. NAVEEN: Only one brief comment.

2 Unlike the California legislature; the US Senate  
3 and House of Representatives don't set the standard for  
4 each individual product that we should regulate; and,  
5 because the Noise Act is very precise in some sense, and  
6 in other senses is not so precise, it is natural we do our  
7 mission by setting certain standards by a certain date.

8 Unlike the Clean Air Act and some other  
9 environmental regulations and legislation that we're  
10 concerned with, under the Noise Control Program we can not,  
11 after a standard is set, make any exceptions or waivers  
12 from the standard. It has to be met by a certain date. It  
13 is not within our power to do that unless Congress, in the  
14 future, decides to do it.

15 I appreciate your remarks about technology  
16 forcing, and perhaps, setting a very strict standard with  
17 a very, very long lead time, and then, maybe, relaxing it.  
18 The approach that we think will be more effective is to  
19 set the kinds of standards we have now, and then, maybe at  
20 some certain date -- uncertain date -- on the future,  
21 we'll take a look again, and if the technology costs and  
22 considerations at that time warrant that we might consider  
23 proposing any amendment to reduce the standard further --  
24 but we think that's the proper way to go, not to be so  
25 farsighted now.

26 As has been mentioned by the panel members, we

1 don't think the evidence indicates, now, that we can set  
2 tighter and tougher standards than the ones that we have  
3 proposed. Maybe, in the comment period, we'll find  
4 otherwise.

5 MRS. CHATTEN-BROWN: Yes. I would hope you  
6 wouldn't prejudge any evidence, additional evidence, that  
7 will come in. You know, that's the difference in philosophy.  
8 I think that the problem is so substantial that it warrants  
9 your going as far as you can. There isn't any question  
10 but that you could modify a regulation once adopted if prior  
11 to attainment date you determine that it wasn't appropriate.

12 MR. NAVEEN: At any time the Agency can consider  
13 new information that comes into its hands, but we don't  
14 know what the new information might or might not apprise.

15 MRS. CHATTEN-BROWN: I am sure that if it really  
16 turned out to be unattainable, that you're going to get a  
17 lot of additional information.

18 MR. NAVEEN: And we haven't prejudged that  
19 either. As the Chairman pointed out before, we are here to  
20 obtain your views, and facts. I can assure you that none  
21 of us have really prejudged anything. I don't know what  
22 we are really going to do.

23 MR. EDWARDS: I have just one clarification to  
24 ask.

25 If I recall correctly, the EIS, indeed, did  
26 consider a 75 decibel standard, but did not consider a



1 70 decibel standard.

2 MRS. CHATTEN-BROWN: Okay. I can't remember. I  
3 was really struck by no consideration of the 70 . . .

4 CHAIRMAN THOMAS: Well, the reason is, we don't  
5 know how you would build a 70 decibel motorcycle and still  
6 keep it a motorcycle.

7 MRS. CHATTEN-BROWN: Okay, then we'll have to  
8 try and get . . . (overlapping of voices)

9 CHAIRMAN THOMAS: Thank you very much.

10 MRS. CHATTEN-BROWN: Thank you very much.

11 CHAIRMAN THOMAS: Mr. Higgins, please.

12

13 THOMAS HIGGINS

14 Good morning, gentlemen. I haven't time to read  
15 all the data. It's fairly extensive. And, this is the  
16 first time I have ever testified. So, you will excuse me.  
17 I'm not really an expert.

18 I live down in Carlsbad, which is about forty  
19 miles north of San Diego, next to the hills. Our biggest  
20 complaint down there is the off-road biking that's going on.

21 However, I have read the California statute, and  
22 it describes the amount of decibels. It's been changed a  
23 couple two or three times, I believe.

24 The CHP in San Diego and Orange County has one --  
25 I believe it's called "decibel" -- "decimeter" -- "decibel  
26 meter" -- a device to measure noise. The City of Carlsbad

1 has none. They recently bought one to try to control the  
2 noise of boats in the lagoon.

3 I have talked to several police officers, and  
4 apparently, it's very difficult to tell by earballing -- to  
5 use an expression -- 80 decibels from 90 decibels. They  
6 would really have to be a consummate expert.

7 The way the statute is written, the police  
8 officer can not monitor or check the bike at intersections,  
9 at the beginning or end of a grade. It has to be, I think,  
10 fifty feet from the center of the flow of traffic.

11 I'm trying to make a point here. The point is,  
12 what I am concerned with, how are you going to enforce it?  
13 When I came up here from San Diego, I drove between 60 and  
14 65, which is illegal, and everybody is blowing by me, so  
15 whether or not you're going to reduce it to 70 decibels,  
16 or 75, or whatever, I think it's a great idea, great step,  
17 but to me, the important consideration is, how is it going  
18 to be enforced?

19 Most police officers that I spoke to, they don't  
20 even like to try it, because they can't get a conviction.  
21 It's very difficult to get a conviction, and that the DA  
22 is reluctant to take it, because it's a very -- well --  
23 unprecise, I suppose you would say; but I would think, now --  
24 now, Miss Brown, here, she said she has not obtained one  
25 conviction, and the law has been a statute, on the books,  
26 for many years, and they haven't obtained one conviction.

1 I've talked to some of the kids driving bikes  
2 near me and asked them how many are modified, and they tell  
3 me about 95 per cent are modified, so I think the law is a  
4 great idea. Now, 75 decibels is fairly quiet -- I mean,  
5 between 70 and 75, personally, I wouldn't be concerned. If  
6 they were to enforce the statute as it is now, it would be  
7 a big improvement, which is, I think, 82 decibels.

8 So, as I say, I think you are certainly moving  
9 in the right direction, but the most important consideration  
10 is, how are you going to enforce it, because you can put it  
11 down to any decibel you want, but the point is, how are you  
12 going to enforce it?

13 Well, that's the only point I was going to make.

14 CHAIRMAN THOMAS: Well, you made your point very  
15 well, sir. I have one question to ask you, Mr. Higgins,  
16 if you will bear with me, please.

17 You have indicated that your biggest problem is  
18 off-road bikes?

19 MR. HIGGINS: Well, yes, because I live up against  
20 the hill. There's a lot of vacant property back there. And  
21 the kids come up and ride on there over the hills. However,  
22 they have to ride across the streets, and the motor bikes  
23 don't even have license plates on them, and they're not even  
24 enforced, for the reason is, the police are very realistic  
25 and they think, "Well, it's very difficult to get a  
26 conviction," so I would imagine, in my opinion, the way to

1 enforce it is like you do with a smog control device, the  
2 mufflers are sealed at the source, rather than turning  
3 thousands of people loose and trying to pursue them.

4 Now, in some countries, you have to take your car  
5 in once a year for inspection, and it has to meet certain  
6 standards -- brakes, lights, and whatnot; and we don't do  
7 that here.

8 But, nevertheless, unless you can control the  
9 source, it's all irrelevant. I mean, it's just academic,  
10 or whatever the word is.

11 CHAIRMAN THOMAS: Mr. Higgins, let me ask you  
12 this: I have had some difficulties myself with the  
13 enforcement issues, and it seems to me that one of the major  
14 ways for controlling the off-road bike noise is, let's just  
15 put the off-road bikes where there's not folks to be  
16 bothered by them. In other words, let's provide a place  
17 for the folks who enjoy those dirt bikes -- and they can be  
18 a heck of a lot of fun -- let's put them someplace where,  
19 you know, they have to endure one another's noise, but the  
20 folks that don't want to be bothered by it are not. In  
21 other words, compatible land use.

22 Now, has your area, perhaps, looked into that, in  
23 being able to set aside some region? It seems to me that  
24 would be an easy thing to enforce. You're either on  
25 somebody's land where you're not permitted to be, or you're  
26 in a place that's sanctioned for it.

1 MR. HIGGINS: Mr. Thomas, yes, there has been  
2 some discussion down there, but the point is this: You don't  
3 have to have that much noise for an off-road bike. It isn't  
4 necessary.

5 Now, there's some sort of a formula, I believe,  
6 between the decibels and the amount of -- what you call --  
7 the resistance and the -- that isn't the word -- in the  
8 muffler, and when they take them out, the theory is that  
9 it's going to give them more horsepower.

10 Well, the people that manufacture motor bikes  
11 have got some pretty good talent. They know what they're  
12 doing. And these bikes that are modified, you don't have  
13 to do that. What I'm against is the unnecessary noise. I  
14 think riding a motor bike could be a lot of fun. I have a  
15 bike. I bought a bike in Japan. But you can hardly hear it.

16 So, I get back, again, to the source!

17 Now, I noticed your proposed legislation. You're  
18 not concerned with motor off-road bikes; is that correct?  
19 You're not going to control them from the way they are?

20 MR. THOMAS: We are.

21 MR. HIGGINS: Oh, you are?

22 MR. THOMAS: Yes.

23 MR. HIGGINS: There was a story in the Wall  
24 Street Journal that said it did not apply to the off-road  
25 motor bike. Perhaps I misread it.

26 CHAIRMAN THOMAS: We'll correct that. The

1 competition motorcycles will not be required to be quiet.  
2 They need only be labeled as "competition motorcycles". Now,  
3 off-road bikes will be required to be reduced in noise.

4 MR. HIGGINS: Well, that's fine, but nevertheless,  
5 the point is that I think they can still reduce those --  
6 perhaps not to 70 or 75 decibels, but they could now --  
7 they must be now -- I don't know -- 90 decibels -- so there  
8 again, the only point I would make is that, unless it's  
9 controlled at the source; and now, Miss Brown also made a  
10 point, that she believed that the kids -- the people -- have  
11 two sets of mufflers, and I can believe that; but if a  
12 person is to pay a fifty dollar fine for changing mufflers,  
13 perhaps he wouldn't do it.

14 But, finally, I would say that, the motorcycle  
15 noise can be controlled at the source without interfering  
16 with their fun, and right to do it.

17 MR. KOZLOWSKI: Mr. Higgins, let me say that you  
18 make a good point. We will control the noise of motorcycles  
19 at the time of sale, so if the Agency promulgates final  
20 regulations with the decibel standard, we will be able to  
21 control that fairly well.

22 The major problem with this regulation is whether  
23 we can prevent tampering, with the modification of motorcycles.  
24 So, that is a good point.

25 I guess one of the good things about this hearing  
26 is that it will bring you and Mz. Chatten-Brown together.

1 You can tell her your complaints and maybe she'll tell you  
2 how to solve them, but we are relying -- the federal  
3 government can not possibly get in and prevent every user  
4 of a motorcycle from tampering with his exhaust system, or  
5 with his bike, and making it noisier. It's going to be up  
6 to state and local agencies to do that.

7 Now, these regulations lay out a scheme whereby  
8 that can be done, but it's going to take a tremendous  
9 commitment on the local level, by law enforcement people,  
10 and by the legislators, and by the citizens, to have that  
11 done, but these regulations will, with the control of the  
12 bikes as well as the exhaust system, set up a scheme whereby  
13 you will be able to control modifications, but only if you  
14 have the manpower and the desire to do it.

15 So, you know, we'll set up the scheme, but it's  
16 going to be up to people like you to get the local law  
17 enforcement officers to follow it up.

18 MR. HIGGINS: Well, thank you very much,  
19 gentlemen.

20 CHAIRMAN THOMAS: Mr. Higgins, it's always a  
21 pleasure to have somebody come in and talk like this who  
22 hasn't stood up before a lectern of this nature and talked  
23 before a federal government panel. We appreciate your  
24 taking the time, and we think you have done a good job.  
25 Thank's very much.

26 MR. HIGGINS: Thank you.

1 CHAIRMAN THOMAS: Mr. Alan Girdler, please --  
2 Cycle World.

3 ALAN GIRDLER

4 I'm a little surprised. I assumed all of the  
5 press would be here. We lecture the government a lot, but  
6 we never knew you were listening before. Now, at least,  
7 I can look at you and see that you're here.

8 CHAIRMAN THOMAS: See a face behind the name.

9 MR. GIRDLER: Yes; yes. Mr. Edwards and I have  
10 exchanged occasional semi-angry letters. It's nice to have  
11 him here. We can holler in person.

12 I'm kind of a self-appointed, in the sense,  
13 because, of course, I get the job, you know, through fast  
14 talking. No one elects the editor. We have three hundred  
15 thousand people who buy the magazine, and our studies show  
16 that we've got something over a million readers. We're  
17 one of the twenty-six, I think, motorcycle magazines.

18 So, it's a self-appointed spokesman when I come  
19 in and say, "I'm talking to you for more than a million  
20 people." I gave myself the job.

21 I've changed my testimony a little bit, the plan  
22 I had in my head, I think partially because the people who  
23 have been on before -- The problem isn't enforcement, but  
24 I was thinking of this because, of course, being a motorcycle  
25 rider, a cow trailer, and a father, and this sort of thing,  
26 and living down south.



1           Interesting problem with kids because, first of  
2 all, the Carlsbad Police Department has dirt bikes. There  
3 are laws against riding the dirt bikes, you know. The kids  
4 driving -- anybody driving -- the dirt bikes in the public  
5 land, there, behind where the houses are, the police have  
6 bought a couple of nice dirt bikes to go out and catch  
7 them. In fact, they bought them from a guy who also rides  
8 out there, which puts him in a lovely position. And the  
9 State of California has some very, very good -- I think,  
10 fair -- laws about the off-road motorcycle.

11           I suspect probably you gentlemen have done all  
12 your research, and you know that there is a limit for your  
13 public-land-off-road motorcycle which is reasonably quiet,  
14 and it's not hard to reach, and it doesn't cost power, and  
15 the manufacturers have been pretty good.

16           They do certify these bikes. In fact, I know  
17 that, oh, in one case, Honda has just turned out a  
18 sensationally good competition motorcycle. The first week  
19 they were on sale I think I saw ten of them out in the  
20 desert; and a week after that, I discovered that Honda has  
21 come out with an optional silencer spark arrester so that  
22 this particular competition bike can be certified, and  
23 quieted, and put in for public riding in the public lands.  
24 This is nice. I think they are doing a lovely job.

25           I think, on-the-road things, the same deal. I  
26 can go into a store right now and buy replacement mufflers

1 for my road motorcycle that are certified as meeting the  
2 standard in effect now. I suspect they may even be --  
3 because this is my road bike, it's a 1970 model, we're not  
4 very well paid -- I think I can probably have a quieter  
5 motorcycle at half the cost of replacing the stock system.

6 This is not the problem. You know, making quiet  
7 motorcycles, having companies cooperate whenever they can,  
8 is not going to be the problem. I think the problem starts  
9 with, in effect, two things. Now, a little snide remark.  
10 I don't get to send out contractors to get facts for me,  
11 so there is no way on earth I am going to come in, you know,  
12 and say, "This study is wrong," and, "That study is wrong,"  
13 and, "This one is outdated," and so on.

14 I think you have a noise exposure, the average  
15 person which can be measured, you know, in a scientific  
16 way, and averaged out, and I think you have an annoyance  
17 factor. I don't think they're the same. I live about two  
18 blocks from the railroad tracks, and if I'm awake at 4:00  
19 a.m., you know, when the midnight flier comes through, I  
20 can hear it, and I sleep through it every night normally.  
21 So, I think what we have is noise, sound, what everybody  
22 thinks we were teasing about that, you know, the difference  
23 between noise and sound.

24 I think a lot of vibrations goes in ears, and  
25 some of it is children at play, and some of it is dogs  
26 barking, and some of it is trains, and some of it is

1 motorcycles, and this sort of thing.

2 As nearly as I can tell from the material you  
3 gentlemen have supplied, the motorcycle is not that big a  
4 separate source of sound, in terms of the traffic stream,  
5 and this sort of thing. I think the motorcycle is a readily  
6 identifiable source. I think it's an annoying source. I  
7 think lots of people don't like motorcycles. They can tell  
8 it's a motorcycle. They resent it.

9 So, when the scientific survey is done, putting  
10 a sound meter out somewhere and finding out what goes in,  
11 that's one thing. When you send the survey team out and  
12 say, "What drives you crazy?", you're going to get  
13 motorcycles fairly high on the list.

14 So, I think this sets up the next step, which  
15 is, that you gentlemen have been directed to takes steps  
16 against what has been officially identified as a problem,  
17 and you're doing it. You have to do it. I can't see anyone  
18 in good conscience objecting to your doing it.

19 My thinking is, though, you have three levels.  
20 The first level would be, if every motorcycle was kept to  
21 the level now in effect, and basically, I think, with some  
22 exceptions, because the California law is -- California is  
23 a big market -- the law is easily reached. I don't think  
24 there are many manufacturers turning out bikes that are a  
25 whole lot louder than the California level

26 If motorcycles could be kept to that level, I

1 think even your studies show there would be an enormous  
2 benefit in terms of volume of sound. I think there would be  
3 an appreciable benefit in terms of people who call into the  
4 police department to complain about noisy motorcycles.

5 The next level, the initial standard of halfway  
6 along the way, again, referring to your own material, if  
7 that was achieved, there would be a very slight economic  
8 impact. This is something that most of the companies can  
9 do without terrible hardship. I think it would be a level  
10 that most people would keep it to, and there again, I think  
11 the figure is something 70 to 90 per cent of the achievable  
12 benefit, at what I think is a modest cost.

13 What I object to is the final level, looking at  
14 this, and reading about the decline in the cost, of the  
15 money invested in this thing, the decline in jobs, the  
16 amount of money going the limit to motorcycle technology,  
17 because, when you push technology one way, you're liable to  
18 pull it somewhere else. There are other improvements that  
19 could be made in terms of, perhaps, more efficient  
20 motorcycles, cheaper motorcycles, better miles per gallon,  
21 lower initial cost, all that sort of thing. You have noise,  
22 and everything else goes by the board, because you're making  
23 a quiet motorcycle. It may not be good, or safe, or  
24 efficient.

25 The enormous cost of this! Again, in your  
26 figures, in the terms of raising the prices, and putting

1 people out of work, limiting my choice as a consumer, I  
2 don't particularly want to be protected most of the time,  
3 but I would like to have some choice, and if 80 per cent,  
4 or 90 per cent of the muffler manufacturers are driven out  
5 of business, this takes away my choice.

6 I know now I can replace my stock equipment for  
7 half the cost as the factory wants. I don't know what it's  
8 going to cost if only the factory can sell me those  
9 mufflers. They have themselves a rather nice little market  
10 in that sense, if they were the only ones what could afford  
11 to certify a muffler -- they're the only ones that can  
12 sell me a muffler, and they get whatever I'm willing to pay  
13 to keep my motorcycle on the road.

14 The enforcement problem, I don't know how it's  
15 going to work. I think a certification in terms of putting  
16 the muffler -- stamping the muffler -- I know, on my road  
17 bike it is very carefully stamped, and it's got the maker,  
18 and it's got the number, and all that sort of thing. This  
19 was, I say, made in 1970. If I had a modified muffler,  
20 they would have to simply look and say, "What the heck is  
21 that?", and I'd say, "Oh, well, I bought it at the corner  
22 store," and the guy says, "You're in trouble," if he wants  
23 to.

24 I think that enforcement is going to be the key.  
25 All I can then say is, if the replacement equipment was  
26 stamped, and numbered, and everything, then perhaps, the

1 police would have an easier time of it, and the people who  
2 tamper with the bikes would have a harder time of it. We  
3 could get a whole lot done without this incredible cost,  
4 that seems to me you gentlemen have predicted, with this  
5 final standard.

6 In short, I think it's too severe. I think the  
7 cost is too high. And the benefits really not proven.

8 CHAIRMAN THOMAS: Thank you, Mr. Girdler. I  
9 appreciate your comments. I do want to ask you one question:

10 You heard testimony, I believe, earlier,  
11 statements by Mrs. Chatten-Brown, representing the Los  
12 Angeles City Attorney's Office, and she took strong issue  
13 with us because our regulations do not even approach on the  
14 level of 70 decibels that exist in the California statutes,  
15 at this time, for the 1990.

16 What do you think about the California statute,  
17 the level that's in it; and based on your knowledge of  
18 motorcycles -- and I assume you have some expertise in this  
19 area -- the likelihood of that level being achieved by 1990?

20 MR. GIRDLER: Two things here: One, the  
21 legislature is -- they go their own way, they have their  
22 own thinking to achieve, they do not need to worry about  
23 technology. In fact, on some occasions -- witness the  
24 lighting laws -- they bought technology, they put down what  
25 they think ought to be done. Another man will be speaking  
26 later, and will probably tell you more about that. But,

1 if the legislature has any scientific knowledge -- any  
2 technical knowledge at all when they draw these things up --  
3 I have not seen it displayed.

4 I believe these are people who introduced laws  
5 to ban the internal combustion engine. If they know something  
6 I don't know, I would sure like to see it, because I would  
7 love to see -- --

8 We have a sound meter. I have never actually  
9 done this test. One of these days I would like to get a  
10 real big Harley-Davidson and roll it down a hill at 15, or  
11 20, or whatever the second gear thing would be, with the  
12 engine off, because we have a sound meter. When we do  
13 testing on after-market systems, and then we do report, in  
14 fact, if it looks to us like it is too loud to be used on  
15 the street, we say so.

16 My guess would be that a normal big road  
17 motorcycle, with the engine off, rolling past, you know,  
18 the 15 meters away, the standard California Highway Patrol,  
19 or EPA test, I'll betcha that thing goes over 70 decibels  
20 just in the chains and the tires, and the wind blowing over  
21 the fins, and all these things. 70 is terribly, terribly  
22 hard.

23 I think I've mentioned we have a sound meter.  
24 I play with it in the office sometimes. People who like a  
25 radio on when they work are doing more than 70 decibels.  
26 70 decibels is about the sound of sitting in the car with

1 the engine idling, for goodness sake -- not an economy car,  
2 I shouldn't say that -- not a Rolls-Royce.

3 I don't see how they can do it. I don't think  
4 they know how they can do it. I think somebody said, "Well,  
5 let's put their feet to the fire, and it will sound good,"  
6 and they did. I think this is pushing technology beyond  
7 the breaking point.

8 MR. KOZLOWSKI: I would just like to make sure  
9 I understand what you're saying. You're saying that you  
10 think the industry can go down to 80 decibels without any  
11 problems?

12 MR. GIRDLER: Oh, dear! The industry is going to  
13 beat me up as soon as I get out of the room.

14 MR. KOZLOWSKI: I didn't mean to put it so.  
15 (Laughter)

16 MR. GIRDLER: I think, my prediction, knowing the  
17 work that's done, I think 80 is achievable, and given a  
18 fair enough lead time for the big road bike.

19 MR. KOZLOWSKI: And then, 78, you think, although  
20 maybe achievable, is not cost effective?

21 MR. GIRDLER: Yes. Cost effective, in terms of  
22 the public benefit, the other problems, no, I just think  
23 it's too much.

24 MR. KOZLOWSKI: And 75 would be technically  
25 feasible but not cost effective, or not technically feasible?

26 MR. GIRDLER: Well, there again, now, we get



1 into, I think, probably, there are one or two companies  
2 that could do it to 75, and sell "a" motorcycle.

3 MR. KOZLOWSKI: And then, 70 would not be  
4 technically feasible?

5 MR. GIRDLER: I can not imagine, again. I am  
6 speaking as a semi-expert witness. I've talked to the  
7 people at R&D. I've been to the factories here and abroad.  
8 I would not want to say it can't be done. I have no degree  
9 in engineering. I don't think it can be done. That's my  
10 opinion.

11 MR. KOZLOWSKI: And once again, you focus on a  
12 major problem that we've all talked about this morning, and  
13 we've talked about a couple of years now, and that is that  
14 even if you get the bikes quiet, do they stay quiet in the  
15 field? You seem to think that the police could, and maybe  
16 are already, keeping bikes fairly quiet.

17 Well, our experience has been contrary, and I  
18 think at least one the witnesses, this morning, would have  
19 said otherwise. How do we bridge that gap? Let's assume  
20 that we come up with a quiet bike, where our after-market  
21 regulations are in effect, what we are looking for, how do  
22 we get the job done?

23 MR. GIRDLER: I should specify a couple of things  
24 here. The police are not -- -- I have a kid who lives up  
25 the street from me. He's been going to school with my kid  
26 since the second grade, a nice kid, good grades, you know,

1 works hard in school, works down at the corner store after  
2 school. He goes by the house the other night and I said,  
3 "I'm going to break your neck, Ronnie. I know when you get  
4 off work," because he's put an exhaust pipe, he's put an  
5 after-market pipe on this little bike he's got, and I said,  
6 "I can hear you coming down Main Street, turning the corner,  
7 and shifting down and going up the hill, and I hope they  
8 write you up," and he says, "Yes, it's a funny thing, you  
9 know. The Sheriff did stop me the other night and he said,  
10 'Kind of a loud bike, Ronnie. You ought to do something  
11 about that,' and I said, 'Are you gonna?', and he said,  
12 'Oh, I don't know,' and he went home, and I saw him the  
13 other day, we were down jogging on the creek, and he comes  
14 whipping by, you know, and waves at me, and I shook my fist  
15 at him, because he hadn't quieted it down."

16           You have a terrible problem in the enforcement  
17 thing in the sense of, who does this, who is being enforced?  
18 There are tickets given out. Most of the time these things  
19 are not enforced. If anything, I would say -- --

20           Well, let me break this in half a little bit.  
21 First of all, the police departments do not spend a lot of  
22 time enforcing the noise regulations. One of my sons had  
23 my dual purpose bike out, and I had not told him that I was  
24 working on the wiring and the lights weren't working, and  
25 he was given a ticket for that, but no one noticed, you know,  
26 whether or not the exhausts had been -- anything had been

1 done to it. They don't worry about this.

2 Most of the time, the motorcycle rider who is  
3 fairly intelligent, behaves himself. Generally, he is not  
4 going to get written up because the police have better  
5 things to do. They are running a radar, let's say. So,  
6 there is not a whole lot of effort for the average motorcycle  
7 enforcement thing.

8 The next thing is, there are an awful lot of  
9 people, motorcycle enthusiasts, who are concerned with this,  
10 who do look out for keeping the motorcycle quiet, who do  
11 not modify. I think, in fact -- I know the figures that  
12 you gentlemen have supplied -- good studying is being done  
13 in the sense of, at the same time, if the -- if something  
14 is like 25 to 12 per cent of motorcycles are modified, well  
15 this means that 75, to 85 per cent, or something, of the  
16 owners, do not modify the bikes.

17 Long before the EPA began doing this, you know,  
18 the motorcycle organizing bodies, and the press, and  
19 everyone, has a little thing that says, you know, "Less  
20 sound, more ground." I'd like to think that most of the  
21 bike people are concerned with the problem, and do not  
22 modify, or take some steps to be nice and quiet.

23 In fact, we're going tomorrow -- the Bureau of  
24 Land Management -- as kind of a joint ride across the desert  
25 looking at some petroglyphs, and things like that, and I  
26 think that the word is out, bring your quiet bikes, guys,

1 let's let the BLM know that we're not out there, you know,  
2 to ravage the desert, and rip things up, and make a lot of  
3 noise, and disturb other people. I'd like to think that's  
4 the majority view.

5 Let me get back to Carlsbad again, on the other  
6 view. The County of San Diego, or the people in San Diego,  
7 were offered some sites for an off-road motorcycle park,  
8 and they would not do it. They are not going to supply.  
9 This was just within the last couple of weeks. They are  
10 not going to take an area of compatible, that could be  
11 compatible, and let these kids go out and ride. At this  
12 stage, here you have, let's say, a 15, a 16, whatever, a  
13 kid who has a motorcycle, and there's no place within 50,  
14 60, I don't know how far, from his home, that he can  
15 legally ride this motorcycle, so to tell him he ought to  
16 have a legal muffler while he's breaking the trespass laws,  
17 is a little silly. If they are going to have him down in  
18 Juvenile Hall anyway if they catch him, he might as well  
19 have the loud exhaust as not.

20 MR. KOZLOWSKI: You did mention one good  
21 enforcement scheme. We hadn't thought about breaking  
22 Ronnie's neck. I'm not sure we can get into that.  
23 (Laughter)

24 MR. GIRDLER: I think, probably, that's a local  
25 problem the EPA is not allowed to interfere with.

26 MR. KOZLOWSKI: Thank you.

1 MR. PETROLATI: It seems like one of your major  
2 concerns is to keep the after-market industry in the picture,  
3 as far as the replacement exhaust manufacturers are  
4 concerned?

5 MR. GIRDLER: Yes.

6 MR. PETROLATI: All right. Is it your concern  
7 that these standards are going to force the after-market  
8 industry out of the picture? And, if so, which standards  
9 are you talking about, the ones all the way down to 78?  
10 Do you think they will be able to comply with the 80 and  
11 the 83 dB standards?

12 MR. GIRDLER: This is something I think you will  
13 probably have to get a really good answer later on. Frankly,  
14 I had not separated this. It is a certification program, as  
15 you know, but the manufacturer has to do this so that, I  
16 suppose if it costs X-dollars to certify the replacement  
17 muffler for the Honda 750 at 83, or 80, or whatever, the  
18 certification is going to be all the same cost. It's going  
19 to cost as much to hire the sound lab and do whatever it is  
20 it takes to do. So, I suppose there isn't much difference  
21 in that sense.

22 Now, the actual how much it costs to develop  
23 these mufflers, and how much it costs to make, let's say,  
24 a 78 dB muffler versus an 80 dB muffler, I'm sorry, you'll  
25 have to ask someone who builds mufflers. I don't know.

26 MR. PETROLATI: Okay.

1 CHAIRMAN THOMAS: Mr. Girdler, do you have a  
2 fairly good relationship, or at least know your local  
3 distributors and dealers of motorcycles -- motorcycle  
4 dealers -- in, say, your hometown area where you live?

5 MR. GIRDLER: Yes; yes. I own two motorcycles.  
6 My youngest son has one. And, I buy a lot of parts.

7 CHAIRMAN THOMAS: Does he sell off-road bikes?

8 MR. GIRDLER: Yes.

9 CHAIRMAN THOMAS: Does he give any indication to  
10 a prospective purchaser as to what the local ordinances are,  
11 or where they can ride these bikes, or where they can't  
12 ride them, to your knowledge?

13 MR. GIRDLER: As far as I know, they do. I've  
14 overheard sales pitches being given. Now, how complete it  
15 is, how comprehensive it is, I don't know. I don't even  
16 know if the advice is taken. But yes, they do make an  
17 attempt. In fact, you get to apply for the green sticker,  
18 for example, on a public road -- a public land off-road  
19 bike -- right there, when I bought two bikes for my two  
20 oldest kids. You can apply. They were there ready to give  
21 you the advice, and hand you the pamphlet, and help you  
22 register; the same way a car dealer will help you get your  
23 car tag, these guys will help you get your green sticker  
24 for off-road use.

25 CHAIRMAN THOMAS: True.

26 MR. EDWARDS: In these regulations, we're trying

1 to make a distinction between competition motorcycles and  
2 general purpose off-road motorcycles, and one of the things  
3 we are trying to find out is whether this is going to be a  
4 workable system because we have had problems in the past  
5 that people use moto-cross motorcycles in the off-road areas;  
6 and I was wondering if you could reflect on your local  
7 dealer, is he selling lots of moto-cross bikes that you  
8 know darn well are being used out behind Carlsbad -- behind  
9 Mr. Higgins' home -- or are these being used in competition  
10 events?

11 MR. GIRDLER: I would have to give you an answer  
12 half way between the two. The moto-cross bikes that I know  
13 of, very few of the hobby-play-ride off-road people in the  
14 immediate areas buy these motorcycles. I can not recall in  
15 my -- in a semi-residential area -- seeing a genuine mini,  
16 genuine racing bikes.

17 Now, you get out into the desert, where again,  
18 the California law -- if you are required to have a spark  
19 arrester, for example, and a certified silencer -- there  
20 are an awful lot of moto-cross bikes out there, I'm sorry  
21 to say. This is play-riding.

22 The license sanctioning bodies, for example, that  
23 have the desert races, which are, you know -- require  
24 certain things, and the enduros -- do make an effort to  
25 enforce this sort of thing; but an awful lot of guys buy  
26 the race bike and take it out into the desert and just go

1 whipping around on it.

2 MR. EDWARDS: You've given us your views on the  
3 street motorcycle standards. Do you also have views on the  
4 proposed off-road standards, particularly for the larger  
5 bikes, which goes down to 82 decibels, but which is not  
6 quite as quiet as a street, but yet . . .

7 MR. GIRDLER: I must say, I'm glad you make  
8 that distinction. I think whoever did this research knows  
9 his stuff.

10 I think the 82 is achievable. In lots of ways,  
11 the off-road bike is worse, in the sense that -- again, we  
12 mentioned earlier, on the traffic stream, this sort of  
13 thing -- you have to pick the motorcycle, sometimes, out of  
14 the traffic stream, in terms of noise, but if you can't,  
15 you know, if you are a rock hound, or fisherman, or  
16 something like that, you don't have to work very hard to  
17 identify the motorcycle out in the mountains and on the  
18 trail.

19 I think the standards are needed. I think the  
20 82 -- I think it can be done. There is one manufacturer  
21 now who is putting out a powerful middle-sized enduro bike,  
22 which is a public land sort of bike, and they say they're  
23 getting 82. I think it can be done. I think that even  
24 the two stroke, which is an unpleasant sound to the human  
25 ear, incidentally, can be.

26 82 is, I think -- I think -- a workable thing.



1 MR. EDWARDS: We have had it alleged before that  
2 these standards, when you get products down so low, either  
3 because you want to hear the sound, or you want to restore  
4 what you perceive to be lost power, this is an incentive to  
5 modify your product -- and I guess we're going backwards  
6 here -- I was wondering if you could comment. I think you  
7 have spoken on that before, so if you could comment.

8 MR. GIRDLER: Oh, dear! The sound, the tone, is  
9 a part of motorcycling. There's no question about it. Now,  
10 part of this may be -- may be -- what we're accustomed to,  
11 you know, the older generation, this sort of thing. I know  
12 what a motorcycle sounds like. It sounds like a Harley-  
13 Davidson.

14 My children don't see this. They wonder any time  
15 I say something like this. They don't get it.

16 So, while the sound is part of motorcycling, I  
17 am not equipped to say how much of that sound -- I happened  
18 to ride up here today on a motorcycle that makes mechanical  
19 noise and no sound at all. I enjoyed myself. It has no  
20 character. It has no music. It has no tone. It sort of  
21 just goes wuff, wuff, wuff, wuff, you know, and it didn't  
22 bother me that much. I don't think it's going to be that  
23 bad a thing.

24 MR. EDWARDS: I have one last question for you:  
25 We had alleged, this morning, that perhaps some motorcyclists  
26 have two different exhaust systems for their motorcycles as

1 a way of getting their compliance certificate. As one  
2 experienced with the motorcycle world, is this a common  
3 practice?

4 MR. GIRDLER: I don't think it is a "common"  
5 practice. In other words, I don't think that out of this  
6 percentage of modified motorcycles that are out there, a  
7 large number of them are prepared to do a quick change act,  
8 and go whipping between -- you know, bothering the neighbors,  
9 and fooling the DMV. I don't see it that way.

10 It would not surprise me if there were guys who,  
11 let's say, had taken off the stock system and put on a loud  
12 one, and had the stock one in back of the barn. I have  
13 one sitting in my garage. I've got an ignition coil for a  
14 car that I sold in '64, you know. So that people save things,  
15 and if the guy was written up for it, and he said, "Got 'em,"  
16 and put the stock back, I can see that happening, but I  
17 don't think it would be a great conscious sport-wide  
18 practice.

19 MR. EDWARDS: Mr. Girdler, thank you very much.

20 CHAIRMAN THOMAS. You have been very helpful,  
21 Mr. Girdler. Thank you.

22 Mr. Alan Isley, please, of the Motorcycle  
23 Industry Council.

24 ALAN ISLEY

25 My name is Alan Isley. I am the President of the  
26 Motorcycle Industry Council, a national non-profit trade

1 association representing motorcycle manufacturers,  
2 distributors, and businesses allied to the motorcycle  
3 industry.

4 At today's hearing, I am specifically representing  
5 the views of our nineteen members who manufacture and  
6 distribute approximately ninety per cent of the motorcycles  
7 sold in the United States, and thirteen members who  
8 manufacture and distribute approximately seventy-five per  
9 cent of the motorcycle replacement exhaust systems sold in  
10 the U.S.

11 The MIC, and its member companies, have long  
12 recognized the public concern over excessive motorcycle  
13 noise, and the industry, long before EPA involvement, has  
14 reduced new motorcycle noise levels significantly.

15 We support the concept of uniform national  
16 noise regulations if they are based on a demonstrated need,  
17 are consistent with the principles of acoustics, are within  
18 the limits of attainable technology at a reasonable cost,  
19 and will solve the motorcycle noise problem for the public.

20 As you conduct these public hearings to demonstrate  
21 the need for motorcycle noise controls, I would encourage  
22 the hearing officer to solicit meaningful public comment  
23 that can be put to use by the EPA, and the industry, to  
24 reduce noise impacts.

25 Merely recording one hundred or one thousand  
26 generalized statements about "noisy motorcycles," some

1 generated by erroneous EPA publications, holding the  
2 hearings in noted retirement communities, or promoting  
3 inflammatory newspaper articles, will not advance our mutual  
4 efforts to silence excessively noisy motorcycles.

5 In the Notice of Proposed Rulemaking, you have  
6 segregated the motorcycle noise problem into on-road and  
7 off-road elements, and recognized the differing impacts of  
8 stock motorcycles and owner-modified motorcycles.

9 We feel the public comment phase of the rule  
10 making can be most productive if specific comments are  
11 solicited about the exact nature of motorcycle noise  
12 impacts on the communities represented.

13 We would encourage the hearing panel to make  
14 every effort to define, with precision, the problems to  
15 be resolved; and, Mr. Thomas, I would like to compliment  
16 you. I believe, in this morning's testimony, you have  
17 followed this pattern.

18 MIC research, previously supplied to EPA's  
19 Office of Noise Abatement and Control -- and indeed, EPA's  
20 independent analysis -- indicates that the vast majority of  
21 individual motorcycle noise impacts on the public are  
22 caused by owner modifications of originally quiet motorcycles  
23 or quiet replacement exhaust systems.

24 Yet, the regulations we are commenting on today  
25 are totally out of balance with that documented fact, and  
26 address technically difficult and extremely costly noise

1 reductions in new motorcycles, motorcycles which are already  
2 relatively quiet compared to the exhaust-modified motorcycles  
3 which are the reasons for the regulations in the first place.

4 We would strongly urge the EPA to adopt a more  
5 balanced approach which would address both the user operation  
6 aspects of the problem, as well as certification of new  
7 products.

8 The motorcycle industry strongly objects to  
9 passing on costs amounting to hundreds of millions of  
10 dollars to all motorcycle purchasers, thereby increasing  
11 inflation and decreasing the use of these energy efficient  
12 vehicles, unless appropriate measures are insured to prevent  
13 the small minority of irresponsible users from perpetuating  
14 the exhaust-modified motorcycle noise problem.

15 In our opinion, the EPA should commit large  
16 staff and financial resources to the task of assisting  
17 community in-use enforcement activities prior to causing  
18 large cost burdens on the responsible quiet-riding  
19 purchasers of all new motorcycles, and quiet replacement  
20 exhaust systems.

21 The EPA proposal contains an inappropriate  
22 emphasis on technical compliance detail at the manufacturing  
23 level, while virtually ignoring the sociological aspects of  
24 owner behavior and lack of community enforcement activities.

25 The proposal is, in our opinion, a perfect  
26 example of a regulation and enforcement policy that adds

1 significantly to the cost of production, but does not achieve  
2 major environmental benefits, a subject about which Mr.  
3 Robert S. Strauss, President Carter's special counsel on  
4 inflation, discussed recently with EPA's administrator.

5 For the sake of brevity, I will summarize, today,  
6 several of the issues which will be addressed more  
7 comprehensively in a written submission prior to June 16th.

8 To the subject of "The Selected Regulatory Levels  
9 for Street Motorcycles," because the standards are on a  
10 "not to exceed" basis, requiring 2 to 3 decibels lower  
11 design targets, reductions beyond the 83 dB(A) level will  
12 be difficult, if not impossible, for smaller manufacturers  
13 of both motorcycles and replacement exhaust systems to  
14 achieve.

15 Because the test procedure measures motorcycle  
16 noise under the extreme stress conditions of maximum  
17 acceleration, and normal operation produces significantly  
18 lower noise emissions, we believe that the 83 dB(A) level  
19 is sufficiently quiet to eliminate noise impacts from new  
20 untampered exhaust systems.

21 We do not believe there is a demonstrated need  
22 for maximum acceleration sound levels below 83 dB(A) at  
23 fifty feet. Reductions below that level impose increasingly  
24 burdensome costs on the consumer, without significantly  
25 reducing noise impacts on the public.

26 A reduction in maximum noise potential

1 from 83 dB(A) to 80 dB(A) is barely audible to the human ear,  
2 yet carries a significant cost burden -- four per cent of  
3 the price of the motorcycle; fifty per cent of the price of  
4 a replacement exhaust system. During normal operation, the  
5 difference in noise level would not be perceptible.

6 The lowering of a motorcycle's maximum noise  
7 potential from 80 dB(A) to 78 dB(A) is a grossly expensive  
8 technical exercise, adding an estimated ten per cent to the  
9 price of every street motorcycle, and over-doubling the  
10 price of replacement exhaust systems. Yet, the 2 dB(A)  
11 reduction would not be audible to the human ear either in  
12 the maximum acceleration test mode, nor in normal operation.

13 Additionally, forcing technology that may  
14 drastically affect the drivability or performance capability  
15 in traffic may create safety hazards.

16 Inappropriate noise reductions may actually be  
17 counterproductive to community noise reductions if owners  
18 are tempted to regain drivability and performance by  
19 illegally modifying the certified exhaust system.

20 We would suggest EPA specify only the 83 dB(A)  
21 level until such time as in-field enforcement activity is  
22 able to prevent owner modifications above that level.

23 On the subject of "The Selected Regulatory Levels  
24 for Off-Road Motorcycles," there is no technical nor  
25 operational justification for arbitrarily segmenting off-  
26 road motorcycles into displacement categories above and

1 below 170 cubic centimeters.

2 Weight and performance penalties associated with  
3 the reduction of any sized off-road motorcycle below 86 dB(A)  
4 will encourage owners to modify their exhaust system to try  
5 to retain the perceived loss of performance.

6 Cost penalties associated with replacement  
7 exhaust systems certified below 86 dB(A) will encourage  
8 owners to simply remove baffles, or entire mufflers, at  
9 resultant noise increases of 20 to 30 dB(A).

10 By trying to force technology a few dB(A), EPA  
11 will predictably be grossly increasing noise levels in the  
12 most difficult to enforce areas of owner use, the off-road  
13 environment.

14 We suggest an alternative noise measurement  
15 method to simplify certification, and enforcement activities,  
16 at a level equivalent to 86 dB(A).

17 The level for off-road motorcycles should be  
18 set at 105 dB(A), using a twenty-inch stationary test  
19 method for both certification and enforcement; and before  
20 anyone in the audience relates 105 dB(A) to the numbers  
21 we've been talking about so far, we're talking about a  
22 measurement now only twenty-inches from the exhaust pipe,  
23 and not fifty-feet from the exhaust pipe, as the other  
24 levels that we have discussed previously.

25 Therefore, in our opinion, 105 dB(A) at twenty-  
26 inches is the equivalent of 86 dB(A) at fifty-feet.



1           There is no relationship between the noise  
2 propagation characteristics, or use patterns, in the off-  
3 road environment, and the acceleration test procedure  
4 selected by EPA.

5           In addition, safety hazards exist in maximum  
6 acceleration tests of off-road motorcycles with specialized  
7 tire tread patterns on concrete or sealed asphalt surfaces,  
8 as required in the proposed EPA test method.

9           Greater consideration needs to be given to the  
10 cost and logistical burdens placed on the replacement  
11 exhaust system after-market manufacturers due to the  
12 proposed certification testing and administration requirements.

13           As we suggested for off-road motorcycle  
14 certification, a twenty-inch stationary test method is  
15 suggested for replacement exhaust system certification and  
16 enforcement, with regulatory levels of 100 dB(A) for  
17 street, and 105 dB(A) for off-road, replacement exhaust  
18 systems.

19           This method of regulation would significantly  
20 reduce the testing burden on the after-market manufacturers,  
21 reduce personal injury liability associated with acceleration  
22 tests, make loan motorcycles more readily available for  
23 testing, and eliminate the jeopardy involved in EPA's  
24 proposal of certifying by the acceleration test method and  
25 possibly failing an inspection by the stationary method.

26           As to "Lead Time," if future reductions below

1 general technological capabilities are adopted, the lead  
2 time should give recognition to the smaller motorcycle  
3 manufacturers and the independent after-market manufacturers  
4 so as not to create unfair competitive advantages to  
5 companies which already dominate the marketplace.

6 Research and design facilities, sophisticated  
7 instrumentation, and highly trained engineers, are not  
8 widely available in the vast majority of companies being  
9 affected by this regulation.

10 Regarding the "Acoustical Assurance Period,"  
11 requiring the calculation of a Sound Level Degradation  
12 Factor over a period of one year, or three thousand or six  
13 thousand kilometers, is an unacceptable burden requiring  
14 either an extra year of testing, or undefined guesswork  
15 on the part of the manufacturer, with severe penalties for  
16 noncompliance. The practical aspects of this part of the  
17 regulation have not been adequately considered by EPA.

18 As to "Universal Mufflers," the individual model  
19 testing and labeling requirements for replacement mufflers  
20 effectively prevents the sale of a muffler which fits many  
21 models, yet such a muffler is desirable when specific  
22 mufflers are no longer available to replace deteriorated  
23 mufflers on small volume motorcycles.

24 An appropriate labeling provision for universal  
25 mufflers with submissions of a representative sample of  
26 tests, or "worst case" model selection by EPA, would seem

1 to be a desirable alternative to unavailability of replacement  
2 mufflers for obsolete or small volume motorcycles.

3 As to "Labeling," the model, and model year  
4 designation, on replacement exhaust system labels creates  
5 an arbitrary obsolescence of that product, even though  
6 compatability and sound level may remain within acceptable  
7 limits on additional models for future model years.

8 Labeling of replacement exhaust systems with  
9 model designations of their own, and specifying certification  
10 compliance by written submission to EPA, would eliminate  
11 costly stock obsolescent or inefficient, and possibly  
12 inaccurate, relabeling of inventories.

13 Excessively wordy labeling copy, combined with  
14 manufacturer, model, and model year information, on  
15 replacement systems that are certified for multiple models,  
16 exceed a practical and aesthetic threshold of consumer  
17 acceptability on a product as small and dependent on  
18 attractive styling as a motorcycle exhaust system.

19 Labeling of exhaust systems intended for  
20 unregulated motorcycles should not be required until the  
21 effective date of the initial noise emission standard.  
22 Without such an effective date specified, labeling on  
23 exhaust systems for pre-1980 motorcycles would presumably  
24 have to be accomplished immediately upon promulgation of  
25 the final rule.

26 As to EPA's "Market Projections," the EPA

1 projected two million new motorcycle unit sales annually,  
2 from 1986 to 1990, in the absence of federal noise  
3 regulations. Based on wholesale unit data from 1973 to  
4 1975, the EPA projected annual increases of 14.9% and 14.0%  
5 for 1976 and 1977 retail sales, respectively. Based on  
6 actual 1976 and 1977 data, substantiall smaller increases  
7 of 11.8% in 1976, and only 2.9% in 1977, were achieved.

8 For projections beyond 1977, the EPA failed to  
9 consider the economic and technological burdens on  
10 manufacturers in order to comply with future federal noise  
11 and exhaust emission regulations, which are expected to  
12 severely retard the future growth of the industry.

13 The MIC feels that the EPA has overstated the  
14 future potential growth rate of the market for new  
15 motorcycles, and projects a gradual growth of motorcycle  
16 sales to 1.3 million in 1981, with no further growth  
17 expected throughout the 1980's should the NPRM be adopted.

18 As to the "Racing of Certified Motorcycles,"  
19 the label on competition replacement exhaust systems should  
20 be reworded to allow installation on a certified street or  
21 off-road motorcycle so long as that motorcycle is operated  
22 in a closed course competition event, not necessarily  
23 originally manufactured for closed course competition  
24 events.

25 As to "Spark Arresters," spark arresters sold  
26 separately should not be subject to certification as their

1 function is not noise related, and is outside the authority  
2 of EPA.

3 As to some "Legal Reservations," as this hearing  
4 panel is aware, various legal questions involving the  
5 authority of EPA under the Noise Control Act of 1972 have  
6 been raised in the Case of Chrysler Corporation et al versus  
7 EPA, Number 76-1569, in the District of Columbia Circuit  
8 Court of Appeals. We do not think it is necessary to  
9 reiterate those issues today.

10 We wish for the record, however, to incorporate,  
11 by reference, on behalf of all MIC manufacturing members,  
12 the legal arguments set forth in the briefs filed with the  
13 Court in the Chrysler Corporation suit.

14 In addition to the legal arguments raised in the  
15 Chrysler Corporation suit, EPA also filed amendments to  
16 the truck noise regulations on December 5, 1977. These  
17 amendments resulted from the Chrysler litigation, and were  
18 designed to clarify and better define EPA's regulatory  
19 authority under the Noise Control Act of 1972.

20 Our initial review of the proposed motorcycle  
21 noise regulations indicates that not all of the amendments  
22 agreed to for the truck manufacturers have been carried  
23 over into the proposed motorcycle noise regulations. We  
24 would, therefore, request that all clarifying amendments  
25 set forth in the December 5, 1977, Federal Register notice  
26 of EPA, be incorporated into any future motorcycle noise

1 regulations.

2 We will, of course, identify the specific  
3 regulations we are referring to in our written comments,  
4 which will be submitted at a later date.

5 In summary, we believe the EPA has exceeded the  
6 level of motorcycle noise emission standards "requisite  
7 to protect the public health and welfare, taking into  
8 account the magnitude and conditions of use of such  
9 products, and the cost of compliance."

10 We agree with the following EPA statements,  
11 taken from their Federal Register notice:

12 "Much of the current impact from  
13 motorcycles comes from owner-modified  
14 motorcycles."

15 "When operated in a stream of traffic  
16 dominated by other vehicles, new unmodified  
17 motorcycles do not, at this time, contribute  
18 greatly to overall traffic noise impact."

19 "Since motorcycles account for less  
20 than two per cent of total vehicular  
21 traffic mileage, reductions to overall  
22 traffic noise levels and equivalent numbers  
23 of people impacted due to Federal  
24 motorcycle noise regulations are expected  
25 to be relatively small."

26 "At regulatory levels below 80 dB(A),

1 such penalties, as increased weight and  
2 increased engine backpressure, may be  
3 expected to have some appreciable impact  
4 on vehicle performance characteristics."

5 "Excessive performance penalties  
6 are associated with the level chosen.  
7 This could increase the tendency of users  
8 either to modify their off-road motorcycles,  
9 or abuse the intended distinction between  
10 genuine competition and non-competition  
11 motorcycles by using uncontrolled  
12 competition off-road motorcycles for  
13 recreational trail riding."

14 "Although the removal of baffles  
15 from a Federally regulated motorcycle  
16 exhaust system would constitute a  
17 tampering violation of Federal law under  
18 the provisions of the Noise Control Act,  
19 this is and can be expected to remain a  
20 major noise problem."

21 "Very few current models are  
22 predicted to be able to meet the 78 dB(A)  
23 requirement without substantial treatment  
24 to all three major noise subsources,  
25 those being exhaust, intake and engine  
26 mechanical noise."

1                   "The Agency is aware that the  
2                   substantial redesign of current street  
3                   motorcycles necessitated by the 78 dB(A)  
4                   standard will make it difficult for  
5                   smaller manufacturers to remain in the  
6                   U. S. market."

7                   "Although smaller firms may have  
8                   fewer models requiring noise control  
9                   treatments to be made, several such firms  
10                  may nevertheless experience difficulty  
11                  in complying with the standards under  
12                  the proposed schedule of effective dates."

13                  "Smaller manufacturers, which often  
14                  rely on superior performance for marketing  
15                  advantages, however, are expected to  
16                  experience difficulty in maintaining their  
17                  present positions at the proposed levels,  
18                  due to the considerable impacts to the  
19                  capabilities of current models. The 82  
20                  dB(A) regulatory level for large off-  
21                  road motorcycles is considered to be  
22                  technically achievable for almost all  
23                  current manufacturers without requiring  
24                  conversion to four-stroke engines.  
25                  However, the performance and cost impacts  
26                  of this level may make it unprofitable



1 for some of these firms to remain in the  
2 U. S. market.

3 "However, it is questionable  
4 whether Bombardier, or many of the European  
5 manufacturers, would continue exporting  
6 street motorcycles to the United States  
7 with the establishment of a 78 dB(A)  
8 standard."

9 "As with other smaller manufacturers,  
10 the timing of the proposed standards may  
11 be a significant factor in Harley-  
12 Davidson's ability to manufacture motorcycles  
13 at the proposed regulatory level."

14 "The proposed regulations are expected  
15 to have a very substantial impact on the  
16 replacement exhaust system industry. Of  
17 the more than one hundred firms currently  
18 in the market, most are small, low volume  
19 enterprises, devoted exclusively to  
20 manufacturing motorcycle exhaust systems,  
21 with little or no capability for innovative  
22 product design or development. Such firms  
23 are not expected to be able to manufacture  
24 exhaust systems for regulated motorcycles  
25 which comply with these regulations."

26 "If demand reduction forecasts

1 based on historical relationships are  
2 applicable, eventual reductions in  
3 current U. S. motorcycle industry  
4 employment resulting from the proposed  
5 Federal noise standards could range  
6 between three thousand and five thousand  
7 positions from future levels in the  
8 absence of noise regulations."

9 Gentlemen, I submit that the regulatory levels  
10 and test methods that I have suggested, when coupled with  
11 strong EPA leadership in community noise enforcement, will  
12 protect the public health and welfare without the severe  
13 inflationary costs, unemployment increases, and disruption  
14 to the domestic market that accompany your proposal.

15 We strongly urge the EPA to adopt these, and the  
16 other provisions of MIC's Model Motorcycle Noise Control  
17 Program, which was provided to you in January of 1977.

18 Thank you for this opportunity to comment, and  
19 I'll be pleased to answer any questions. I would particularly  
20 like to answer a couple of questions that were brought up  
21 about the California legislation with respect to motorcycles.  
22 I was personally involved in those bills, and in the  
23 legislative process, under which California's legislation  
24 was developed.

25 First of all, to correct the record, California  
26 accounts for some eleven per cent of motorcycle registrations.

1 not fifty per cent.

2 We did support the California legislation that  
3 was passed in 1976. However, we did it only with the  
4 confidence that EPA was moving on a predictable pattern of  
5 passing preemptory regulations, at that time. We did not  
6 agree with the legislative levels which California passed.

7 The legislative process is one of compromise,  
8 not necessarily fact. Therefore, we compromised on the  
9 long term level in order to stay in business until EPA  
10 could preempt the California legislation.

11 The Legislature, if they would like to -- if  
12 you would like to trace its history, developed these  
13 standards originally with a panel that was convened in 1969,  
14 which was given ninety days to come up with regulatory  
15 levels for all motor vehicles in California, and that panel  
16 did not include one person who was knowledgeable about  
17 motorcycle technology.

18 (Inaudible comment from audience.)

19 CHAIRMAN THOMAS: Got any more rebuttals you  
20 want me to throw out there? (Laughter)

21 Thank you, Mr. Isely, for a very comprehensive  
22 statement. We are always pleased to see proposals made to  
23 us, as you have done here. You certainly have indicated  
24 several items which we will have to reconsider in the  
25 regulations on a technical basis.

26 I have several questions that I'd like to pose to

1 you, as one of the major representatives of the motorcycle  
2 industry. Let me first turn to my enforcement colleagues.  
3 I know they have several.

4 MR. KOZLOWSKI: Yes. Mr. Isely, I guess that  
5 the sum thrust of your argument for the adoption of  
6 standards by EPA, to me, rather than ask questions and jump  
7 to conclusions, is that you want EPA to preempt the state  
8 and locals from adopting noise standards.

9 As I understand, the current level of motorcycles  
10 is around the 83 level right now for street bikes, give or  
11 take. It's a rough mean.

12 MR. ISELY: That's right.

13 MR. KOZLOWSKI: And your suggestion that we go  
14 to an 83 standard merely codifies the current levels of  
15 bikes on the street now, and effectively preempts any state  
16 or local from coming up with any more restrictive regulations?

17 MR. ISELY: Yes. We prefer a single, uniform,  
18 national regulation, because of the manufacturing  
19 consequences of a vehicle like motorcycles. We do not feel  
20 that a special motorcycle for the State of California, or  
21 Florida, or Oregon, would be economically justifiable.  
22 Therefore, we would like noise rules to be uniform  
23 throughout the United States.

24 MR. KOZLOWSKI: Yes, but you'd like it to be  
25 uniform at no cost to the industry at the current level,  
26 no change at all, is what you're suggesting.

1 MR. ISELY: No, I would suggest that, if the  
2 noise level of new motorcycles are identified appropriately  
3 to be the cause of motorcycle noise complaints to society,  
4 the industry would achieve, too, to drop the noise. The  
5 industry has, themselves, dropped noise levels from a quite  
6 common 92 or 93 dB(A) in the late 1960's to the current 83  
7 dB(A) level.

8 What we are saying is, further reductions beyond  
9 83 dB(A) seem to be inappropriate until either enforcement  
10 activity or some kind of regulation which stopped owners  
11 from modifying their motorcycles back up to unregulated  
12 levels.

13 In other words, we are getting the cart before  
14 the horse. We are penalizing industry and consumers  
15 cost-wise before we are addressing the major cause.

16 MR. KOZLOWSKI: But, if new bikes are not a  
17 source of noise, then the Feds oughtn't to be involved in  
18 regulating new bikes under the Noise Control Act. We should  
19 only be in there, I would argue, if there's going to be  
20 some health and welfare benefit to the public, and not as  
21 a mechanism to provide protection for the industry on a  
22 national basis from people and local areas who perceive  
23 themselves to have a particular local problem.

24 MR. ISELY: No, I would submit that there are  
25 some forty states right now that do not have new motorcycle  
26 noise levels, and the Federal Government would be moving to

1 protect those people to the same level that certain states  
2 have initiated on their own.

3 MR. KOZLOWSKI: But there's no protection,  
4 because the bikes in those areas are in the range of 80 to  
5 83. Well, okay, without debating.

6 MR. ISLEY: Yes, as an industry voluntary  
7 compliance feature.

8 MR. KOZLOWSKI: What kind of performance penalties  
9 would you anticipate would be experienced as we went from  
10 an 83 standard down to an 80 standard for street bikes?

11 MR. ISLEY: "Performance" meaning in terms of  
12 horsepower loss . . .

13 MR. KOZLOWSKI: That's right.

14 MR. ISLEY: . . . and acceleration, ostensibly?

15 MR. KOZLOWSKI: Yes.

16 MR. ISLEY: I don't have that knowledge,  
17 personally. I think it would be more appropriate to talk to  
18 a manufacturer who has been testing in that area.

19 MR. KOZLOWSKI: But you did indicate that the  
20 change in standards would incur performance penalties, so  
21 you are knowledgeable there is some, but you don't know  
22 what it is?

23 MR. ISLEY: That's right.

24 MR. KOZLOWSKI: And I guess the same thing when  
25 you go from 86 to 82 on a road bike? You would have the  
26 same problem?

1 MR. ISLEY: This information, by the way, is  
2 covered in your independent research also.

3 MR. KOZLOWSKI: I understand. I was asking for  
4 your perspective too.

5 Why won't bikes last at the noise level for a  
6 year?

7 MR. ISLEY: I didn't say that they wouldn't  
8 last for a year.

9 MR. KOZLOWSKI: Then why shouldn't there be an  
10 Acoustical Assurance Period for one year?

11 MR. ISLEY: Well, I'm saying, the Acoustical  
12 Assurance Period does not provide a technically defensible  
13 method for a manufacturer to respond to any enforcement  
14 action. He either has to test it for a year and find out  
15 what the degradation factor is, or he has to involve what  
16 you call "engineering judgment," and I'm saying, this is an  
17 unfair penalty to place upon a relatively unsophisticated  
18 manufacturer to just say, "Well, I think it will last a  
19 year, and that's my engineering judgment."

20 MR. KOZLOWSKI: But you do think they will last  
21 a year?

22 MR. ISLEY: Do I think? I don't . . .

23 MR. KOZLOWSKI: Well, does the industry think,  
24 and you, as their representative?

25 MR. ISLEY: I don't think any testing has been  
26 done on Acoustical Assurance or sound level degradation.

1 It was a surprise in your regulations.

2 MR. KOZLOWSKI: So you are saying that you don't  
3 know what the noise levels of the bikes will be over a  
4 period of a year?

5 MR. ISLEY: That's right. But you are saying,  
6 you would have the authority to stop a person then from  
7 selling his products if his engineering judgment differs  
8 from your engineering judgment. I don't think that's an  
9 equitable way to enforce a regulation.

10 MR. KOZLOWSKI: That's not what the regulations  
11 say.

12 You raised a good point on universal mufflers,  
13 and you said you would give us more specifics on it later.  
14 Would you give us more specifics on how we can regulate  
15 universal mufflers consistent with the philosophy in our  
16 enforcement scheme, but without requiring it be tested on  
17 every bike?

18 MR. ISLEY: Certainly. We gave this to your  
19 Office of Noise Abatement Control a year and four months  
20 ago as part of our noise control program.

21 MR. KOZLOWSKI: That's all. Thank you.

22 MR. PETROLATI: Okay. You've got cost information  
23 supplied here on different regulatory levels, and how they  
24 would affect prices of replacement exhaust systems.

25 MR. ISLEY: I used the cost information that was  
26 in your document. I did not develop new cost information.



1 MR. PETROLATI: Okay. Have your members, your  
2 replacement exhaust manufacturer members, commented on  
3 those price increases as to whether they are adequate and  
4 reasonable to their industry?

5 MR. ISLEY: To my knowledge, several of the  
6 after-market exhaust manufacturers will be commenting at  
7 these hearings, or providing written comments. They were  
8 not willing to share this cost information with their trade  
9 association, so this will be independent submissions.

10 MR. PETROLATI: Okay. One question -- I guess  
11 it's a misunderstanding on my part -- what you propose for  
12 the replacement exhaust system certification is that we  
13 set two numbers, 100 dB(A) for the street motorcycle, and  
14 105 dB(A) for the off-road motorcycle, using the twenty-inch  
15 test?

16 MR. ISLEY: Yes.

17 MR. PETROLATI: We proposed something very  
18 similar in our regulations. What do you see are the  
19 benefits of your methods versus ours? I'm not sure I  
20 understand your comments.

21 MR. ISLEY: Our method would use the same test  
22 for certification as being used by enforcement. It's the  
23 same test. And we would prefer a single uniform regulatory  
24 level to be tested to, both for the purpose of certification  
25 and for the purpose of enforcement, so that an after-market  
26 manufacturer isn't placed in the position of performing an

1 acceleration test certifying to the EPA that they do meet  
2 86 dB(A), and then having that motorcycle be inspected on  
3 the street by a twenty-inch test and finding that, perhaps,  
4 they exceed the original motorcycle manufacturer's  
5 stationary level, which is going to be used for enforcement  
6 purposes.

7 MR. PETROLATI: All right. These numbers --  
8 these standards -- that were chosen by you, I guess, take  
9 into account that any motorcycle that would pass the EPA 83  
10 standard would also meet these levels?

11 MR. ISLEY: Not any motorcycle, no. It is  
12 within a certain per cent of correlation -- which I didn't  
13 bring with me today -- but it's a relatively . . .

14 MR. PETROLATI: High competence level, in  
15 other words?

16 MR. ISLEY: Yes. It is, in our opinion, an  
17 acceptable level of competence.

18 MR. PETROLATI: Okay. I guess, a further point:  
19 We have put into a replacement exhaust system regulation  
20 a Stationary Test Procedure very similar to the procedure  
21 you're proposing to be used by the replacement exhaust  
22 system manufacturer in showing us that he is complying to  
23 the EPA standards. It is your envisionment, I guess,  
24 taking this down the line, that the replacement exhaust  
25 system manufacturer will not use that stationary test, in  
26 determining his compliance, and will instead use the

1 acceleration test?

2 MR. ISLEY: Let's say you have given him the  
3 test to use, but you haven't given him a level to certify  
4 to. You delegate that responsibility to the original  
5 equipment manufacturer.

6 MR. PETROLATI: Correct.

7 MR. ISLEY: We do not feel that the original  
8 equipment manufacturer should have the authority to specify  
9 exhaust noise levels for the after-market.

10 MR. PETROLATI: Okay. I guess you're concerned,  
11 then, that the after-market manufacturer would have to meet  
12 the original equipment level rather than the EPA standard  
13 in that stationary test?

14 MR. ISLEY: That's correct.

15 MR. PETROLATI: Okay. I understand. For the  
16 off-road motorcycle, now, you proposed a 105 dB standard  
17 for the off-road motorcycle because the acceleration test  
18 is not appropriate for measuring noise from the off-road  
19 motorcycle set, is my understanding?

20 MR. ISLEY: Yes. There are several problems in  
21 using the acceleration test for an off-road motorcycle.  
22 First of all, it is not an equitable way to judge noise  
23 levels in the off-road environment. You are measuring the  
24 noise emissions from a motorcycle that will be used in  
25 vegetated areas, in soft dirt, in hilly areas, and so forth.  
26 You are measuring that noise on a level concrete surface

1 that would reflect more noise than actually incurred at the  
2 place those motorcycles are used.

3 Secondly, in performing the test, off-road  
4 motorcycles have a much higher horsepower-to-weight ratio,  
5 and therefore, the risk to the person performing those tests  
6 is greater, as he attempts to accelerate at full throttle  
7 on a hard concrete surface using knobby tires that are not  
8 designed for on-road operation.

9 Thirdly, the conducting of an acceleration test  
10 is far more expensive and time consuming than conducting a  
11 twenty-inch stationary test. Therefore, there's a cost  
12 burden associated also.

13 MR. PETROLATI: Okay, I guess to carry the point  
14 a little further. The way I understand your statement is  
15 that the stationary test being proposed has no relationship  
16 whatsoever to the acceleration test. Consequently, the  
17 acceleration test, first of all, should not be used, because  
18 it does not adequately show the type of noise levels that  
19 the off-road motorcycle will eventually more or less put  
20 into the environment.

21 The stationary test you're proposing is more or  
22 less not related in any manner to the acceleration test?

23 MR. ISLEY: Neither are related to off-road use.

24 MR. PETROLATI: I guess I don't understand, then,  
25 why you would propose a stationary test, this same stationary  
26 test, for the street motorcycle, in the replacement exhaust

1 system complex?

2 MR. ISLEY: Mainly as one of availability of  
3 models for testing. The after-market manufacturer can  
4 borrow from a local motorcycle dealer motorcycles for  
5 testing as long as he does not accumulate mileage on them,  
6 or run them through the risk of being spilled through the  
7 acceleration test.

8 MR. PETROLATI: Okay. Your point is, then, you  
9 want a stationary test. My point is, why don't you have a  
10 stationary test, or why don't you propose a stationary  
11 test that relates more directly to the acceleration mode,  
12 rather than the test that you propose, since it is the  
13 acceleration noise of the street motorcycle that's being  
14 concerned with?

15 MR. ISLEY: I'm saying the twenty-inch test  
16 because it has a relatively high level of documentation,  
17 both through our independent research and your research, so  
18 far. If your ignition interrupt test at ten-feet proves to  
19 be a feasible solution, we would probably support that, but  
20 we are all waiting for more information to come on that test.

21 MR. PETROLATI: Okay. Thank you very much.

22 CHAIRMAN THOMAS: Mr. Naveen.

23 MR. NAVEEN: Mr. Isley, I would like to go back  
24 to the acoustical assurance period for just one second.  
25 What are your views about EPA's suggestion that whatever  
26 level we choose should be met for an appropriate period of

1 time, assuming there is an appropriate level whatever that  
2 time period might be? What are your views about that? And  
3 I'm not trying to engage in a legal argument.

4 MR. ISLEY: We don't object to the concept of  
5 some assurance period over a period of time. What we object  
6 to is the practical aspects of requiring an after-market  
7 manufacturer to, by some unknown source, certify this to  
8 you, and then risk his right to sell his product on whether  
9 you do or don't agree on a non-specific test.

10 MR. NAVEEN: May we disagree with the practical  
11 aspects of requiring a manufacture to make, in our regulation,  
12 a good faith determination what an SLF is. I'm just curious  
13 whether it's practical for us to think that motorcycles  
14 should meet a standard for a certain length of time.

15 MR. ISLEY: That's not impractical at all. It's  
16 the method that is not definitive.

17 MR. NAVEEN: One last comment. As one of the  
18 attorneys involved in the argument in the Chrysler case,  
19 I want to assure you, and others here today, that we will  
20 follow the mandate of the court however it works out, one  
21 way or the other, and we will incorporate all comments and  
22 arguments regarding the issues raised in those cases on  
23 the truck and air compressor regulations, because they are  
24 involved here, and we do recognize that there is an overlap,  
25 and we are very sensitive to that.

26 That's all that I have.

1 MR. KOZLOWSKI: Mr. Isley, can I follow up on  
2 the AAP? I think I heard an encouraging word, and I want  
3 to jump on it.

4 If your basic disagreement with the AAP is how  
5 we go about doing it, would it be acceptable to the industry  
6 if we said that we'll postpone AAP for one year while the  
7 industry is required -- I shouldn't use that term -- while  
8 the industry gathers the one year data, and then the second  
9 year the regulation is in effect propose an AAP? Would it  
10 be acceptable to the industry to require some sort of  
11 definitive testing program that a manufacturer could go  
12 through to make his SL sound level degradation factor  
13 determination, and then say, having once done that it's  
14 okay, but you have to do the testing?

15 We took the approach that we thought it was  
16 better for the industry to determine for the company, to  
17 determine how best to make that determination. If he  
18 didn't have to test, great. If he thought he wanted to do  
19 the test, okay, as to come up with a definitive list.

20 What you're suggesting is that we ought to lay --  
21 perhaps what you're suggesting, I'm not trying to put words  
22 in your mouth -- we ought to lay out a system, and then the  
23 AAP would be acceptable.

24 MR. ISLEY: Either a system, and when you say  
25 that, I hesitate to agree, because there are -- of course,  
26 our costs associated and administrative burdens associated

1 with any system. We do not want to tie the industry up in  
2 further cost and in further administrative hearings, but at  
3 a minimum, yes, time would be important, because it's very  
4 difficult to accumulate the equipment of a year's use to  
5 make an engineering judgment.

6 I would certainly take some of these proposals  
7 back to our Technical Committee. I am certainly not  
8 authorized to come here and negotiate test procedures on  
9 behalf of the industry to your hearing panel. I . . .

10 MR. KOZLOWSKI: I understand. I am just trying  
11 to get a feel for what the industry thinks, through you.  
12 That doesn't mean any particular person in the industry --  
13 not what a person in the industry thinks, but, just a  
14 feeling.

15 The other thing I might suggest now is that the  
16 bikes are currently around the 83 decibel level. The  
17 regulation won't go into effect until about a year or so.  
18 And there is no reason why you couldn't, now, get that  
19 information without having the Feds make the precise request,  
20 and be ready on the effective date, if what you need is  
21 that year's time.

22 I would appreciate it if the industry would  
23 comment on those particular points.

24 MR. ISLEY: Okay.

25 MR. KOZLOWSKI: Thank you.

26 MR. EDWARDS: Mr. Isley, your comments on the



1 standards that EPA has proposed, the 83 decibel-80 decibel  
2 set of standards, am I stating your position correctly in  
3 that, really, the motorcycle noise problem is almost  
4 exclusively, right now, a tampering problem, that if we got  
5 rid of the tampering problem, the current motorcycles at the  
6 83 decibel level are not bothering people, and will not,  
7 and, as we go into the future, are not expected to bother  
8 the people, and that EPA should be, essentially, spending  
9 all of its resources about worrying about tampering, when it  
10 should hold the line at the status quo, if you will, at the  
11 83 decibel level?

12 MR. ISLEY: It's not that black and white. I am  
13 not saying that an 83 decibel motorcycle wouldn't bother  
14 people if it were heard in a vacuum, if there were no  
15 louder motorcycles than that.

16 What I'm saying is that we need to balance the  
17 environmental effect being felt right now, the motorcycle  
18 noise complaints that are being felt right now by the  
19 excessively loud motorcycles, before we blindly go ahead and  
20 start reducing to 80 or 78 dB(A) at very high cost.

21 We feel we have documentation, and I think you  
22 have documentation, that the motorcycles that are generating  
23 complaints, as you heard earlier here this morning, in Los  
24 Angeles, or Carlsbad, or anywhere, are above 83 db(A).  
25 Therefore, if the motorcycles above 83 dB(A) are generating  
26 the impact on society, why should we address lower and lower

1 very costly reductions below that level until we find a  
2 way, together, to stop those that are 90 and 100 dB(A)?

3 MR. EDWARDS: I think there might be a problem  
4 in all of our thinking about the subject of complaints.  
5 People do write into us very often, they write to their  
6 state and local folks, complaining about motorcycle noises .

7 CHAIRMAN THOMAS: And their congressmen.

8 MR. EDWARDS: And they write to their congressmen,  
9 certainly.

10 . . . and EPA pays a lot of attention to them.  
11 But, you know, our biacoustical studies -- we can not just  
12 look at where people are complaining. We have to look at  
13 the sound emissions from the various sources that are out  
14 there. And our studies show -- and we are in support there  
15 by our acoustical staff -- show that unmodified motorcycles,  
16 as Mr. Girdler pointed out before you, rather proudly --  
17 "Gee, you know, most of these motorcycles out there are  
18 not modified" -- but it's a whole population of vehicles  
19 out there.

20 If you want to get technical and perhaps give  
21 it a different name, we have modified motorcycles and they  
22 are all green, and we have unmodified motorcycles and they  
23 are all blue, that are on the road, so as we look down into  
24 the future, are these vehicles going to be bothering people.

25 Now, you are familiar, I am sure, with EPA's  
26 proposed truck standards . . .

1 MR. ISLEY: Yes.

2 MR. EDWARDS: . . . and with the recent proposal  
3 on buses, and EPA's activities yet to come on light  
4 vehicles and tires. Traffic noise, not just motorcycle noise,  
5 is a subject of great concern to the agency, not only from  
6 the complaint standpoint, but from the standpoint of our  
7 studies as to where the noise is coming from, and how it  
8 is impacting people.

9 Now, I think, as a representative of the  
10 manufacturers, you know how important lead time is to  
11 manufacturers. They need a goal, a standard, set out in  
12 front of them several years in advance so that they can go  
13 through their design cycle and hit the target. Wouldn't  
14 you agree that this is a very important thing to them?

15 MR. ISLEY: Lead time is important notice.

16 MR. EDWARDS: Okay. And, hasn't there been  
17 experience in some states where standards have been put on  
18 the books and taken away at some later time that have caused  
19 havoc with motorcycle lead time design criteria, and so  
20 forth?

21 Could you comment, then, on the appropriateness  
22 of EPA's attacking the motorcycle problem, as a whole, at  
23 this time, rather than going at it, perhaps, in a sequential  
24 basis, as you suggested?

25 MR. ISLEY: I think, in a matter of priorities,  
26 the EPA should have, perhaps, named modified motorcycles as

1 a high priority, and unmodified motorcycles, in its proper  
2 perspective, as two per cent of the traffic noise problem,  
3 and get on to naming cars, trucks, buses, trash compactors,  
4 and other motor sources that generate more traffic noise  
5 impact than unmodified motorcycles.

6 MR. EDWARDS: You think trash compactors are --  
7 I don't know the statistics.

8 MR. ISLEY: That was a personal viewpoint, because  
9 I live across from a supermarket.

10 MR. EDWARDS: The fact is, there are many, many  
11 vehicles out there, but the motorcycles represent a greater  
12 number of vehicles, even through they are a small number out  
13 in the traffic stream, when they are in isolated situations.

14 An 82 decibel motorcycle is still a loud noise  
15 source, and can cause all the biacoustical effects that we  
16 are familiar with in dealing with noise.

17 Could you reflect further on the -- You said that  
18 when you get down to 80 . . .

19 MR. ISLEY: I might -- if you want to count  
20 numbers rather than percentage of traffic volume -- I might,  
21 perhaps, name lawnmowers as being more volume-ess than  
22 motorcycles are.

23 MR. EDWARDS: Okay, but I think, again, perhaps  
24 it's a fallacious logic that we should only concentrate on  
25 the products where there's millions of them, or billions of  
26 them, out there, causing all these impacts.

1           If there is a product that is making a lot of  
2 noise that is bother certain segments of society, whether  
3 it is, regardless of their numbers, if it is controllable,  
4 people are bothere by it. I think this is one point I  
5 was going to discuss with Mr. Girdler, the controllability  
6 of many noise sources that is the bothering part of it. If  
7 you hear a noise source like the children which perhaps is  
8 not controllable, it does not bother you as much as the  
9 knowledge that yours is a product that could be quieted at a  
10 reasonable cost, and that is part of the irritating factor  
11 associated with hearing sound. Okay.

12           On another subject now. You said that when we  
13 get down below the 83 decibel level for street motorcycles,  
14 and 86 decibels for off-road motorcycles, this will then  
15 cause a great tendency to have the owners modify their  
16 products; is that correct?

17           MR. ISLEY: Yes. I think, increasingly, as you  
18 get below those levels, the owners are going to perceive a  
19 loss of performance, loss of drivability.

20           MR. EDWARDS: Okay. Isn't it at least possible that  
21 we're in a situation where perhaps the automobile industry  
22 was in the 1950's, where power was the thing to have, and  
23 the industry has somewhat matured, and now the people accept  
24 quieter powerful vehicles, and I see a tendency towards that  
25 in the motorcycle industry.

26           And again, like I said, we are looking a decade

1 down the road in and out of the motorcycle business continuously.  
2 We are trying to do, set our regulations now, and go on to  
3 other products. So, when we're looking at that decade down  
4 the road, isn't it possible that the situation will mature  
5 somewhat and people will accept quieter products, quieter  
6 off-road motorcycles and quieter street motorcycles, without  
7 this increase in tendency to modify?

8 MR. ISLEY: Well, that certainly is a possibility,  
9 but again, it's a matter of degree. Perhaps, in looking a  
10 decade down the road, perhaps you should reserve the exact  
11 level to be set until we see if the immediate efforts in the  
12 enforcement field might not reduce the level of impact of  
13 motorcycle noise.

14 I don't think there's anything magical about 78  
15 versus 80. You know, and I know, if a motorcycle test were  
16 being conducted in this parking lot right there, you couldn't  
17 tell, and I couldn't tell, a motorcycle driving by at 78  
18 dB(A) versus 80 dB(A). Two decibels is not perceivable.

19 MR. EDWARDS: Okay. This is also a comment, a  
20 statement that is made on noise regulations, and I think it  
21 is equally applicable to many environmental regulations,  
22 when you're trying to pick a point and saying, "This is  
23 what is acceptable, and that is not acceptable." Obviously,  
24 you're in a grey area. And the question of perceived  
25 difference, at least to my mind, is not necessarily relevant;  
26 or statistical surveys, we know that if you subject an entire

1 population to 80 decibels, and the 78 decibels, there is  
2 a tremendous difference, whether or not your ear can make  
3 the distinction between 78 and 80, because, as an example,  
4 there is another environmental area, the exposure to carbon  
5 monoxide, which you can't detect at all, you can't tell if  
6 it's in the room, and yet, differences in the levels of  
7 carbon monoxide are going to make a different impact on your  
8 body, so this differentialability, which has been brought up  
9 many times, which at least, in my opinion, is, perhaps,  
10 erroneously applied.

11 MR. ISLEY: The only thing that you did not  
12 discuss in that is the cost of two hundred million dollars  
13 per year . . .

14 MR. EDWARDS: I understand there is a tremendous  
15 economic difference, but all I'm trying to do is discuss  
16 the concept that you feel that just because I can't tell the  
17 difference between two decibels, therefore, it is not  
18 something we should do. It's sort of a salami game. You  
19 just cut off a little bit off the end until you're not  
20 doing anything at all.

21 I've got just one other subject that I want to  
22 touch on, and that was the small manufacturers that you  
23 mentioned. As far as your membership goes, when you talk  
24 about a small manufacturer now, are you talking about a  
25 manufacturer with small U.S. sales, or a small corporate  
26 entity?

1 MR. ISLEY: The manufacturers who belong to, and  
2 whom I am representing here today, are represented through  
3 their United States distributors. Therefore, I presume  
4 their comments, incorporated here, have to do with their  
5 United States availability of products.

6 Some of them, yes, are part of very large  
7 international organizations. However, they are not large  
8 in the motorcycle -- even in the worldwide motorcycle --  
9 market, much less, the United States motorcycle market.

10 MR. EDWARDS: I guess I did not understand your  
11 answer, then. In other words, you're saying, when you say  
12 "small manufacturer," you're talking about a small worldwide  
13 motorcycle manufacturing capability?

14 MR. ISLEY: Yes.

15 MR. EDWARDS: Don't these manufacturers have to  
16 respond to all the rest of the pressures on the motorcycle,  
17 or the manufacture of any product, to stay competitive with  
18 everyone else, which, in times of change in taste by the  
19 consumer, involve a great deal of research and development  
20 of new products continuously?

21 Noise is just one of the many things that they  
22 have to fold into their R&D cycle, and this is very heavily  
23 considered in the lead times that were put into these  
24 regulations.

25 I think, perhaps, there is somewhat undue emphasis  
26 on these smaller manufacturers not having the design



1 capability to do it in time because we have, I think,  
2 reflected quite well, the market lead times necessitated  
3 by these so-called smaller firms.

4 MR. ISLEY: Well, my point is that without a  
5 large benefit to the public, EPA is, perhaps, accelerating  
6 the demise of these small manufacturers from the U. S.  
7 marketplace.

8 MR. EDWARDS: Thank you, Mr. Isley.

9 CHAIRMAN THOMAS: I am the last one up. Got a  
10 couple for you, if you will bear with us. You've been here  
11 for about an hour. I appreciate it. You're an important  
12 person in this industry, and we obviously value your  
13 comments.

14 Would you tell me what you referred to as a "noted  
15 retirement community"?

16 MR. ISLEY: St. Petersburg, Florida.

17 CHAIRMAN THOMAS: Not Orange County?

18 MR. ISLEY: No. I think Orange County is a  
19 rather middle-of-the-road environment.

20 CHAIRMAN THOMAS: Good. Just want to be sure  
21 that we've got the middle-of-the-road folks you're talking  
22 about in these regulations. Is Washington, D.C., a noted  
23 retirement community?

24 MR. ISLEY: No. I was only referring to St.  
25 Petersburg, which is a rather unusual place to hold a  
26 hearing.

1           CHAIRMAN THOMAS: Well, actually I think, it's  
2 a very delightful place to hold a hearing. (Laughter) I  
3 wanted Puerto Rico, but there was some questions about  
4 taxpayers' money being spent for that. Obviously, I'm  
5 being facetious.

6           What we've tried to do here is balance where the  
7 hearings are held throughout the country. We even venture  
8 into places such as Salt Lake City occasionally, as you  
9 know, and EPA is not exactly persona grata there.

10           Some of the conservative views are held in these  
11 respective environmental controls, so we try to balance  
12 these out by holding hearings around the country so we can  
13 get as broad as possible differences of opinion, how they  
14 can be brought to bear on our regulations.

15           MR. ISLEY: Mr. Thomas, is it not possible that  
16 the EPA representatives in St. Petersburg perhaps generated  
17 some comments in support of the regulations by nature of a  
18 newspaper article that has been brought to our attention?

19           CHAIRMAN THOMAS: I think that's probably true.  
20 For the record, as you know, I have told your organization  
21 already, those were unauthorized statements that were made  
22 down there, and formal retraction to your organization is  
23 in order, but, nonetheless, the point remains, we like to  
24 hold our hearings where we can get as quite as possible  
25 diversity of views, and retirement communities have brought  
26 to our attention, in particular, their concerns about

1 motorcycle noise, and we think they have a hearing right  
2 as well. Some of those folks don't travel quite as much  
3 as others do.

4 I want to talk to only two points here, sir.  
5 Are you familiar with the recent hearings held in Washington,  
6 D. C., by both the Senate Committee on Environment and  
7 Public Works, and the House of Representatives committee,  
8 both of those addressing the Noise Control Act?

9 MR. ISLEY: Yes, asking the EPA to accelerate  
10 their efforts.

11 CHAIRMAN THOMAS: Yes. I don't believe that  
12 your organization has made representation to either of  
13 those committees in their review of the existing legislation.

14 MR. ISLEY: No, we have not testified. We've  
15 merely monitored the hearings.

16 CHAIRMAN THOMAS: Fair enough, sir. I wanted  
17 to bring your attention in here your comment that EPA should  
18 commit large staff and financial resources to the task of  
19 assisting communities in in-use enforcement activities.

20 Under present legislation, we are very closely  
21 originally restricted for how much assistance we can actually  
22 provide. We have no grant authorities under the Act, and  
23 we're quite limited insofar as staff funds are available  
24 for offering such assistance to the communities.

25 I would suggest, as opposed to bringing this to  
26 EPA's attention, you make, you may care to direct this to

1 both houses of the U. S. Congress at this point since they  
2 are actively considering revisions to the law.

3 MR. ISLEY: We would be glad to.

4 CHAIRMAN THOMAS: Mr. Isley, what is your  
5 organization doing to convince -- substitute the word  
6 "educate" -- motorcyclists not to modify their bikes to make  
7 more noise?

8 MR. ISLEY: I could have brought probably a  
9 fifteen minute slide presentation. Since 1970, we have  
10 produced TV spots, radio commercials, public awareness  
11 programs for the industry in trade magazines. We actively  
12 develop programs for state, county, local enforcement  
13 activities. We have noise control programs for race tracks,  
14 for enduro racing events, for motorcycle use facilities,  
15 and the land use area. I would be glad to give you a long  
16 list of activities we are engaged in.

17 CHAIRMAN THOMAS: Would you consider those  
18 activities pretty comprehensive?

19 MR. ISLEY: Yes. I think we have addressed  
20 what we have identified as major noise problems.

21 CHAIRMAN THOMAS: Specifically, Mr. Isley,  
22 addressing the motorcycle after-market tampering problem,  
23 the modifications to exhaust systems. I take it you have  
24 had an active program to educate, instruct, devise, help,  
25 to reduce that problem?

26 MR. ISLEY: Yes, we've had an active program

1 in providing public awareness materials. We have not had  
2 budgets to educate law enforcement officers, to purchase  
3 media space -- in this area has been public awareness or  
4 public information.

5 CHAIRMAN THOMAS: Mr. Isley, why haven't you  
6 had budgets to do those kinds of things?

7 MR. ISLEY: You will have to ask my board of  
8 directors that.

9 CHAIRMAN THOMAS: I would like to ask them that,  
10 at this time, through you.

11 MR. ISLEY: Yes.

12 CHAIRMAN THOMAS: Speaking on behalf of the  
13 United States Government, you have nineteen members who  
14 are manufacturers and distributors of approximately ninety  
15 per cent of the motorcycles sold in the United States. You  
16 have thirteen members who manufacture and distribute  
17 approximately seventy-five per cent of the motorcycle  
18 replacement exhaust systems sold in the United States. If  
19 you and your organization were serious about this, and  
20 these are very substantial firms in many respects, I think  
21 you would agree. Some of them are quite small. But, where  
22 is the budget, where is the commitment on the part of your  
23 organization in attempting to solve this problem, if I  
24 may finish my editorializing . . .

25 MR. ISLEY: Surely.

26 CHAIRMAN THOMAS: . . . and then you've got your

1 shot here.

2 If, in fact, you were serious, let's don't get  
3 the government into this business, let's let the industry  
4 solve this problem first.

5 MR. ISLEY: I would agree with that. The  
6 government, however, is in this problem, and we are trying  
7 to guide the government into supporting those issues that  
8 we have identified as the major noise complaints.

9 Yes, you can criticize that the industry has not  
10 spent enough money to prevent tampering, but we are as  
11 frustrated as you are as to an effective way to prevent  
12 tampering. We think that the rules that you are proposing,  
13 we are supporting the labeling, we are supporting the  
14 identification of competition machines versus off-road,  
15 we are supporting a great deal of what you are doing as  
16 being a true assistance to the local enforcement community.

17 We will now, once your rules are in effect,  
18 change our efforts over into more educational, along that  
19 field, but we are probably as frustrated as you are about  
20 how to, within our financial resources, influence human  
21 behavior, when it comes to putting on seat belts or keeping  
22 your motorcycle quiet.

23 CHAIRMAN THOMAS: Mr. Isley, we certainly agree,  
24 but I think, in dealing with this element of the population  
25 that's causing, as we mutually agree, a substantial part  
26 of the problem, they are more likely to listen to you, the

1 people who manufacture the motorcycles, their products that  
2 they are using and they're modifying, they are more likely  
3 to listen to you than they are the folks with the little  
4 green hats in Washington, D. C., speaking on behalf of  
5 environmental protection. Wouldn't you agree? If you  
6 can't convince them, how are we going to convince them?

7 MR. ISLEY: I don't know, and I think that's  
8 something we need to address together. I don't think we  
9 need to shout at each other. I'm saying your program is  
10 off balance. I'm not criticizing you for not recognizing  
11 the problem.

12 If you need more authority and budget from  
13 Congress to do this, we will certainly do our part and see  
14 that you get it.

15 CHAIRMAN THOMAS: I'd like to hope that at least  
16 we get a matching fund program going there on behalf of  
17 the industry, if you're really as concerned in your  
18 organization as its representatives say they are. I'm  
19 not saying they're not.

20 MR. ISLEY: Our industry, in recognizing another  
21 problem area, that of motorcycle safety, has indeed created  
22 a foundation that is spending a million dollars a year in  
23 rider education. Our industry is not drifting along merely  
24 selling products without recognizing the social implications.

25 CHAIRMAN THOMAS: You would, therefore, be  
26 prepared to address with your board of directors the

1 question that I've posed to you here?

2 MR. ISLEY: Absolutely.

3 CHAIRMAN THOMAS: Thank you. I appreciate that.  
4 Do you know, in your organization, after-market exhaust  
5 manufacturers who market products which, if placed on, say,  
6 California motorcycles, would cause those motorcycles to  
7 exceed the standard . . .

8 MR. ISLEY: Yes.

9 CHAIRMAN THOMAS: . . . the California standard?

10 MR. ISLEY: Yes.

11 CHAIRMAN THOMAS: What have you done to get  
12 these folks turned around?

13 MR. ISLEY: We have encouraged them to obey the  
14 California law. However, our Association is one where they  
15 participate voluntarily. We have no enforcement authority.  
16 We have no authority to set standards for those people.  
17 So, we are encouraging them.

18 CHAIRMAN THOMAS: Has it had any effect?

19 MR. ISLEY: Yes. I think the after-market  
20 systems that are available today are notably quieter than  
21 those that were available five years ago. I think the  
22 after-market has responded with advertising, that I can  
23 show you, that recognizes the importance of operating quiet  
24 mufflers. I think they have changed, to some degree, their  
25 advertising themes to that of styling, of fit, of performance,  
26 while maintaining quiet exhaust systems. There is a



1 definite consciousness of the noise problem to the after-  
2 market industry.

3 CHAIRMAN THOMAS: Mr. Isley, you responded ably  
4 to my questions. I appreciate that very much. There were  
5 many questions posed to you by the panelists here. I  
6 would call for a response from your executive board on the  
7 questions I posed, and as far as receiving your comments  
8 on the formal record.

9 Are there any questions from the floor? If  
10 you will bear with me a moment, please.

11 MR. ISLEY: Surely.

12 (Whereupon, the page handed  
13 Chairman Thomas a comment.)

14 We will place that question in the record.

15 (Question from Mr. Chet Cornors:

16 Isn't it true that engine back-  
17 pressure becomes of some significance  
18 only at high range speed? Then it stands  
19 to reason that very little, if any at all,  
20 performance loss will take place at normal  
21 operating speeds. I can see a tuned  
22 exhaust on a pro-bike used in formal  
23 money competition, by why a facsimile for  
24 a street bike? A rider, reasonably  
25 obeying posted speed limits, would never  
26 miss the small loss of H.P., since

1 he/she is not, or should not, be racing  
2 on city streets.)

3 CHAIRMAN THOMAS: All right. Thank you very  
4 much, sir. We will take a ten minute break, please, at  
5 this point. We will receive one more witness before the  
6 luncheon break. The next witness after the ten minute  
7 break will be Mr. Jack Swing, representing the State of  
8 California.

9 (Whereupon, the hearing was in  
10 recess from 11:35 o'clock, a.m., until  
11 11:55 o'clock, a.m.)

12 CHAIRMAN THOMAS: Ladies and gentlemen, we are  
13 prepared to reconvene. We will hear from Mr. Swing, of  
14 the State of California, please.

15 JOHN SWING

16 Well, it's our pleasure -- our pleasure -- to  
17 say that I'm down here with Dr. Lucas, of our staff, that  
18 I would like to refer any tricky questions to, but it's  
19 our pleasure to be here, and we welcome the opportunity to  
20 comment on these EPA standards. Actually, it's not only  
21 our pleasure. We are required to be here by law, by State  
22 law, (laughter) and what I should point out, Mr. Kozlowski  
23 made the statement that he was pleased to see that some  
24 people were here that would suggest that EPA do more,  
25 because he thought a lot of people would come up with the  
26 opposite viewpoint, and so he should be pleased with the

1 statement I'm about to give.

2 I would also, before I begin my semi-formal  
3 comment, publicly compliment Mr. Girdler, and what I see  
4 to be a very enlightened viewpoint on the part of the  
5 Editor of Motorcycle Magazine, because I feel these types  
6 of opinions that he was expressing today will go far in  
7 terms of promoting rider education in the right direction,  
8 and I think it's excellent to see that type of viewpoint  
9 being expressed. I would like to see more of editorials  
10 in other magazines as well.

11 What I would like to do is not necessarily read  
12 the statement that I've prepared but paraphrase it, in  
13 some respects, and first of all, I would like to explain  
14 exactly what it is my offices is supposed to do, and then  
15 cite to you the law that has brought us down here, and  
16 then you will understand a little bit more the comments  
17 I'm about to offer.

18 But, the State of California passed the Noise  
19 Control Act of 1973, which created an Office of Noise  
20 Control, and our fundamental function is to assure that  
21 California citizens have a peaceful and quiet environment  
22 without the intrusion of noise, which may be hazardous to  
23 their health and welfare. That gives us a pretty broad  
24 flexibility, but then they made sure that there were few  
25 specifics that we took care of.

26 One was, we were required to coordinate State

1 and Federal activities to a point that we were required to  
2 study Federal noise regulations that have been proposed  
3 pursuant to the Noise Control Act of 1972, and to that end,  
4 we were required to prepare comments, evaluations, objections,  
5 or to use any other means to insure that the Federal  
6 Government considers existing in California noise control  
7 statutes and regulations prior to the adoption of regulations  
8 in order to prevent the adoption of Federal noise regulations  
9 weaker than existing State standards.

10 Now, I know, through studying the background  
11 documents, the California regulations have indeed been  
12 studied rather thoroughly. However, I do have some specific  
13 points that I wish to make concerning the EPA record.

14 I would say, initially, that this office -- my  
15 office -- generally supports the effort of EPA in developing  
16 these proposed regulations, but we do, naturally, have our  
17 share of concerns regarding the potential weakening of the  
18 California noise standards through the inevitable Federal  
19 preemption.

20 Now, I think we have already established the  
21 fact that we're really talking about motorcycle noise in  
22 two very gross categories, that of existing motorcycles  
23 and future production units, and I will restrict the  
24 majority of my comments to on-road type of motorcycles,  
25 because the problems of competition, and off-road bikes,  
26 are really another matter that we are very pleased to see

1 are addressed in the EPA standards, but I haven't really  
2 specifically dealt with them in my comments.

3           The one thing we had hoped, and we express these  
4 desires in future meetings, and we do again offer compliments  
5 to EPA for the way they've interacted with the various state  
6 agencies, and other people, who have been involved with  
7 noise for a while, but we had hoped that the Federal  
8 program would deal with both segments of the motorcycle  
9 population; that is, the existing motorcycles, and the  
10 future production units.

11           Obviously, the proposed EPA standards effectively  
12 deal only with new products, and I think we find consensus  
13 in the group suggests that the great majority of noise  
14 offenses are caused by existing motorcycles, and to that  
15 point, by modified existing motorcycles.

16           Now, the number of attorneys -- I have to say  
17 this -- the number of attorneys don't feel any qualms  
18 about making engineering judgments. Therefore, as an  
19 engineer, I feel I'm permitted to make a legal interpretation,  
20 (laughter) and I've done this not on my own entirely but  
21 with some counsel that the proposed -- a review -- a review  
22 primarily by myself of the Federal Noise Control Act of  
23 '72 suggests that EPA is not, indeed, prohibited from  
24 establishing in-use motorcycle noise regulations.

25           Rather, EPA is not specifically required to  
26 do so, so, in my mind, that is a subtle distinction, and

1 I am sure you will hear other interpretations of that  
2 shortly, in that, one of our points in so making the  
3 statement -- and I want to make sure I haven't left out  
4 any cryptic comments as I go -- that we -- that in  
5 identifying motorcycles as a major source of noise, that  
6 has to be recognized that, indeed, this type of recognition  
7 is really based on the existing population, and while Mr.  
8 Isley and I may differ in a number of categories, I would  
9 suggest that I really do agree with his concept, that  
10 perhaps existing modified motorcycles could, indeed, be  
11 identified separately, identified as a mJOR source of noise,  
12 and to this end, given a higher priority than the recognition  
13 of new motorcycles.

14 That distinction, by the way, is not made in my  
15 paper. I felt obligated to suggest that.

16 When we look at the various statistics, and  
17 we'll talk about the modified motorcycle problem, first of  
18 all, because I'm concerned that I don't feel EPA is  
19 adequately addressing that, and I've seen various statistics  
20 that suggest from nine to fourteen per cent of motorcycles  
21 have modified systems that may indeed cause these vehicles  
22 to emit higher noise levels than did the original factory  
23 exhausts.

24 Now, the paper that was put out by the MIC, or  
25 at least had their blessing I presume, those studies  
26 suggested that twenty to forty per cent of the observed

1 motorcycles in these studies were of the non-stock  
2 configuration. Today, also, I heard another number, of  
3 twelve per cent. So, we're talking someplace in a range  
4 of a significant percentage of the motorcycle population  
5 is, indeed, modified.

6 A review of the CHP enforcement statistics --  
7 and Ross Little is certainly more qualified to talk about  
8 this than I am -- would suggest that numbers on the order  
9 of fourteen, or greater, per cent of the noise violations  
10 are of the motorcycles that have been monitored by CHP  
11 enforcement teams, are in violation of the California  
12 standards as a result of modified systems. So, we see,  
13 that is a very significant problem.

14 As I suggest, we're down here -- we're supposed  
15 to comment when you weaken our systems but not necessarily  
16 propose solutions at this time, so I don't really guaranty  
17 I'll have the answers to all these statements I'm offering.

18 We suggest that one possible way of getting at  
19 the modified exhaust system problem, as it were -- because  
20 I think it's fair to note that these modified systems aren't  
21 as noisy as they used to be, but some still -- indeed, I've  
22 seen advertisements as well that suggest, "Within 2 dB of  
23 required legal limits," and such, that do recognize that  
24 they are going to be louder than the factory exhaust system --  
25 which our laws, by the way, prohibit.

26 We feel that EPA could effect a solution to the

1 problems created by modified motorcycles by extending the  
2 scope of their replacement muffler regulations to include  
3 all after-market exhaust systems and not just those that  
4 would be applicable to post-1980 motorcycles.

5 Now, we recognize that this is not a trivial  
6 task. I don't know if Ross will comment on this or not  
7 when he speaks. But, there is a stationary certification  
8 procedure in California that has a number of problems with  
9 it. One of which is a lack of any correlation between  
10 these test levels, as determined by the stationary procedure,  
11 and the CHP, or SAE J-331a procedure.

12 Now, I contrast that to Mr. Isley's remarks. He  
13 feels there is, indeed, a correlation, and admit, have not  
14 seen, having seen a lot of data on that, but I'm concerned  
15 about whatever level of correlation there is.

16 I would say, we are sufficiently concerned to  
17 suggest that the presently proposed stationary procedure in  
18 California is rather ineffective. There are just a number  
19 of problems with that.

20 Therefore, naturally, we have to propose, EPA do  
21 additional work. We would suggest that EPA refine their  
22 stationary test procedure, and extend the coverage of their  
23 labeling concept to the point that these would, indeed,  
24 provide workable tools that could aid in the resolution of  
25 the modified motorcycle exhaust system problem. Okay.

26 I would like to get off of that soapbox and move



1 into the area of new motorcycles, at this point, and I have  
2 presented in a tablatore format the comparison of California  
3 and EPA standards, and what I should do is simply highlight --  
4 I presume that a number of people in the audience are  
5 familiar with those numbers -- a slide would have been  
6 better, obviously, but I'll just run down very quickly  
7 the California regulations as opposed to the Federal  
8 regulations.

9           These numbers are based on a dB(A) fast  
10 measurement of fifty-feet; California's run accordingly.  
11 All the dates I will give are as January 1st of that year:

12           As of 1973, the California standard was 86. It  
13 dropped to 83, January 1st, '75. There have been a number  
14 of modifications in the legislation -- a couple, at least --  
15 in the last year or two. So now, our next jump, our next  
16 incremental decrease, is 80 decibels in 1981, followed by  
17 75 in 1986, and 70 in 1990.

18           This is contrasted with the EPA standard of 83,  
19 January 1, 1980 -- that's five years after the California  
20 83 standard was adopted, 80 in 1982 -- which is a year  
21 past the California standard, 78 dB(A) in 1985 -- now that  
22 gets more restrictive than the California standard. And  
23 then, the Federal regulations stop there.

24           The available data that we have seen -- and we  
25 have seen a fair amount at this point -- on new motorcycles  
26 suggest; that most current production on road-only

1 motorcycles, this would be possible and probable, with the  
2 exception of Harley-Davidson, are capable of meeting 1981  
3 California limits today.

4           What I'm saying is that the data I've seen suggest  
5 that new motorcycles, the on-road variety, except Harley's,  
6 yield emission limits under SAE procedure of around 80  
7 decibels, today. This can not be said of many dual purpose  
8 machines. We recognize that the weight penalties set for  
9 those bikes presently are right around the 83 dB(A) limit.

10           For the moment, I want to talk about the SAE  
11 test procedure, but without considering this difference in  
12 the test procedure, would suggest that the EPA schedule of  
13 compliance has to be interpreted by my office as being a  
14 weakening of existing California regulations, and we would  
15 like to suggest that the ultimate goal of 78 dB(A) be  
16 further reduced. I am not in the position to support the  
17 70 dB(A) level, at this time.

18           Now, we're talking about -- a lot of people say,  
19 "Well, when you compare California limits and Federal limits,  
20 you're really comparing apples and oranges, because there's  
21 a number of subtleties involved in the test procedures, and  
22 the way EPA looks at these numbers," and I'd like to comment  
23 on that because I do have some industry experience in  
24 dealing with -- causing vehicles to meet the California  
25 limits, and some tricks we have played, as a matter of fact,  
26 to make our high performance Mustangs to comply with the

1 California limits, and take all the advantages that  
2 A-weighting has to offer.

3 But, the motorcycle background often presents  
4 the case, and others have presented the case as well,  
5 because the Federal standards are absolute; that is to say,  
6 80 dB(A) means 80. There is no tolerance above that number  
7 assumed. The same fact will yield motorcycles that emit  
8 some two to three dB less than the specified standard, so  
9 that, it's argued that an 80 dB Federal standard, indeed,  
10 produces motorcycles with, say, mean levels on the order of  
11 two to three dB(A) below that.

12 This approach has been contrasted to California's  
13 enforcement policy of not citing a noise violator who has  
14 exceeded the given standard by 2 dB with the types of  
15 meters used in the California standard, a reasonable  
16 measurement tolerance. It hasn't been postulated that a  
17 California standard of 80 dB(A), in fact, means 82 dB(A).

18 We contend that, from our industry experience  
19 dealing with automobiles and with people I know in the  
20 industry, that this is not the case because, really, a  
21 common engineering practice, a current practice, in these  
22 industries is to design below the prevalent standard while  
23 in the prototype development stage. This is the only way  
24 you insure compliance with production vehicles, and as  
25 proof of this, I have quite a lot of data on current  
26 production motorcycles that show virtually all these models

1 to be at or below the 83 dB(A) California standard. They're  
2 not one or two dB(A) above it, but they, indeed, are  
3 complying, and some complying with flying colors.

4 So, my point that I'm making here suggests that  
5 an 80 dB(A) California standard should not be interpreted  
6 as an 82 -- 81 or 82 -- because we have a measurement  
7 tolerance built in.

8 Now, the next thing I want to talk about is the  
9 EPA proposed test procedure. Now, this differs from the  
10 California procedure, and quite frankly, our commitments in  
11 the Office of Noise Control have been such that, until very  
12 recently, like last week, we didn't have much opportunity  
13 to look at the proposed test procedure and give it much  
14 analysis, so where I'm an engineer, and I deal with  
15 engineering statistics quite a lot, what I'm about to tell  
16 you violates all the principles of proper sampling and  
17 proper test procedures.

18 Yes, we conducted some tests, one on a single  
19 specific motorcycle, so we could develop a relative feel  
20 for the nature of the EPA procedure, because inherently,  
21 in reading it, there just seemed to be something that was  
22 unsettling, and we wanted to attempt to run at least one  
23 motorcycle and get a feeling for it. Hence, we ran one  
24 high performance motorcycle through a series of tests and  
25 attempted to evaluate the relative placement amongst the  
26 noise levels produced by the EPA procedure as contrasted to

1 the existing California procedure as contrasted to the SAE  
2 J-47 procedure, which is a semi-unsafe procedure that yields  
3 a bit -- effectively squeezes the last decibel out of the  
4 motorcycle that it's capable of producing.

5 Our concerns with the EPA procedure were that  
6 for large motorcycles, 676 cc's and greater, that the  
7 maximum test RPM was only fifty-five per cent of that,  
8 fifty-five per cent of the max rated RPM -- I think I  
9 didn't make that terribly clear. Let me say that again.  
10 For large motorcycles -- we're dealing here with displacements  
11 of 676 cc and greater -- that the maximum RPM, the maximum  
12 engine speed that would be used in the test, would be  
13 fifty-five per cent of their max rated RPM, and that max  
14 rated RPM, as defined in your standard, is that RPM in which  
15 max SAE horsepower achieve -- and example is like a nine  
16 thousand RPM super-bike, as it were, may achieve this max  
17 rated RPM a thousand or so below that; so the test, the  
18 max test RPM, in that case, would be fifty-five per cent  
19 of eight thousand RPM, which is about forty four hundred  
20 RPM, and it just didn't seem right, in reading this, that  
21 you would have a bike with a nine thousand RPM capability  
22 and only tested in the range of, say, forty four hundred to  
23 five thousand RPM. It didn't match driving styles that  
24 I'm familiar with.

25 And what we're concerned with, at this point in  
26 time, we're not saying that that is not right, or that you

1 screwed up -- let's just strike that from the record  
2 (laughter) -- but we question that that is really a  
3 suitable representation of what we would be concerned as  
4 the highest normal noise produced under normal operations.

5           The results of our tests on a single motorcycle,  
6 terrible statistical sampling, would suggest that the SAE  
7 J-47 procedure when compared to CHP procedure yielded results  
8 about 4 dB higher, and that using the EPA procedure  
9 relative to the California procedure, resulted in results  
10 about 2 dB less. Now, with, effectively saying, motorcycle  
11 models tested by EPA, and these are similar results that  
12 were reported in Appendix "I", our concern is that we  
13 wonder if the EPA procedures are too lenient towards the  
14 larger motorcycles.

15           We can cite operational conditions where, I  
16 believe, one would use higher than half of the available  
17 horsepower, half of the available RPM range, accelerating  
18 on a freeway on-ramp, passing maneuvers on the freeway  
19 where one would downshift, and would probably obtain a  
20 higher RPM level than half of what's there.

21           There seems to be, in the marketing statistics,  
22 these days, or certainly in the marketing advertisements,  
23 a real proliferation of the new generation super-bikes.  
24 Everyone is racing to get a new thousand or eleven hundred  
25 cc motorcycle with impressively high red line and we  
26 question that these motorcycles won't be driven at over half

1 that rated RPM.

2 So, that's the nature of our concerns regarding  
3 the test procedure. We would like to be shown that that  
4 indeed is representative of this higher level of noise  
5 emission that is possible in certain circumstances. Okay.

6 My next point pertains to your quality assurance  
7 period. We think that's an excellent concept. I made note  
8 of some of the discussions here today, and see that there  
9 probably is a reasonable way for that to be dealt with  
10 without an undue burden on industry. However, we would  
11 suggest that the duration of coverage for this quality  
12 assurance period be extended to, let's say, nominally, ten  
13 thousand kilometers or six thousand miles, because that  
14 number is commensurate with current industry warranty  
15 coverage.

16 I don't think it's unreasonable to ask the  
17 manufacturers to replace that exhaust system if it does  
18 get loud during the warranty coverage period.

19 That's a slight deviation in the plan proposed  
20 by EPA but we think this QA, whatever it sounded like --  
21 I don't remember the initials; I have trouble with ONC --  
22 whatever that degradation factor is, we would like to see  
23 it put into a workable format and used.

24 And finally, I'm sure you hear a lot of this  
25 type of criticism from the local people that will speak  
26 but we feel that, basically, this is a weakness in EPA's --

1 in the Noise Control Act of '72. It didn't give EPA  
2 sufficient funding, or staff, as a matter of fact, to  
3 support these local programs in a manner that we think is  
4 adequate.

5 We use the concept that EPA produces regulations  
6 that are unsupported, but you can read that as unsubsidized,  
7 and we would like to see -- well, we know you recognize  
8 these limitations, we have as well, and through recent  
9 discussions with a number of congressional representatives,  
10 we have recommended to Congress that EPA be given broader  
11 authority and sufficient funding in order that EPA can  
12 adequately resolve the problems of environmental noise,  
13 and we think that the critical aspect here is this enforcement  
14 end of these types of regulations.

15 Another thing, of course, my initial statement  
16 was, extend your regulations to cover the present population  
17 of motorcycles, especially those with the modified exhaust  
18 systems.

19 And then, finally, a final editorializing is  
20 that, we would like to see additional EPA funds spent  
21 towards better assessing the adverse effects of noise on  
22 human well being. I think funds spent in that direction  
23 would certainly help justify the type of noise standards  
24 that we are presently discussing.

25 Thank you very much for letting us express our  
26 views . . . but we are here, and we will respond to



1 questions.

2 CHAIRMAN THOMAS: Thank you very much, Mr. Swing.  
3 I would like to now ask if our lawyer here has any  
4 engineering questions he would like to ask. (Laughter)

5 MR. NAVEEN: No role reversal today for me. We  
6 disagree about the -- I think we disagree about whether the  
7 Noise Act would allow us to promulgate a new standard since  
8 it specifically tells us that we shall promulgate a  
9 performance standard, and I think we should try to  
10 accomplish that end here.

11 One other legal point I guess, to the extent that  
12 you suggest that we have some role responsibility, or  
13 whatever, concerning the current population of motorcycles.  
14 Our Act, as you probably are aware, directs us to look to  
15 the future to new products as they are built and distributed.

16 We do not have a role to play in regard to  
17 problems existing in that current population.

18 CHAIRMAN THOMAS: Since he prefaced that by  
19 "I think," I think when we get back to Washington we will  
20 ask him to think further on this. We will ask for formal  
21 review of the question.

22 MR. SWING: Our concern was that we know EPA is  
23 under a bit of pressure these days from Congress and  
24 others, and we have had the concern that EPA was busy  
25 trying to only specifically comply, as required, with the  
26 exact letter of the law, without stepping one step beyond,

1 as it were, and we're just encouraging dealing with the  
2 program, with the problem, in total.

3 CHAIRMAN THOMAS: We appreciate that, Mr. Swing,  
4 and we have, from time to time, however, been accused of a  
5 little regulatory frontiersmanship. Hence, the Chrysler  
6 case, that has been mentioned here earlier this morning,  
7 on a half a dozen constitutional and other major issues,  
8 which are, at present, in contention.

9 Mr. Kozlowski.

10 MR. KOZLOWSKI: The only point I'd make, Mr.  
11 Swing, is with respect to local support of subsidies. We  
12 don't have that authority now, but there is some chance we  
13 will be able to something like that in the future by an  
14 act of Congress, but I don't know how likely that is either,  
15 and I think everyone that is involved in noise control for  
16 motorcycles needs to know that the major portion of the  
17 reduction we're getting is going to come from the anti-  
18 tampering program, and basically, state and local programs,  
19 and I guess I wouldn't be overly encouraged if I were  
20 sitting in your position and were depending on Federal  
21 funds to support a local anti-tampering program to make a  
22 motorcycle program work. It is not apt to happen, I think,  
23 and clearly, it won't happen now, and it may not happen.  
24 Congress may not change that.

25 Secondly, I guess I'd also like to say that I  
26 thing, from my own personal point of view, this is a case

1 where, perhaps, local funds are more appropriate -- local  
2 effort is more appropriate.

3 The modification problem is a localized problem.  
4 It is done by the locals, as opposed to a national firm,  
5 and it's probably more appropriately dealt with; and the  
6 locals can deal to the extent that they provide the  
7 resources that they ill need.

8 MR. SWING: I'd like to offer a comment on that.  
9 I'm sure we've all seen the J. C. Whitney catalogue --  
10 otherwise known as Washowsky -- out of Chicago, and one  
11 of the reasons we think it is really important to get a  
12 Federal program on, it would have some effect on the  
13 after-market sales for systems for existing motorcycles --  
14 is that we may, indeed, like CHP, go into a shop selling  
15 illegal headlights, or these X-number of thousands of  
16 candlepower eye burners, and remove them from the shelves,  
17 and may clean up California, but it's not too difficult  
18 to drive across to Nevada, or to order a system out of  
19 some other state, and that really gets beyond our capability  
20 to control that; and so, for that reason -- and others,  
21 I guess -- I would like to continue to push for some type  
22 of Federal approach to these systems.

23 MR. KOZLOWSKI: We will deal with that national  
24 problem, the manufacturing and marketing of these systems.  
25 I think it's more appropriate that the local governments  
26 deal with the people who actually tamper with the bikes,

1 make the modifications.

2 MR. SWING: It is probably unusual to hear  
3 someone from the state asking for more Federal intervention,  
4 but, in this case, it seemed appropriate.

5 MR. KOZLOWSKI: But not unusual to hear people  
6 ask for more Federal funds. (Laughter)

7 MR. PETROLATI: One point of clarification. You  
8 make the statement that EPA should refine stationary test  
9 procedures because of the lack of correlation. What do  
10 you actually see of the utility of the stationary test  
11 procedure? Is the stationary test procedure that you are  
12 talking about the one that the manufacturer uses to certify,  
13 or are you talking about stationary test procedure, in  
14 other words, that the State of California would actually  
15 do continuous enforcement with?

16 MR. SWING: I can see both uses for the  
17 stationary procedures. I guess one of my main concerns is,  
18 we have had noise legislation on the books for a number  
19 of years that pertain to motorcycles, and if we could,  
20 indeed, take a used motorcycle and run a test, a relatively  
21 simple straightforward stationary type of procedure, and  
22 from that have a fairly good idea of what its J-331a  
23 performance level was, we could feel a lot more confident  
24 in terms of the citation, or relating that to our existing  
25 laws.

26 Maybe what I'm asking for is unique to California,

1 and would serve our needs better than anyone else. We do,  
2 indeed, have a lot of motorcycles in California, and they  
3 do, indeed, get a lot of use here. But I can see further  
4 refinement necessary to allow a lot of these programs to  
5 go forward from the standpoint that we would at least know  
6 what we were talking about relative to some fixed standard.

7 MR. PETROLATI: In other words, you want  
8 something that's very correlated to the acceleration test,  
9 the acceleration standard?

10 MR. SWING: Yes, I would find that very useful.

11 MR. PETROLATI: Thank you very much.

12 MR. EDWARDS: Mr. Swing, I'm going to ask you  
13 the same kind of question I asked Mrs. Chatten-Brown this  
14 morning. Since your organization is supporting lower sound  
15 levels for new motorcycles -- in fact, considering lower  
16 sound levels than even EPA is proposing, is this reflective,  
17 or could you characterize, please, how you or how your  
18 office receives complaints relative to modified motorcycles  
19 versus unmodified motorcycles, and what is it that gives  
20 you folks the feeling that unmodified motorcycles are such  
21 a problem that we need to go down below the levels that EPA  
22 has proposed?

23 MR. SWING: I sort of anticipated that. Let me  
24 say that the majority of complaints -- we don't take that  
25 many complaints directly. Whenever someone does call us  
26 directly, we are very quick to refer them to someone else.

1 Typically, we support the activities of local health  
2 departments and local police departments, and spend the  
3 majority of our time doing that, so when we receive a  
4 complaint, we will pass it on to that local entity, and  
5 then, when they need further support, we help them out.

6 From the statistics I've seen out of both San  
7 Francisco, that has a very active program of noise  
8 enforcement, and CHP, it would suggest that, indeed, the  
9 majority of problems are indeed associated with the modified  
10 motorcycle. Clearly, that's the number one priority item.

11 I think I was reasonably careful in hedging,  
12 when I talked about EPA standard as being less restrictive  
13 than California's, but I didn't necessarily say our time  
14 frame was the best, but we do recognize, as you do, that  
15 with time, we are going to have quieter automobiles --  
16 presently, the automobile on the highway typically emits  
17 70 dB(A), 70-72; trucks are well beyond that -- but we look  
18 a little beyond this composite of the noise exposure, and  
19 I think there was a point you were making, that I, personally,  
20 have been involved in a lot of analysis of single event  
21 durations.

22 It doesn't take a high Leq or Ldn control by the  
23 motorcycle population to cause annoyance to the community.  
24 It only takes one or two pass bys at the right time of  
25 night, and some of the metrics that are used in noise  
26 analyses, and I have developed models for highway analysis,

1 and railroad analysis, using these Leq metrics, they are  
2 valuable from rather a general standpoint in terms of  
3 assessing -- generally assessing the way people react to  
4 noise; but, we've become very concerned about the single  
5 event intrusions.

6 Hence, my concern that, perhaps, the EPA test  
7 procedure doesn't extract enough sound out of certain of the  
8 larger motorcycles. What may well be is that when they're  
9 on the freeway, you don't hear them above the trucks, but  
10 when they're cranking up the hilly roads, or in the middle  
11 of a neighborhood late at night, it may very well be very  
12 audible, so what we would suggest is a balanced approach.

13 The overriding part of the motorcycle problem  
14 today is these modified motorcycles, that it may well be,  
15 if we come up with an effective way of dealing with that  
16 in the very near term, we'll be more concerned with the  
17 stock motorcycles, and just where and when they are used  
18 as being a function of how much annoyance they cause.

19 So, we see a need for a progressive reduction  
20 in their noise emission, and suggest that that progressive  
21 reduction do, indeed, be balanced with the effectiveness in  
22 controlling the major part of the problem.

23 I have specifically not necessarily supported  
24 our time frame in that statement, but I should point out --  
25 I know people have mentioned this, referring to the record,  
26 that California failed to consider cost and technology in

1 considering their ongoing rather enthusiastic standard with  
2 time.

3 But those were done in 1969, and there were,  
4 indeed, people that had expertise in acoustics, on that  
5 staff. Ralph Hillcrest, of General Motors, was on that  
6 committee that helped put together that report that  
7 established the California regulations; Ross Little, of the  
8 California Highway Patrol; a number of acoustical experts,  
9 albeit not motorcycle industry representatives were there.

10 And, where specific dollars weren't necessarily  
11 accounted for, it was anticipated that the time frame, when  
12 they put together this schedule of compliance, represented  
13 their best judgment as to what would be economically  
14 feasible, and technologically feasible, in fifteen years  
15 from the time those standards were presented, so, admittedly  
16 now, we would never get away with that, and EPA is being  
17 called to task to justify every dollar spent on noise  
18 control.

19 In those days, we were breaking relatively new  
20 ground, and could judge these things rather subjectively.

21 MR. EDWARDS: All right. So, is it fair to say,  
22 then, that it is your analysis of the motorcycle as a  
23 single event, looking into the future environment of other  
24 quieter vehicles, is the reason behind your support of  
25 lower and lower levels as we go into the next decade?

26 MR. SWING: Yes, it is.



1 MR. EDWARDS: You said that your comments were  
2 going to be directed principally at street motorcycles. Is  
3 that because your office does not get into the off-road  
4 motorcycle noise problem, or because you don't perceive that  
5 there is one?

6 MR. SWING: I think there definitely is an  
7 off-road noise problem, and it's more a matter of the  
8 limited amount of time we really had to deal with preparing  
9 our statement today, as opposed to the fact the we don't  
10 consider it a problem.

11 If I may comment on the off-road motorcycles  
12 as they cause annoyance. I guess there are two schools of  
13 thought. One is, make them all so quiet that no matter  
14 where they are operated, and what time they are operated,  
15 they don't cause an annoyance. I don't think that's a  
16 realistic approach.

17 I think what is needed is as was suggested about  
18 the Carlsbad situation, that there indeed be places provided  
19 so that you're not that concerned about the level of noise  
20 emitted by some of these machines, that they can be used  
21 and enjoyed to whatever level people find reasonable, and  
22 they don't offend anyone else.

23 So, actually, we find that the EPA regulations  
24 on off-road bikes are more restrictive than California's.  
25 They will be with time. They propose lower limits. And  
26 we encourage you for that.

1           The question, "What do you do after that?", as  
2 you continue to try to make them quieter, or work out more  
3 viable programs for where they're used -- and I think the  
4 latter is probably the more reasonable approach.

5           MR. EDWARDS: Okay. One other area. You  
6 questioned some people's interpretation of the difference  
7 between an EPA regulatory level and a State of California  
8 regulatory level, and there are really two factors involved,  
9 and you mentioned one is that EPA is absolutely not to  
10 exceed limits which would require the manufacturer to  
11 design several decibels below the limit.

12           The second is, as I understand your statement,  
13 and understand that the State of California would add one  
14 or two decibels on to their own standard for enforcement  
15 tolerance; is that correct?

16           MR. SWING: I was trying to make a point, but  
17 that really isn't the case in California, that 80 decibels  
18 really means 82. From a practical enforcement standpoint,  
19 if we went out to measure a series of motorcycles for  
20 compliance, we would probably give them the benefit of the  
21 doubt and use what we consider to be reasonable measurement  
22 of tolerances.

23           MR. EDWARDS: Okay. I think it's, as far, at  
24 least, as EPA's background information goes, that we would  
25 not ascribe a tolerance to the California situation. In  
26 other words, if you say 80, you mean 80. The distinction

1 may be, however, EPA requires several products to be tested,  
2 and requires that all -- say, ten of them -- that nine out  
3 of the ten be below the standard.

4           Who in the State of California does whatever  
5 testing is done to determine compliance with the State of  
6 California's standards; and, is more than one vehicle  
7 tested, or do you base your result on one vehicle test?

8           MR. SWING: Ross Little would have the specifics  
9 on that. I don't believe the vehicles are specifically  
10 tested by State staff. We take the data as applied by the  
11 manufacturers, and that is one record, and with the CHP.

12           As a matter of fact, I think they have to get  
13 clearance to the Department of Motor Vehicles before those  
14 vehicles are registered.

15           I think that's the procedure, but I am not as  
16 clear on that as I should be, and there is someone here  
17 that can give that information to you.

18           MR. EDWARDS: I'll address my questions to him  
19 when he comes up here, but I think it may be reflective on  
20 your own opinions as to the distinction between EPA  
21 standards and the State of California standards.

22           That's all I have. Thank you very much.

23           CHAIRMAN THOMAS: I have a couple of questions,  
24 Mr. Swing, from the floor, which I would like to pose to  
25 you. You may want to refer these to one of your other  
26 State colleagues, however.

1 All right. The first one is in three parts.  
2 That is: "Are California Laws -- in this case, the noise  
3 laws -- designed to protect the public health and welfare?  
4 Is that the purpose of them?"

5 MR. SWING: Yes, they are.

6 CHAIRMAN THOMAS: The second part of that, then,  
7 follows on as an all-of-the-above sort of thing: "80  
8 decibels can be met, I think, as you suggested, by all  
9 manufacturers, and I think you then added a caveat on there,  
10 except, perhaps, Harley-Davidson?"

11 MR. SWING: Uh huh.

12 CHAIRMAN THOMAS: The third one is the zinger,  
13 of course, and that is . . .

14 MR. SWING: Was that a question? (Laughter)

15 CHAIRMAN THOMAS: Presumed answered.

16 MR. SWING: Okay.

17 CHAIRMAN THOMAS: And the third one is the  
18 zinger, which is: "Well, why, then, does California Highway  
19 Patrol use Harley-Davidsons?"

20 MR. SWING: Fortunately, we have someone here  
21 from the Highway Patrol. They do indeed use quite a  
22 variety of motorcycles. They use Moto Guzzis, and Hondas,  
23 and I don't know what the composition of the CHP fleet is  
24 these days. I certainly know some of them, some of the  
25 motorcycles they use, are relatively quiet, but I'm very  
26 glad that Ross is here, and . . .

1 CHAIRMAN THOMAS: I take it you're deferring  
2 that, the formal statement, then, to the representative  
3 from the California Highway Patrol?

4 MR. SWING: Yes.

5 CHAIRMAN THOMAS: All right. Fair enough. Then  
6 perhaps, the second question is likewise similar, and that  
7 is: "What percentage of motorcycle citations involve sound  
8 measurements as opposed to officer judgment?"

9 MR. SWING: Let me back up just a second because  
10 there is -- I shouldn't leave Ross on the hook here. As  
11 far as I know, the current production Harley-Davidsons do  
12 comply with the existing California standard. They are  
13 meeting 83 today. So, CHP, even if they had a fleet of  
14 one hundred per cent of Harleys, shouldn't be criticized  
15 for using illegal motorcycles. They are complying with  
16 today's limits. Okay.

17 CHAIRMAN THOMAS: I think the thrust of the  
18 question was, if there are quieter motorcycles available,  
19 perhaps California should be using those.

20 MR. SWING: That's a good question.

21 CHAIRMAN THOMAS: And the second element was:  
22 "The percentage of motorcycle citations involving sound  
23 regimens as opposed to officer judgment? Do you have any  
24 feel for that in terms of responses?"

25 MR. SWING: I have a feel for it, and my  
26 statistics may not be terribly accurate. I know some of

1 the San Francisco programs, and a lot of the CHP instructions,  
2 which is given.

3 In California, there are two ways to cite someone  
4 with a noisy vehicle: Either by measurement, which identifies  
5 that vehicle having been measured and exceeding the  
6 applicable noise limit; or by citing that individual for a  
7 violation -- citing that individual for modifying that  
8 exhaust system so that it makes more noise than when new,  
9 or as originally equipped; and, typically, the violations  
10 follow both patterns.

11 It's good to give an equipment violation.  
12 Otherwise, nothing has to be done if you just cite someone  
13 for noise like a speeding ticket. You haven't done anything  
14 to the vehicle to keep it from speeding again. So, the  
15 citations are typically either one or the other, but  
16 generally involve a modification type of cite where that's  
17 possible.

18 Now, by inspection, there are a number of  
19 systems, Volkswagen's, Porsche Extractors, certain motorcycle  
20 systems, that you don't need a meter for citing them on  
21 an equipment violation, and the CHP noise teams will,  
22 indeed, instruct local noise enforcement people on how to  
23 make some of these determinations. .

24 They, indeed, aren't the refined technique, but  
25 they will get the worst offenders, so in many cases, a  
26 meter is not needed or incorporated in these citations.

1 CHAIRMAN THOMAS: That is very good. Thank you  
2 very much. I appreciate your comments, and obviously, we  
3 will be talking to you again before these final rulings go  
4 out on some of the technical questions you posed to us here.

5 MR. SWING: Thank you.

6 CHAIRMAN THOMAS: Thank you, Mr. Swing. We will  
7 now proceed to break for lunch, about one hour. We will  
8 reconvene at 1:40, and at that time, we will hear from Mr.  
9 John Davidson, from AMF/Harley-Davidson Motor Company.

10  
11 (Whereupon, the hearing recessed  
12 for lunch at 12:35 o'clock, p.m., and  
13 reconvened at 1:40 o'clock, p.m.)  
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P R O C E E D I N G S

CHAIRMAN THOMAS: Ladies and gentlemen, if we can reconvene, please.

As we indicated earlier this morning, if there are any of those in the audience that are here who are not scheduled to speak and would like to speak, please let the receptionist know at the desk in the outer hall and we will be happy to hear from you, as time permits, today.

We will now hear from a scheduled speaker, Mr. John Davidson, representing AMF/Harley-Davidson, please. I was commenting to Mr. Davidson, before he starts -- I was commenting to him earlier today -- since his company has been cited, or his product has been cited, I think at least once, or probably more, by every speaker here, I presume that he has at least ninety per cent of the motorcycles riding out there.

MR. DAVIDSON: We have had some notoriety, so far. (Laughter)

JOHN DAVIDSON

I'm here as Chairman of the Board of Harley-Davidson to address the issue at hand. I think we are all well acquainted with it at this point.

My remarks will center on several areas: the noise standards themselves, the economic implications of the standards, suggested time tables for compliance, and



1 also, I will address what we feel is the real problem, that  
2 being modified vehicles that we talked about at some length  
3 this morning.

4 First off, however, let me just give you a rather  
5 brief overview of philosophy, and what has already been  
6 accomplished in regard to motorcycle noise. Harley-  
7 Davidson has been in the motorcycle business for seventy-  
8 five years, and we are currently the only surviving  
9 manufacturer of motorcycles in the United States. In a  
10 sense, I guess, the sport of motorcycling, and Harley-  
11 Davidson, have grown up together.

12 I would not be appearing at this public hearing  
13 had we not made commitments starting long ago to continue  
14 to improve our products, and to anticipate future trends  
15 and needs for the industry, since, obviously, marketplace  
16 success depends on foresight.

17 We are keenly aware of what the consumer demands  
18 from his motorcycle, and realize that we must meet these  
19 demands if our company is to remain viable.

20 Moreover, we have not been insensitive to the  
21 need for preserving the environment. Harley-Davidson has  
22 been allocating a large portion of its research and  
23 development budget to developing exhaust emissions and  
24 noise control technology as an integral part of our stated  
25 philosophy.

26 We have supported in the past, and we will

1 continue to support, reasonable rules and regulations  
2 relating to environmental and safety conditions when they  
3 will result in a meaningful benefit to the public.

4 At the same time, these regulations have to be  
5 realistic from the standpoint of overall cost. Being  
6 realistic on this point leads us to doubt the benefit of  
7 proposing further noise reductions when major reductions  
8 have already occurred without government intervention --  
9 without Federal intervention.

10 At the same time, realism brings us to strongly  
11 support Federal regulation for noise control, and other  
12 environmental issues

13 Interpreting and complying with what I term a  
14 "hodgpodge" of all state and municipal regulations leads  
15 to unnecessary paper work and the consumption of resources  
16 which could be better applied in solving related problems.  
17 Thus, the unification of regulations will permit everyone  
18 to focus on the real issues, rather than the busy work  
19 that surrounds those issues. We compliment the EPA for its  
20 efforts to this end.

21 At the same time, while providing necessary  
22 unification, recent history indicates that many of the  
23 provisions of the proposed regulations are not necessary.

24 In recent years, Harley-Davidson has focused  
25 its attention to compliance with the most stringent of the  
26 individual state standards, and we believe much progress

1 has been made.

2 In 1968, noise levels for production motorcycles  
3 was as high as 92 dB(A). Today's unmodified motorcycles  
4 are at a level either 83 or below. This represents an  
5 eighty-eight per cent decrease in sound energy, and perhaps  
6 a better measurement is, a sixty-five per cent decrease in  
7 sound pressure. This, I think, is a truly significant  
8 accomplishment.

9 Yet, efforts, to date, go uncredited, and  
10 problems are magnified, by plainly erroneous documents.  
11 We find as late as 1977, in an official EPA publication  
12 entitled "Noise on Wheels" a statement that, "Pending state  
13 legislation has encouraged manufacturers to reduce maximum  
14 noise levels to 92 dB(A)."

15 In effect, the EPA has totally ignored what has  
16 already been accomplished. Not only does EPA fail to  
17 give private industry credit for its accomplishments in  
18 working with state regulations, but their statements in  
19 this publicly distributed pamphlet are simply not correct,  
20 and may have already caused unnecessary reaction in the  
21 non-motorcycle owning public.

22 We firmly believe, a motorcycle manufactured  
23 to an 83 dB(A) standard, and free from tampering or improper  
24 substitution of noise control components, is unlikely to  
25 be a source of annoyance to others, and as I already said,  
26 the industry is already at or below 83 dB(A).

1           At this stage, as I have stated, the unification  
2 at the Federal level of the many state regulations combined  
3 with fine tuning and standardization of test methodology  
4 are constructive changes to the process. But, while the  
5 standardization of regulation is beneficial, the regulations  
6 themselves mandate excessively severe controls, unrealistic  
7 time schedules, and a whole range of other requirements,  
8 few of which have been shown, in our view, to be cost  
9 effective.

10           Let me now point out some of the major  
11 shortcomings that we, as a company, see in the regulations:

12           The first point which I shall address is that of  
13 the noise levels contained in the proposed regulations.  
14 Since the standards are written on a "not to exceed" basis,  
15 the manufacturer must design a motorcycle substantially  
16 quieter than the published levels to allow for uncontrollable  
17 variations in production, and also, test measurements. Our  
18 experience has shown that motorcycles must be designed at  
19 least 3 dB(A), or for those who are not close to dB(A), a  
20 a fifty per cent quieter situation than the published to  
21 assure that the entire production run complies. Thus, in  
22 order to meet the 83 dB(A) in the proposed regulations we  
23 must design at the 80 dB(A) level to assure compliance.

24           Thus, it follows that the 80 dB(A) level proposed  
25 for January 1, 1982, must, for all practical purposes, be  
26 interpreted at 77 dB(A), and the 78 dB(A) level proposed

1 in 1985 has to be interpreted as 75 dB(A) by the  
2 manufacturer. In our view, the ultimate level -- the 78  
3 level -- goes beyond the best demonstrated technology in the  
4 industry.

5 We take issue with the proposed levels; believe  
6 they are based on some incorrect assumptions. It is our  
7 opinion that 83 dB(A), as applied today, constitutes a  
8 reasonable sound level, and that further reductions are not  
9 needed for new motorcycles.

10 The EPA's background, and other documentation on  
11 the subject, clearly suggests that the proposed regulations  
12 are an effort to correct a perceived social problem rather  
13 than a physiological one. In other words, EPA sees  
14 motorcycle noise as an annoyance to people rather than an  
15 actual hazard to hearing.

16 If the problem, as I have suggested, is a social  
17 one, why then are the proposed regulations so severe? We  
18 believe that the driving force was an environmental impact  
19 analysis which consequent events have again shown to be in  
20 error, and it was this type of analysis, an analysis which  
21 possibly gave rise to materials such as "Noise on Wheels" --  
22 "Noise on Wheels" is the document that EPA published in 1977.

23 That documents states that in 1976 there were  
24 approximately five million motorcycles on the road, and that  
25 the number was expected to triple to fifteen million by 1985.  
26 We believe this figure is grossly exaggerated. As a

1 manufacturer -- as a gentleman who runs a motorcycle company  
2 in the U. S. -- I would be delighted to see fifteen million  
3 motorcycles on the road in 1985, as it would mean a dramatic  
4 increase in sales. But in my view, there is no way that  
5 we're going to see fifteen million. In reality, the forecasts  
6 show that the number will be, at best, ten million, so I  
7 suggest that the EPA is off to the tune of some five million  
8 motorcycles.

9 But, to get a better picture of the problem. I  
10 think it is necessary to look beyond mere numbers of  
11 motorcycles. It is essential to compare the number of  
12 motorcycles to the total number of vehicles on the roads,  
13 and even more important perhaps, the motorcycle miles ridden  
14 compared with the mileage put on other vehicles.

15 According to the Motor Vehicle Manufacturers  
16 Association, and Motorcycle Industry Council statistics,  
17 which were compiled for 1975, there were over one hundred  
18 and thirty-two million cars and trucks on the road in that  
19 year. There were only six and a half million motorcycles.  
20 Thus, motorcycles accounted for four-point-seven per cent  
21 of the total population, which I think is a small enough  
22 figure indeed.

23 But the true significance lies in the percentage  
24 of total miles. Although cars are driven almost ten  
25 thousand miles each year, and heavy trucks almost fifty  
26 thousand, motorcycles average only twenty-five hundred

1 miles per year.

2 When multiplied out by the number of each type  
3 of vehicle, we find that motorcycles account for a mere  
4 one-point-two per cent of the total vehicle miles, and yet  
5 the EPA has chosen to focus its attention on what amounts  
6 to be a fraction of the total problem at a cost to the  
7 public of millions of dollars. I would suggest that the  
8 money might be better spent elsewhere.

9 On yet another front the EPA uses what we think  
10 is an erroneous logic to establish the extent of public  
11 exposure to motorcycle noise. The actual sound level that  
12 one hears from a motorcycle in normal operation is not as  
13 loud as the sound of a motorcycle under the maximum  
14 accelerations conditions which are proposed for the motorcycle  
15 noise test.

16 As it stands, today's vehicles must meet an 83  
17 dB(A) level when measured during maximum acceleration.  
18 Realistically, motorcycles operate well below this level  
19 most of the time, and I would like to cite a study that was  
20 conducted, rather recently, in Illinois. in 1974, the  
21 Illinois Task Force on Noise was charged with developing  
22 motor vehicle noise standards applying to a typical urban-  
23 suburban situation. They considered traffic at a standstill  
24 waiting for a green light. Based on driver surveys, they  
25 established that seventy-five per cent of drivers accelerate  
26 to thirty-five miles an hour in the first hundred feet, and

1 that this is accomplished in four-point-eight seconds.

2 Task Force conducted twelve hundred measurements  
3 on motorcycles, which showed that the sound levels of  
4 unmodified motorcycles continued to be in the mid to low  
5 70 dB(A) range at these typical acceleration rates, which  
6 is 5 to 12 dB(A) below the noise made during rapid acceleration.

7 The significance of these findings, I think, is  
8 that they represent sound levels to which the greatest  
9 number of people are ordinarily exposed.

10 For the purposes of health and welfare analysis,  
11 the Illinois Task Force approach would be more typical  
12 than the maximum acceleration test which simulates freeway  
13 entrance ramp conditions.

14 What it all boils down to in our view is that  
15 the time-average sound level of unmodified motorcycles is  
16 substantially less than 83 dB(A).

17 The current problem in motorcycle noise is the  
18 modification or substitution of noise control components,  
19 that we have addressed at some length this morning. The  
20 EPA agrees with this, and I quote from the "Notice of  
21 Proposed Rulemaking": "It was recognized at the time of  
22 identification that much of the current impact from  
23 motorcycles comes from owner-modified motorcycles,  
24 particularly those with replacement and modified exhaust  
25 systems."

26 And a little later again -- I'm quoting: "The



1 Agency studies have confirmed that controlling exhaust  
2 system modifications is an essential part of any strategy  
3 designed to lessen the impact of motorcycle noise on the  
4 public health and welfare.

5 "The modification problem consists of two parts:  
6 owner alterations to original exhaust systems, which is  
7 termed 'tampering', and the availability of replacement  
8 systems with poor muffling performance. Motorcycles  
9 modified by either method can be as much as 20 decibels  
10 louder than motorcycles in stock configurations."

11 Clearly, this suggests that an overall reduction  
12 in motorcycle noise requires the control of modifications,  
13 and any overall solution to the current motorcycle noise  
14 problem has to focus on that aspect.

15 We recognize that the EPA does not currently  
16 have the authority to regulate existing modified vehicles.  
17 However, we think that the enactment of the proposed  
18 regulations with their anti-tampering provisions will  
19 inhibit tampering, and reduce the motorcycle noise problem.

20 Thus, we again suggest that 83 dB(A), as a  
21 nationwide standard for all motorcycles, would markedly  
22 reduce annoying motorcycle noise.

23 We turn, for a moment, to the economic implications  
24 of what we are addressing today. EPA estimates that the  
25 cost to the consumer for the proposed ultimate levels will  
26 add an average of one hundred and forty dollars to the price

1 of each medium sized street motorcycle. The project the  
2 total annual consumer cost at two hundred million dollars,  
3 per year, by 1985.

4 Our analysis indicates that EPA may be significantly  
5 understating the total impact of the proposed regulations.  
6 We estimate that the proposed requirements would add two  
7 hundred and twenty-two dollars to four hundred dollars to  
8 the retail price of our heavyweight models. And I would  
9 point out that these costs are expressed in today's dollars --  
10 1978 dollars -- and don't account for the inflation that we  
11 are currently living with.

12 To date, it has cost Harley-Davidson's consumers  
13 only fifteen to thirty-four dollars per motorcycle to go  
14 from 92 dB(A) to 83 dB(A). Since further reductions will  
15 provide what we believe to be only marginal improvements  
16 in the overall motorcycle noise problem, we question to  
17 cost effectiveness of any lower levels.

18 Among others who, perhaps, would also call  
19 this "cost ineffective" is Robert Strauss, who was referred  
20 to this morning. He is President Carter's recently  
21 appointed Special Counsel on Inflation. In comments that  
22 were made on April 18th, Mr. Strauss declared that the  
23 government must set the pattern for sacrifice by curbing  
24 its own inflationary actions. He stated that he was sure  
25 that there were EPA regulations and enforcement policies  
26 that add significantly to the cost of production but did

1 not achieve major environmental benefits. We believe that,  
2 perhaps, the proposed motorcycle noise regulations are  
3 precisely the kind of regulation that Mr. Strauss was  
4 talking about.

5 We turn, for the moment, to timing. The proposed  
6 regulations, in our view, clearly underestimate lead times  
7 required to achieve compliance with even the initial control  
8 level.

9 Motorcycles don't have hoods or bodies to cover  
10 noise control devices. Since these devices are clearly  
11 visible, they require major efforts to avoid design and  
12 styling compromises, which may well bring about sales  
13 declines.

14 Thus, each change must be carefully analyzed  
15 for implications to total vehicle performance, styling,  
16 handling, safety, and ultimately, customer acceptance.

17 This takes time. It also takes skilled people.  
18 For motorcycles, the time can not be compressed by mandate,  
19 since it involves a creative process infinitely more  
20 detailed than that which is found on many other products.

21 Another area of concern is the failure of the  
22 proposed regulations to recognize other manufacturing and  
23 engineering lead times. Machine tool sourcing and delivery  
24 currently requires about two years. And naturally, machine  
25 tools can't be ordered until the design is firmly in hand.  
26 Completion of the design effort can take even longer than

1 it takes to get the tooling, depending on the magnitude of  
2 the required changes.

3 Meeting the proposed standard of 80 dB(A) would  
4 require extensive changes to Harley-Davidson's current  
5 products, changes that we could equate to nearly designing  
6 an entirely new engine.

7 For a totally new motorcycle, the overall lead  
8 time, from concept to production, which includes the  
9 certification phase, realistically takes five to six years;  
10 and for a multi-product line, an allowance must be made to  
11 phase the redesign so that the limited human and economic  
12 resources can be effectively applied.

13 So, what we have is a dramatic shortage of  
14 necessary lead time, as we see it.

15 In addition, the proposed potpourri of labeling,  
16 and auditing requirements, introduces complexities that  
17 result in additional manufacturing costs, costs that I have  
18 not included in the earlier estimate of two hundred and  
19 twenty-two dollars to four hundred dollars per vehicle,  
20 which is covering the hardware changes.

21 And all of this comes as an uncoordinated  
22 addition to the emissions requirements which were imposed  
23 upon us by the EPA effective January 1st of this year.

24 I think that we've shown that the motorcycle  
25 industry has, within the last ten years, brought about a  
26 major reduction in the overall noise from motorcycle

1 operation, and I think we have also demonstrated a sensitivity  
2 to environmental issues.

3 We feel that the EPA is not regulating the proper  
4 source in its attempt to reduce the annoying motorcycle  
5 noise. We believe that 83 dB(A) applied to all motorcycles  
6 nationwide would bring the noise related environmental  
7 impact of motorcycles within an acceptable range.

8 Reductions below the 83 level, in our view, are  
9 not cost effective; indeed, we suggest that the cost  
10 inefficiency is precisely the kind that Mr. Strauss suggests  
11 that EPA should question when it establishes policy.

12 We encourage you gentlemen, and the general  
13 public, to examine the issues we have raised, and to adopt  
14 regulations that will preserve the environment without an  
15 inflationary cost to our good customers.

16 I would be happy to answer your questions, or  
17 do my best in trying.

18 CHAIRMAN THOMAS: Thank you, Mr. Davidson.

19 I would like to respond to one item which you  
20 raised here, Mr. Davidson, in your statement. You properly  
21 made reference to an EPA publication, the 1977 "Noise on  
22 Wheels", in which certain data and statistics were presented.  
23 That document was in error and has been recalled by the  
24 Agency, and has not been reissued.

25 The document associated with this rulemaking,  
26 I think, more properly presents the facts insofar as the

1 volume of vehicles in suburbs is concerned on the road today,  
2 and the projections. We're not quite sure what the future  
3 sales are going to be either, but they're certainly not in  
4 the magnitude that we projected in that 1977 document.

5 MR. DAVIDSON: We are all, I guess, dealing with  
6 projections, and what is going to happen in the future, and  
7 that is a very difficult thing to do.

8 The point, however, that I was making was that  
9 the document was distributed, and EPA has subsequently  
10 indicated that there were some inaccuracies in it, and I  
11 think that the harm that that does is that the non-motorcycling  
12 public can well have notions today which simply are not  
13 true.. That is the point I was making.

14 CHAIRMAN THOMAS: And your point is well taken,  
15 sir. We stand chastized and corrected, and we have done  
16 what we could to correct it, but I'm not sure that's enough  
17 yet, and I certainly accept your comments there.

18 Let me ask now if my colleagues have some  
19 questions, please. Mr. Edwards?

20 MR. EDWARDS: Mr. Davidson, you stated that you  
21 think the 83 decibel level, I believe you said, is unlikely  
22 to be a source of annoyance in the future environment.  
23 You also said that you think the 83 decibels is a reasonable  
24 sound level.

25 I don't want to go through what I went through  
26 with Mr. Isley this morning, but, can you give us some basis

1 for your opinion, or Harley-Davidson's opinion, than an  
2 83 decibel motorcycle in an environment with quieter trucks,  
3 quieter light vehicles, however, things which will be  
4 happening in the next decade, is not going to be a source  
5 of annoyance?

6 MR. DAVIDSON: Well, I'm not sure what's going  
7 to happen in the next decade. I know there is a lot of work  
8 going on with other sources of noise. However, the problem,  
9 as we see it, basically is one which has been acknowledged  
10 this morning, that of the owner tampering with what the  
11 manufacturer is putting on there.

12 We also very strongly question the cost  
13 effectiveness of going beyond where we are.

14 I am not an expert on noise, unfortunately. I  
15 wasn't trained as an engineer. But I think that what we  
16 need to do initially is address the problem that I think  
17 practically ever speaker has cited as the real problem.

18 What we're talking about is, what are trucks and  
19 buses going to be like in 1987. I know there is proposed  
20 regulation now. How successful that's going to be, I don't  
21 know. My reference point obviously can't be based on what  
22 happens in 1987.

23 I know that you are projecting your standards  
24 out that far, and the State of California even further,  
25 but I don't think that we are attacking the proper problem.

26 MR. EDWARDS: No, we certainly acknowledged in

1 our written documents that the modification problem is  
2 certainly a severe one, and is probably one of the largest  
3 sources of complaints that we receive right now.

4 My only question was directed as to whether you  
5 had had any specific studies, or any other data or information  
6 that we do not have in our grasp to show than an 83 decibel  
7 motorcycle, even when it is operating at less than its  
8 rapid acceleration under this test, we certainly acknowledge  
9 that motorcycles do not normally operate this way, and we  
10 take this specifically into account in our health and  
11 welfare analysis.

12 I am just asking, perhaps in your written  
13 comments later, to give us any additional data or analysis  
14 that you have, or you think we should do, to put it in  
15 proper perspective. I would be very happy to get it.

16 MR. DAVIDSON: I would guess that we will  
17 address that point further, but I would point to the Illinois  
18 circuit that I commented on.

19 My understand of noise is that if you are at  
20 basically a 70 dB level, that that is not particularly  
21 annoying, and that data done in Illinois would suggest that  
22 in the real world rather than accelerating off a freeway  
23 ramp, that that's about where we're at today, and I think  
24 supports the position that the unmodified motorcycle --  
25 and I can't repeat that enough -- is not a source that  
26 causes a great problem.



1           MR. EDWARDS: Okay; fine. You cited some cost  
2 figures for possible modifications to Harley-Davidson  
3 motorcycles to achieve the 78 decibel standard, and we will  
4 set aside just for a moment your comments on the cost  
5 effectiveness or desirability of that.

6           You did make a point about the motorcycle  
7 appearance having to be acceptable to the customer; and I  
8 believe you also made some reference to Harley-Davidson's  
9 unique position in the marketplace is from appearance and  
10 other standpoints. In looking forward to these possible  
11 requirements, which would cost from two hundred and twenty-  
12 two to four hundred dollars, how will it effect the  
13 appearance of the Harley-Davidson motorcycle and its  
14 customer appeal?

15          MR. DAVIDSON: We would certainly hope -- and we  
16 are certainly not, at the same time, done with all the  
17 engineer views that are involved in this thing -- we would  
18 certainly hope at the "not to exceed 83" level, which we  
19 are suggesting is the appropriate level, that we could meet  
20 that with basically the configuration that we have today,  
21 but we would have to change, for example, gear covers and  
22 other components, to sound deaden them, because the problem,  
23 even though we've talked a lot this morning about the  
24 exhaust systems, the problem to us as a manufacturer is not  
25 the exhaust system, it's the mechanical noise, the chains,  
26 the gears, that sort of thing.

1 I think we addressed the exhaust system as being  
2 the problem because, again, of the tampering, and the use  
3 of uncontrolled mufflers, but the problem of Harley-  
4 Davidson is not that. Our mufflers are well within the  
5 standard, and we are now addressing mechanical noise, which  
6 is very much more difficult than putting a muffler on  
7 motorcycles. That is where the cost comes in.

8 MR. EDWARDS: I understand. So, as you look  
9 forward past, say, the 83, which is your recommended level,  
10 but at the 80 decibel standard, or the 78 decibel standard,  
11 have you some feeling as to possible reconfiguration of  
12 the motorcycle which might detract from the appearance --  
13 and I should point out that we will accept any kind of  
14 information you have on future product models on a  
15 confidential basis in your docket submission -- I am just  
16 asking if there is anything you know of now that you could  
17 state for these people here.

18 MR. DAVIDSON: I would say, the 80, Scott, we  
19 are dealing in an unknown world as to how far we will have  
20 to go. We may wind up having to go to the extent of a  
21 new engine. At 78, we simply don't think we can meet  
22 what has been proposed, that our existing hardware is  
23 obsoleted by this date.

24 MR. EDWARDS: I see. All right. Can I ask,  
25 then, on another subject, does your company manufacture  
26 replacement exhaust systems other than not identical to the

1 stock systems?

2 MR. DAVIDSON: Yes.

3 MR. EDWARDS: How do they vary in sound level  
4 from the identical stock systems?

5 MR. DAVIDSON: I think I would have to turn to my  
6 technician on that one thing.

7 MR. EDWARDS: Okay. Could you put that in the  
8 record when you make your final submission?

9 MR. DAVIDSON: Yes.

10 MR. EDWARDS: I would appreciate that.

11 MR. DAVIDSON: What you're after is . . .

12 MR. EDWARDS: I'm trying to find out, you know,  
13 whether Harley-Davidson is in, more or less -- to what  
14 extent you're in the replacement exhaust system business,  
15 except as distinct from the identical stock systems.

16 MR. DAVIDSON: We do sell exhaust systems as  
17 replacements beyond the standard system, and we will comment  
18 on that.

19 MR. EDWARDS: I would appreciate that.

20 There are a couple of other technical areas  
21 that I will not ask you specifically about right now, but  
22 we highlighted in our preamble, and I was wondering if I  
23 could just possibly bring it to your attention again, that  
24 we are looking forward to the manufacturers focusing on  
25 in their written submissions.

26 One is the subject of the testing methodology

1 that we have proposed, which is somewhat different than  
2 existing procedures. Another one is the question of the  
3 tachometer specification that we have included in the  
4 proposed rules which would allow certain vehicle tachometers  
5 to be used and not allow other vehicle tachometers to be  
6 used. Another are is in the stationary labeling arena  
7 where we have suggested a particular statistic on a  
8 distribution of stationary sound levels as the appropriate  
9 statistic to label on a motorcycle -- on the frame of the  
10 motorcycle, and we're looking for comment on that particular  
11 statistic that everybody thinks is most useful.

12 MR. DAVIDSON: We will have comment for that.  
13 We had included some of that complexity in this statement,  
14 and felt it was not . . .

15 MR. EDWARDS: I understand. We don't want to get  
16 into it right now.

17 One thing we are specifically looking for in  
18 there, where we are deficient in data, is the distribution  
19 of sound levels of nominally identical motorcycles on the  
20 stationary test. If you have that, we would appreciate it  
21 very much.

22 And the final thing is the question of the  
23 structure of the effective date -- not 1980 or 1985 -- but  
24 whether it should be on a calendar year basis or on a  
25 model year basis. This is another area that we're really  
26 looking for comments from the manufacturers.

1 MR. DAVIDSON: We will address tha..

2 MR. EDWARDS: Mr. Davidson, thank you very much.

3 MR. KOZLOWSKI: Mr. Davidson, we often find  
4 ourselves, in these hearings, when we speak to members of  
5 the regulated industry, pointing to other industries that  
6 were regulated first, and the problem is not trucks it's  
7 motorcycles, and it's not buses it's motorcycles, and vice  
8 versa.

9 MR. DAVIDSON: Yes.

10 MR. KOZLOWSKI: We find ourselves in the same  
11 situation here.

12 I find it very difficult to articulate. People  
13 question me about controlling noise. Now, we can control  
14 trucks to 83 and 80 decibel levels, and buses to 83 and 80  
15 decibel levels, and automobiles that are already down to 70,  
16 and try to convince people that motorcycles can be reduced  
17 below the level of 83. It's just very difficult for me to  
18 articulate that to people. Now, that's a statement, an  
19 internal statement, I guess, as opposed to a question.

20 It just appears to me that there ought to be --  
21 granted that lead time and cost are important factors --  
22 there ought to be some way, at least to keep motorcycles in  
23 phase with these great big heavy duty trucks, as we regulate,  
24 and it seems to me that we're not doing our job protecting  
25 the public health and welfare if we can't.

26 Our goal, obviously, isn't 80 decibels for trucks.

1 We want a noise level that's down more near 65 overall,  
2 and so, when you take trucks and motorcycles, and you talk  
3 to the American public at large, if you talk noise, people  
4 will invariably say, "When will you quiet the motorcycles?",  
5 so I don't know how you value this annoyance to people, but  
6 it's widespread, and I say it's severe.

7 MR. DAVIDSON: If I may comment. I know that was  
8 a statement.

9 I would have to say to you that we have recognized,  
10 as a company, that motorcycle noise is, indeed, a problem,  
11 and has been for many years.

12 One of the things that Harley-Davidson does in  
13 its warranty policy, as an example, it voids warranty  
14 coverage totally if a motorcycle is modified with a tampered  
15 exhaust system, a noisy exhaust system.

16 This is not something new. I have been involved  
17 in this thing for, I guess, eighteen or nineteen years, and  
18 we have struggled with the noise problem for that many  
19 years.

20 We think we are making progress, and I would hate  
21 to leave this podium without having people understand that  
22 we have done something. We, perhaps, can be accused of not  
23 doing enough. But we certainly have recognized this as a  
24 problem to the public, and also to the industry, for many,  
25 many years.

26 MR. KOZLOWSKI: I won't accuse you of that, but

1 let me ask you a question, perspective: Suppose EPA does  
2 not regulate, or regulates on an 83 level, and the state  
3 and locals did not regulate, do you see the motorcycles  
4 getting quieter in the future in the absence of regulation,  
5 or in a very limited regulation, one of the state of the  
6 art at 83, for example?

7 MR. DAVIDSON: I guess I would be hard pressed  
8 to express myself on that.

9 I think that, certainly, in any industry, like  
10 ours, there is continuing striving to improve the technical  
11 item that we're building, and if there is improvement  
12 performance, whatever -- however you want to define that --  
13 that would also lower the sound levels, I'm sure the  
14 industry would go in that direction. But I'm not sure that  
15 that tie-in exists.

16 MR. KOZLOWSKI: Well, again, let me editorialize,  
17 and I don't get paid to editorialize, and that is:  
18 Generally speaking -- I know not only with motorcycles --  
19 but generally speaking, noise is not a marketable product,  
20 and I guess I would jump to the conclusion that, in the  
21 absence of market pressure, that you wouldn't see the  
22 industry generally -- you wouldn't see the motorcycle, or  
23 trucks, or any of those products -- get quieter voluntarily.

24 As a matter of fact, because of the cost  
25 involved, and because with motorcycles some people associate  
26 the bike with noise -- the power of the bike with noise --

1 you would probably see it going the other way, or at least  
2 not getting quieter, so I guess the conclusion that I jumped  
3 to is that motorcycles would not get quieter absent some  
4 staged reduction, and we can argue cost and lead time, but  
5 if you want to keep motorcycles in step with noise regulations  
6 generally where there is noise regulation, we think there  
7 are already precedents for getting trucks, for example,  
8 quieter.

9           You need, I think -- the Federal government  
10 needs, or the state and locals need -- to get involved, to  
11 set standards for the entire industry, now has some sort  
12 of even pressure applied to reduce the noise level.

13           MR. DAVIDSON: We would not disagree at all that  
14 we need standards.

15           MR. KOZLOWSKI: So then, we're talking about  
16 the quality . . .

17           MR. DAVIDSON: One thing, if I may.

18           MR. KOZLOWSKI: Sure.

19           MR. DAVIDON: One thing I would cite as it  
20 relates to noise: In our view, the motorcycles that we are  
21 producing today at the 83 level -- in some cases, down to  
22 82½, 82 -- perform better than the motorcycle that somebody  
23 tampers with, but the tampering, for whatever reason, still  
24 exists, and I again point to that as a basic premises.

25           MR. KOZLOWSKI: We're going to quote you on  
26 that. That's beautiful. That's going to help us when we



1     tamper with the tampering problems.

2             Let me ask a real question this time: If there  
3 is no Federal regulation, how are you going to deal with  
4 the California standards?

5             MR. DAVIDSON: At 70? 80?

6             MR. KOZLOWSKI: Well, they start at 83, as I  
7 recall, 80.

8             MR. DAVIDSON: Well, I said earlier, but not to  
9 exceed 78, which is your proposal -- we don't see that we  
10 can meet with our existing equipment, at this point in time.

11            MR. KOZLOWSKI: Does that mean that . . .

12            MR. DAVIDSON: At 70, I don't know what engine  
13 meets that. I guess I would feel, as Mr. Isley felt this  
14 morning, that we have long felt that the Federal EPA was  
15 going to come up with a standard, and perhaps the MIC's  
16 position in accepting the 70 was one of assuming that was  
17 going to be preempted.

18            For the record, incidentally, we are not a  
19 member of the MIC, so they don't . . .

20            MR. KOZLOWSKI: You don't speak out.

21            MR. DAVIDSON: . . . speak for us.

22            MR. KOZLOWSKI: Well, I guess I get back to the  
23 same statement I made to Mr. Isley: What you're proposing,  
24 and what MIC proposed, basically is that EPA promulgate  
25 a preemption regulation. That seems to be the net effect.  
26 And I'm not sure that's the business EPA ought to be in.

1 We ought to be in the noise reducing business. And, if  
2 we're spending all our time and attention attempting to  
3 develop a standard, a national standard, merely to protect  
4 the industry, I think some other agency or some other  
5 organization should be doing that. Again, that's an  
6 editorial comment.

7 Let me jump. Is there -- and I probably know  
8 the answer to this -- is there any way that a motorcycle  
9 manufacturer such as Harley can develop a tamper-proof bike,  
10 noise tamper-proof?

11 MR. DAVIDSON: I think not. I don't know how.

12 MR. KOZLOWSKI: So, we're always going to be  
13 faced with this pressing problem of people taking the right  
14 part off and putting the wrong part on?

15 MR. DAVIDSON: You have the same problem with  
16 automobiles' emissions controls.

17 I don't know how you stop them. I don't know  
18 how you make a "tamper-proof" motorcycle. We may have some  
19 engineers in our organization that I haven't met yet, but  
20 I don't know how.

21 CHAIRMAN THOMAS: Maybe he'll come forward,  
22 then. (Laughter)

23 MR. KOZLOWSKI: That's all I have. Thank you,  
24 sir.

25 MR. PETROLATI: Just one question: I'm referring  
26 to your information you supplied on the Illinois Task Force

1 Study, that found noise levels in motorcycles in the low  
2 and mid 70's, and that being 5 to 12 decibels below the  
3 EPA standard. If EPA does get into a position to recommend  
4 in-use noise levels to state and local governments, for  
5 motorcycles, would you see this as the correct level to  
6 recommend a level 5 to 12 decibels below the EPA standard?

7 MR. DAVIDSON: I'm not sure that I would cite  
8 the Illinois Study as something that should be utilized as  
9 a standard. The point that I was trying to make is that,  
10 in the real world, people are exposed to a noise level of  
11 approximately 70 dB(A), which, to my limited knowledge of  
12 noise, is certainly not damaging to hearing, and probably,  
13 is not particularly noisy.

14 Would I subscribe to that as an in-use standard?  
15 I don't know. I think we would have to review that question,  
16 and provide comment on it, before I would want to say yes  
17 or no.

18 MR. PETROLATI: Thank you very much.

19 MR. KOZLOWSKI: Yes, we have a question from the  
20 floor from Mr. Isley. He wants to know: "Is Mr. Kozlowski's  
21 statement about a long term EPA target of 60 dB(A) and  
22 other vehicles by implication accurate?" The answer is,  
23 no. My tongue got caught in my eye teeth and I couldn't  
24 see what I was saying.

25 What I was saying is that the goal of EPA is for  
26 an Ldn of 55 or perhaps 65, a marked reduction in the general

1 noise level, and to that end, we're reducing trucks down  
2 to 80, and then some future level, and for motorcycles the  
3 same, and for buses the same program.

4 We need to look at the problem as a whole, and  
5 we're shooting for 65 or 55 Ldn. That doesn't mean every  
6 product will be in that "not to exceed" level. I'm sorry  
7 about this error.

8 CHAIRMAN THOMAS: Mr. Davidson, I'm saving a  
9 few questions for last, if you will bear with me. You have  
10 been with us for almost an hour. These are rather  
11 straightforward questions, but I'm not so sure you can give  
12 me, necessarily, a straightforward answer to them at this  
13 point. I would at least ask you to consider them in  
14 comments that Harley will subsequently provide to this  
15 rulemaking.

16 The first of these questions is: Can Harley-  
17 Davidson produce, by the effective date produced in these  
18 regulations, motorcycles across your product line that will  
19 meet an EPA 80 decibel level?

20 MR. DAVIDSON: We will comment.

21 CHAIRMAN THOMAS: The second question is: Can  
22 Harley-Davidson produce a motorcycle across its product  
23 line that meets EPA's 78 decibel level at any time in the  
24 future, and if so, by what date?

25 MR. DAVIDSON: I would answer that probably we  
26 could, but it will obsolete our current heavyweight product

1 line. I would not want to try to give you a timetable at  
2 this point for I think that needs some study, but I think  
3 that it would be possible to do so.

4 You may end up with a product that you can't  
5 sell, and again, I go back to my point about the automotive  
6 industry having an easier chore because your noise control  
7 components are buried, they are under hoods, they are under  
8 bodies, and in the motorcycle business, the look of the  
9 motorcycle, we found, is damn important to the consumer,  
10 and while you may be able to design something that's totally  
11 covered, you may not be able to sell it, so, in essence,  
12 the regulation would put us out of business, in that vein.

13 Do I think it's possible? Well, we've seen it  
14 done in other things. We build golf carts, for example.  
15 I believe the noise levels are 68 to 70 dB(A). You wouldn't  
16 sell too many to the individual motorcycle consumer that  
17 goes down the freeway in Los Angeles. That is the problem.

18 CHAIRMAN THOMAS: I think I can appreciate that.

19 Mr. Davidson, it has been suggested to EPA by  
20 a number of individuals during the development of this  
21 rulemaking that if EPA holds the effective dates that we  
22 have published in this proposed rulemaking, and those  
23 noise levels, that Harley-Davidson will not be able to meet  
24 those levels by those dates, and effectively, the United  
25 States government will have removed the single remaining  
26 U. S. manufacturer of motorcycles from the market. We

1 would appreciate your comment specifically on that in your  
2 comments to this ruling.

3 We also find that that is something unique, since  
4 it is the opinion of EPA that there is merit to what I have  
5 just said, and that, in fact, these regulations, if adopted  
6 and finalized, as proposed, could well remove Harley-  
7 Davidson from the U. S. market. I think we would find that  
8 somewhat unique among most of the industrialized countries  
9 of the world, at this point, if the government would be  
10 looking at its last remaining manufacturer of a product and  
11 effectively be removing it from the marketplace.

12 I would like to turn to a different line, at  
13 this point, and that is, I would like for you if you would,  
14 please, to comment as to what Harley-Davidson has done to  
15 bring the noise problem -- tampering modifications problem --  
16 to the attention of its dealers, distributors, and to the  
17 extent that it can, purchasers of its product.

18 MR. DAVIDSON: I mentioned one thing that I  
19 certainly think has strong impact on the user, our warranty  
20 policy, where we void the warranty regardless of mileage  
21 if the individual tampers with the exhaust system. That  
22 is widely known to the user because it appears in the  
23 owner's manual. It is widely known to our dealer organization.  
24 I believe it's a provision in the franchise contract that we  
25 have with our dealers, that you will not do this tampering.

26 We also have published that policy in various

1 promotional documents that we have. I believe that if I  
2 went into a research project, I could find that we have  
3 written articles over the years in a publication that we  
4 circulate to owners. I think the circulation today of  
5 that publication, which is called "The Enthusiast", is one  
6 hundred and sixty thousand owners. We have made them aware  
7 of our views.

8 We strongly support the American Motorcyclist  
9 Association, of which I am currently President. This is  
10 an organization representing motorcycle. They, too, have  
11 addressed the issue of modifications, and have very strongly  
12 suggested that, from the standpoint of the industry, and  
13 from the standpoint of the individual user, modification is  
14 bad and we're going to all suffer over it, and that is not  
15 a new posture, that goes back to the history of it.

16 I think we have, certainly, taken some strides  
17 in making people aware of our position on that subject.

18 CHAIRMAN THOMAS: Some of your competitors  
19 market, at least in their advertising, quiet, or less noise.  
20 Have you ever taken a position, or do you take a position  
21 now, with respect to your advertising, and the material that  
22 is representative of Harley-Davidson that appears in the  
23 press under your symbol and name, positions with respect  
24 to noise, or exactly, the kinds of things that you have  
25 said here? Has Harley-Davidson taken out advertising, or  
26 presented information formally, that says, "Don't modify

1 your bikes. This is bad. It's bad for motorcycling. It's  
2 bad for our business. This is the kind of thing that should  
3 be a no-no."?

4 By the same token, have you ever looked at  
5 advertising -- do you use any advertising -- that says,  
6 "We market," or "We produce a quiet bike," or "quieter  
7 bikes," anything with respect to noise?

8 MR. DAVIDSON: I think our advertising has been  
9 more skewed to safety issues. We strongly recommend the  
10 use of helmets, for example.

11 Where I talk advertising, I think I have to  
12 define it. It's a printed ad in a publication, Cycle  
13 magazine for example, versus our Enthusiast, that I alluded  
14 to earlier.

15 That also is cost, and that also could certainly  
16 be postured as advertising, and in that document we indeed  
17 have talked tampering, but perhaps, as I think you're  
18 suggesting, we haven't done enough of that in our present  
19 advertising.

20 That, I guess, is a constant conscious decision  
21 that we feel, perhaps, the safety issue is one that needs  
22 more attention than the noise issue, other than the  
23 tampering piece of the noise issue.

24 CHAIRMAN THOMAS: Well, this is the question, or  
25 my editorial comment, that I add to, and I will do so with  
26 each representative of the industry that speaks before us,



1 and that is, if we mutually agree that a significant part of  
2 the problem of motorcycle noise has to do with modifications  
3 and tampering, what would you recommend the industry do for  
4 its part about helping to correct or solve this problem,  
5 and what would you propose that the Federal government do?

6 MR. DAVIDSON: We will address that.

7 CHAIRMAN THOMAS: I would appreciate that, sir.

8 Thank you.

9 Any other questions? (No response from panel  
10 members.)

11 I do have one question from the floor, and the  
12 question is this, and I'll read it as given to us in here:  
13 "What is Harley-Davidson doing to restrict the sale of the  
14 old 92 dB(A) mufflers in volumes which indicates they are  
15 being installed on new machines?"

16 I guess that's a statement of fact, that you are  
17 selling old dB(A) mufflers in volumes which indicated they  
18 are being installed on new machines, and what are you doing  
19 about it?

20 MR. DAVIDSON: I don't know who the gentleman is  
21 that asked the question. I could not address the volumes.  
22 We do sell an exhaust system which is for a racing motorcycle,  
23 and it is clearly stated that that's the way it is to be  
24 used.

25 I would acknowledge at the same time -- and I'm  
26 damn sure -- some people use them on street motorcycles,

1 and we need to address that as a company.

2 CHAIRMAN THOMAS: Thank you very much, sir. I  
3 appreciate it.

4 MR. DAVIDSON: I appreciate the forum, and the  
5 opportunity to meet with you publicly. Thank you.

6 CHAIRMAN THOMAS: Jerry Jardine. The next  
7 individual we have is Jerry Jardine, from Jardine Header  
8 Company.

9 JERRY JARDINE

10 Okay, I'm Jerry Jardine. It's been a long  
11 wait back there. It's been really interesting to me and  
12 it's -- I'll have to go along with John Davidson about a  
13 hundred per cent on all of his comments.

14 I manufacture exhaust systems for just about  
15 all the motorcycles out there -- not "all" of them but  
16 mainly the big four, all the Japanese bikes -- a lot of  
17 replacement exhaust systems, replacement mufflers that are  
18 sold strictly as a replacement muffler, no performance  
19 increase basically.

20 When a guy goes to buy a new multi-cylinder --  
21 four cylinder Honda replacement system we have a muffler  
22 that will cost him about half the price he will be paying  
23 for a . . . That's a big part of our sales.

24 They're at 83 decibels now -- I had a speech  
25 here I was going to try and go by but I don't think -- a  
26 lot of these points have been gone over so much already --

1 mainly to get a system that really qualifies at 83 dB(A)  
2 we're actually looking at a system that tests at -- you  
3 want to make sure it's usually 81 to 82 -- at least we  
4 have that, you know, to make an honest 83, because test  
5 conditions vary so much it's -- you just can't say --  
6 some days we have gone out and tested and we have conceded  
7 we had better not go on testing today because the stock  
8 system is not even close to what it should be -- there is,  
9 you know, a little too much wind, or a lot of little  
10 problems.

11           Anyway, bikes have gotten a lot quieter in the  
12 last few years, and there's still a lot of noisy ones  
13 around. There's a lot of systems being made that aren't  
14 legal, not even close to it. New manufacturers every day  
15 that I don't even know where they come from. It looks like  
16 it's easy to get into the market.

17           I have been in the basic exhaust system market  
18 for twenty years, ever since I was out of high school --  
19 and I have grown; and some of my competitors have grown  
20 more; some have gone over the hill, and upside down;  
21 But I've stayed in there -- but, trying to make really a  
22 decent product that's applicable to, you know, popular  
23 demand, basically.

24           I was going to go over the meeting the 80 dB(A),  
25 if you have a new motorcycle that comes out, this will go  
26 under 80 decibels, a muffler -- it's going to cost us quite

1 a bit more to make an 80 decibel muffler, but I'm sure,  
2 with tooling and stuff, we -- roughly, to do the whole  
3 line, we figure maybe seventy-five to a hundred thousand  
4 dollars on basic tooling just to start with, which -- it  
5 isn't a lot, but yet it's one jump at one time.

6 We're really a small business. We do around  
7 two million dollars gross sales a year, which isn't -- you  
8 know, we're not big time. But I think that Trendex survey  
9 shows that the total exhaust system market in the United  
10 States, '76 through '77, that mid-year there, is close to  
11 forty million dollars, and that includes the Japanese  
12 replacements or the direct O-wing replacements, and all  
13 the American made replacement mufflers, you know.

14 The biggest problem in enforcing the law: We've  
15 got -- I got -- I used to make some real nosy stuff -- and  
16 it's very popular to make noisy stuff. That's what the --  
17 not all -- I would say, ten to twenty per cent of the  
18 riders like noisy stuff, and those are the bikes that are  
19 going to get noisy, and no matter what they say of the  
20 stock system, they'll just -- you know, they can drill  
21 holes in the end of it, or cut it in half, or -- you know,  
22 there's a lot of ways of making it noisier.

23 The biggest problem there is enforcement. These  
24 guys really can ride anywhere with a noisy exhaust system,  
25 and maybe they get a ticket -- like the gal said this  
26 morning, they get a ticket, so they go and put the stock

1 system back on -- put a quiet system on, and it doesn't  
2 cost them any money -- a little labor -- they're all  
3 mechanics, the ones that are making the noise -- come back  
4 the next day with another system, maybe make it another  
5 year, six months, or several thousand miles with a noisy  
6 system. Those are the motorcycles the people hear.

7 I'm sure that people don't even know that it's  
8 an 83 decibel bike going down the road because, if it's  
9 under acceleration, it's making 83 decibels, he can be cited  
10 for speeding real easy because it's just -- you know, speed-  
11 time gesture, or acceleration. There is absolutely no  
12 place a guy can do that legally, unless he's absolutely  
13 out off the road.

14 Other than that, the major part of the American  
15 motorcycle industry is Harley-Davidson and the after-market  
16 that manufactures racks, bearings, helmets and exhaust  
17 systems. Exhaust systems are rated up in the top three  
18 of the after-market products.

19 And there definitely has to be some control  
20 over people that ride noisy bikes, and I don't think it's  
21 right to go in and lower everybody down to abnormally low  
22 levels, down to 78, or even 80, really, when the bikes that  
23 are causing the problem are probably running up in the 90's,  
24 the mid-90's, I would say.

25 In fact, if you would just do your own survey  
26 when you're driving down the road, look at the bikes that

1 that you noticed -- try to notice all the bikes -- and the  
2 ones you really notice are the ones that usually have the  
3 mufflers cut off, or the straight pipes on them -- most of  
4 the time, no muffler at all.

5 Even in our systems, we use the -- see that  
6 system over there on the bottom (indicating the rendering  
7 on display) -- our replacement mufflers are double reverse,  
8 and when we install it, it is riveted in. A guy cut drill  
9 the rivets down pretty easy. We can weld them, but they'll  
10 just cut the welds off. They'll take those apart, pull  
11 them off and saw them in half and only use one reverser.  
12 Well, then they're back to, you know, a lot louder bike.

13 I don't have too much more to say. I'm sure you  
14 will hear more from some of the other manufacturers. I  
15 was trying to say, in the market itself, with my sales,  
16 I think with the MIC's "Less Sound, More Ground," basically  
17 came out for the dirt bikes. It's helped the whole  
18 industry, riders and everybody, dealers back east. It's  
19 really gotten hot. To only just sell stuff that they're  
20 sure that the guy isn't going to come back and say, "Hey,  
21 the cops gave me a ticket and I want my money back."  
22 Dealers will order noisy systems on order, but they won't  
23 really stock them.

24 But anyway, I'll send in a written comment to  
25 you, and some more figures. If there are any questions?

26 CHAIRMAN THOMAS: Mr. Jardine, we're fortunate

1 to have you here today. Since you're in the after-market  
2 business, you're one of the folks we want to talk to. I  
3 hope that some of your colleagues -- I note that there are  
4 one or two others who have asked to speak before these  
5 hearings, and I hope several others will join us later.

6 I am very sorry, as a matter of fact, that we  
7 are missing some folks that I would like to see talking to  
8 us. I don't see any dealers and distributors, for example,  
9 who have come forward and asked to speak, those kind of  
10 folks.

11 We're also missing some motorcyclists themselves.  
12 We were looking for a little bit of the rest of the segment  
13 of the market, in here, that would be involved with this.

14 I think you have laid out, quite candidly, what  
15 some of the problems are. Have you got some solutions in  
16 your mind what we ought to do to take care of some of  
17 those problems?

18 MR. JARDINE: Well, I don't know. I think,  
19 really, the enforcement on the street is one major deterrent  
20 to -- usually, it's the younger guys, the young kids, that  
21 will like to hear, you know, when they're going fifty or  
22 sixty miles an hour and they're getting a rush of air if  
23 they're wearing a helmet. It takes about 86 to even really  
24 hear the exhaust system on a lot of those bikes. It  
25 depends on where the outlet is. But, to hear it over the  
26 air rushing through their ears, that's what they want to

1 listen to, basically.

2 It's really the younger guys. If they got a  
3 few tickets and had to pay some money, Im sure it would  
4 really help to cut down on the noise. You know, most all  
5 of the bikes now have enough power. I'm sure they can't  
6 measure, you know, seven or eight horsepower extra on the  
7 street. If they're out on the drag strip and they're in a  
8 racing unit, it's different then. They don't have to run  
9 any mufflers at all.

10 CHAIRMAN THOMAS: So, tougher enforcement, higher  
11 fines.

12 MR. JARDINE: I think that would help, rather  
13 than trying to lower all the levels to new motorcycles.  
14 83! Have you guys ever used sound meters, or played with  
15 them?

16 CHAIRMAN THOMAS: Qute a few, yes.

17 MR. JARDINE: Yes, well, personally, you can  
18 get a bike in the low 80's, it's fairly quiet, and it  
19 cruises right down in the low 70's. A noisy chain will  
20 bring it up. Quite a few of the mechanical noises will,  
21 loose brackets floating around.

22 CHAIRMAN THOMAS: I think Mr. Kozlowski has got  
23 a few questions he'd like to ask you.

24 MR. KOZLOWSKI: Mr. Jardine, my solution to the  
25 automobile pollution was to route the exhaust system into  
26 the driver's compartment. I figured that would stop it.



1 (Laughter) Perhaps we should have the exhaust system up  
2 close to the driver's seat of the motorcycle. Then, they  
3 wouldn't tamper with it.

4 That brings us to the question, now. We've  
5 talked about "a" major problem being the tampering of the  
6 bike's exhaust system. Why do people tamper if, in fact,  
7 it is true -- and I guess we would tend to support this  
8 statement by Mr. Davidson -- you don't get performance  
9 improvements because you tamper with the bike? Why do  
10 people tamper with bikes?

11 MR. JARDINE: Well, you know, it's not a lot of  
12 the guys that ride motorcycles, but that small percentage  
13 that do, stand out because they're noisy, but the reason  
14 they tamper with them is basically more noise. You stated  
15 earlier that noise wasn't a marketable product. Well, it  
16 really is . . .

17 MR. KOZLOWSKI: Yes, yes.

18 MR. JARDINE: . . . it really is, right now,  
19 with no controls on it. The State has some laws, but they  
20 don't seem to enforce them on the manufacturer. I've had  
21 tests run on my system. They've been, you know, laughed at,  
22 because they were quiet, and a little low on horsepower.  
23 That was a few years ago. And it was hard on business.  
24 I've come back, honestly, right now, to make some noisy  
25 systems, and they're selling like hotcakes. (Laughter)  
26 But, there's no restrictions on them other than the State,

1 you know -- and I guess I'll hear from them tomorrow, or so.

2 CHAIRMAN THOMAS: You may hear from them this  
3 afternoon. I think there's a couple of them in the audience.

4 MR. KOZLOWSKI: What I mean was, quiet was not  
5 a marketable product.

6 I assume that you've gone through our regulations,  
7 our enforcement scheme, and actually, any debate over what  
8 the standards should be. I likewise assume, because you  
9 haven't commented adversely, that you don't have any  
10 particular problem with the labeling of the after-market  
11 systems, with the general compliance and enforcement scheme,  
12 and the testing schemes, that are laid out in the regulations?

13 MR. JARDINE: Well, the labeling, I believe, is  
14 a little extreme, as far as how much has to be on there,  
15 and the size of it. A lot of systems are sold for styling.  
16 In fact, I would -- you know, right now, it's hard to really  
17 break the market up and find out what everyone sells for,  
18 but styling costss and performance -- there's a lot of  
19 people out there that buy my systems because they are  
20 quieter, I know that for a fact.

21 It's hard to buy a good system that, you know,  
22 a guy can ride and really not get in trouble all the time.

23 MR. KOZLOWSKI: Do you intend to provide written  
24 comments?

25 MR. JARDINE: Yes.

26 MR. KOZLOWSKI: I am asking you to comment

1 specifically on the enforcement procedure, the labeling,  
2 and the testing scheme. We would like to hear from people  
3 like you.

4 A different subject: Will your mufflers last  
5 more than one year?

6 MR. JARDINE: Oh, yes. I run a lot of tests.  
7 On the current muffler we make right now, on the replacement  
8 mufflers, the interior is a mechanical diffuser, or chamber,  
9 that goes across it, just the same little close thing to  
10 what Honda, and Kawasaki, and everybody else uses -- Harley-  
11 Davidson, it's all steel, no fiberglass. Yes, it will  
12 outlast a lot of factory systems.

13 MR. KOZLOWSKI: So, you have no problems with  
14 acoustical assurance?

15 MR. JARDINE: No, not as long as we don't have  
16 to get back into glass, fiberglass or one of those components,  
17 that will deteriorate.

18 MR. KOZLOWSKI: Thank you very much.

19 MR. PETROLATI: At the standards that are being  
20 proposed, are you going to lose your ability to sell a  
21 different style muffler at a lower cost than the original  
22 equipment manufacturer?

23 MR. JARDINE: It's going to be -- It's hard to  
24 say. You know, if you have to make a bike quieter, there's  
25 a lot of things other than a muffler that contributes to  
26 the noise, as John Davidson stated.

1 MR. PETROLATI: Well, you're more or less going  
2 back. You have to assume the fact that you're getting a  
3 motorcycle that is meeting that standard. The only thing  
4 that you have to do is maintain that standard with your  
5 exhaust system.

6 MR. JARDINE: Yes.

7 MR. PETROLATI: Consequently, are you still  
8 going to be able to add those styling characteristics  
9 that you, as an after-market manufacturer, are supplying  
10 now?

11 MR. JARDINE: Well, I'm sure it's going to  
12 increase the price, and it's also going to increase the  
13 bulkiness of mufflers. When you get into really tuning  
14 mufflers -- little tiny mufflers -- there's just not enough  
15 volume in that to take care of any noise, you know. It's  
16 just like -- I don't know -- you know, if you go to 78,  
17 it really just -- I can't imagine really what would happen,  
18 then, at that level. I know if you go to 80, we're going  
19 to have to be at 78 and 79, basically. That's the way you  
20 just about have to figure. You have to go under whatever  
21 the level you set in this. You know, if you say 73, or rather,  
22 83, and you give a 2 decibel lead, well then, there's a  
23 whole bunch that is -- you know, it's hard to say. I  
24 haven't done a lot of testing further than the 80. Of  
25 course, you get into other things, like you take a 70, or  
26 say, an early Honda, when they had the first four cylinders

1 and they had a big air box, we can put a muffler, one of  
2 our replacement slip-on replacement mufflers will go on  
3 there, and the bike was what, an 86 or 88 on one of the  
4 California drive-by tests.

5           You take that same bike and put a late model air  
6 box on it, it will drop it down to 83. That's why a muffler  
7 has a real bearing on the noise. It's the air intake on  
8 acceleration. As long as the valves, you know, are loose,  
9 and the chain is right, and the motor's fairly tight, so  
10 there's a whole lot of tuning the bike down. When you get  
11 down to the fine numbers, you know, it's hard to say.

12           We do make some low end stuff now for Kawasaki.  
13 We design stuff for them, a little bit of stuff, not much.  
14 Most of it comes from Japan.

15           MR. PETROLATI: Okay. I think my basic question  
16 was, if you knew how the regulations were going to affect  
17 the demand for the after-market exhaust system, and listening  
18 to your answer, I guess it's still the big question in your  
19 minds.

20           MR. JARDINE: Yes, really. I think a lot of the  
21 systems are sold on style, I'm sure. You know, getting  
22 back to your first, I really don't think the motorcycle,  
23 the motor bike, the 80 decibels, or the 83, is a big noise  
24 problem, you know. It's the rider that just keeps insisting  
25 on running a noisy system, or running a modified quiet  
26 system. You know, they've got hacksaws, and the only thing

1 to do is, you know, like you said, highly tamper-proof  
2 completely, or could you make a tamper-proof bike. It's  
3 physically impossible, you know, on any kind of a product.

4 MR. PETROLATI: Would you say that most of the  
5 after-market industry, that if the standard, say, remained  
6 at 83, would still be viable; in other words, no real effect  
7 by the regulation?

8 MR. JARDINE: No. I think there's a lot of guys  
9 that wouldn't. To qualify the 83? No. A lot of bikes  
10 can make 83, I'm sure. A lot of my competitors are.  
11 Getting under that? I don't know; I don't really know. I  
12 think that maybe quite a few of them. There's a lot of  
13 small shops around that don't even make their own stuff.  
14 They're selling a few systems here, and a few there. They  
15 don't really care. You know, quick money. They sell  
16 products. That's going to be the hardest thing to control,  
17 if you ever get into it. That goes back around to the  
18 state and highway patrol and stiffer enforcement of the  
19 law, those things.

20 Are you familiar with the German tooth test they  
21 have over there in Germany? Have you heard of those guys?

22 MR. PETROLATI: Yes, we have.

23 MR. JARDINE: I don't know what they call them  
24 here. Anyway, it is pretty hard to sell a system in  
25 Germany until you pass a test over there, and that takes a  
26 lot of politics, and a lot of money. (Laughter) But, in

1 talking to guys that ride bikes over there, those are the  
2 guys that a lot of them have two systems, and it's a heavy  
3 fine if you get caught with the system on, so you see,  
4 most of the bikes don't hardly have any modified systems  
5 because there is a big fine if you're caught with your  
6 system. That is what it comes down to.

7 MR. PETROLATI: Thank you very much, Mr. Jardine.

8 CHAIRMAN THOMAS: Mr. Jardine, I've got one  
9 question that I want to pose to you now -- you may not be  
10 able to answer it now, but perhaps you could consider it  
11 further and submit written comments to the Agency. I'd  
12 like your comments on them.

13 We have considered and talked with the Europeans,  
14 talked with the Common Market people. We have talked to  
15 the Germans. I was over there last year and talked with  
16 government people on their regulations on motorcycles.

17 We have considered setting regulations that  
18 would ban, literally, the manufacture of inadequate  
19 mufflers and exhaust systems in the United States. There's  
20 a little ticklish problem associated with it, though, and  
21 that is, we don't know quite how to do it. We've got the  
22 law, and we could write such a regulation, and we can  
23 remove from interstate commerce in particular, postal  
24 service, etcetera, the sale of the bad straight pipes,  
25 pseudo-muffler systems, but we've got a lot of motorcycles  
26 out there right now that we don't know the noise levels of,

1 older bikes, and if we were to severely restrict the sale  
2 of after-market exhaust systems other than just label them  
3 as we're doing right now in one respect, how would we write  
4 such a regulation, how would we determine which bikes, as  
5 it were, which mufflers, should, in fact, be sold, and which  
6 ones should be removed from the market?

7           Would you consider that, please, and if you and  
8 your colleagues can come up with an answer for us, since  
9 you obviously do manufacture at least some systems that will  
10 work well, we would be interested in your views.

11           Mr. Edwards?

12           MR. EDWARDS: Mr. Jardine, I'm very happy to  
13 see you here today. We have yet a lot to learn about the  
14 after-market muffler manufacturers. If you can do me a  
15 favor -- you've been up here a long time but you're the  
16 first after-market muffler manufacturer that we've had, and  
17 I've talked with you on many occasions and I am somewhat  
18 familiar with what you do, but many members of the panel, and  
19 in particular, when I have talked to people from the press,  
20 and other people interested in this business -- when you  
21 start talking about muffler manufacturers, they get sort of  
22 a glazed look like, "Gee, I don't really know what you're  
23 talking about. I never heard of these people." These are  
24 people who are not associated with the motorcycle industry,  
25 and I was wondering if you would be willing to give us just  
26 a little run-through on what happens when a new motorcycle



1 model comes out that you want to build a muffler for. In  
2 doing so, we can get some idea how big your company is --  
3 not really dollars and cents but how many people you have  
4 who do the designing. How do you get the motorcycles to  
5 do the testing on? Do you use a test strip to run a  
6 J-331a? Do you own it? Do you go out someplace in the  
7 street? That kind of detail would be something that would  
8 be very helpful, I think, to members of the panel, and  
9 other folks listening in.

10 MR. JARDINE: Well, right at the present time  
11 we work -- I employ, roughly -- oh, it must be close to  
12 forty-five people. I have, basically, two people that work  
13 in design, and prototyping, and testing systems, fit checking;  
14 and a couple of more guys that work in production that  
15 handle -- one, welding, to make sure welding jigs fit  
16 all right, and another guy in hydraulic sledging, where we  
17 form stuff.

18 In prototyping, well, we buy new bikes every so  
19 often, and we try to borrow one. It's tough to borrow one.  
20 We do a lot of tuning on -- we'll get two -- we'll buy one  
21 or two new bikes every year. This year, we bought a new  
22 eleven hundred, and we're going to buy a new Suzuki, I  
23 think, one that actually has smog, California smog, on it.

24 Anyway, we have laid out systems. We have a  
25 dynamometer there. I have a bike I rode over here today,  
26 it only shows fifty, seventy miles on it, or sixty miles,

1 maybe, now, but it's probably got I don't know how many  
2 miles on the dynamometer, you know, running noise tests,  
3 horsepower tests, chrome tests, pollution tests, paint  
4 tests, a lot of things like that, making sure the product --  
5 you know, what we sell -- is going to hold up.

6           Horsepower, and horsepower increase, along  
7 with the noise controls, are primary things we're working  
8 on. Also, producing something that is going to last.

9           MR. EDWARDS: In the design of the product, do  
10 you rely basocially on sort of your experience with past  
11 products, and then build prototypes, and then, sort of  
12 go through several iterations? Is there somewhat of a  
13 science or an art? How do you go about doing that?

14           MR. JARDINE: Well, bikes are designed with a  
15 lot of obstacles to get a new system on. We'll make a  
16 muffler system, say, using the factory head pipes. We  
17 don't sell a lot of those at first. We'll sell a few on  
18 just for styling. A lot of guys want to change the style.

19           We have a turned-out muffler and a built-in  
20 muffler that we use a double reverser in, and, you know,  
21 very good on noise control, maybe in the 83 area; you know,  
22 a little longer than some models that just ride around in  
23 the area. We will design those to go with factory head  
24 pipes. And then, we'll design our four-to-one. And there  
25 is the styling, really, the styling muffler, the way the  
26 megaphone hangs on there, and the way it looks.

1           It's a styling change, basically, for the guy  
2 that buys it, and it's up to him if he wants to make a  
3 lot of more noise. He can easily modify it. Or else, there  
4 is the factory system.

5           MR. EDWARDS: Okay. In looking forward to a  
6 possible 78 decibel requirement, I believe you manufacture  
7 replacement systems for the FL-1000, is that correct?

8           MR. JARDINE: Yes.

9           MR. EDWARDS: How loud do they compare to the  
10 GL-1000 original equipment system?

11          MR. JARDINE: The original 1000 system? I don't  
12 know, in terms of numbers. It's pretty close to 80, I  
13 thought, or 78. I think we ran some of those in that  
14 McDonnell Douglas test. I can't remember -- I believe we  
15 did, yes.

16          MR. EDWARDS: How did they compare in price to  
17 a replacement of the GL-1000?

18          MR. JARDINE: Oh, they were about half the price,  
19 if I remember, of the original. I haven't priced the new  
20 model. The new model has a little different muffler than  
21 last year. It has a little more chrome around it. I don't  
22 know what the price is.

23          MR. EDWARDS: I don't want to put words in your  
24 mouth, but going into the below 80 dB range is not totally  
25 virgin territory for you. You have looked at quieter  
26 motorcycles, and designed products in that area?

1 MR. JARDINE: Oh, yes.

2 MR. EDWARDS: Okay. Have you had to get into  
3 using a double wall tubing at all?

4 MR. JARDINE: No; uh uh.

5 MR. EDWARDS: Do you foresee that as something  
6 you will have to get into?

7 MR. JARDINE: I don't, not right off, no. I  
8 really believe that on the Gold Wing Honda, the whole bike  
9 was designed a lot quieter, you know, everything. There's  
10 a shaft drive, there's no chain on it, so in the drive-by  
11 test you don't have to worry about a loose chain, or, you  
12 know, just a worn chain. The intake system is quiet, and  
13 the whole bike -- the cam timer is back a little bit, and less  
14 cam time, so they just don't make that much noise. So,  
15 it really isn't that tough to make a muffler. But, you  
16 know, I don't know what's going to happen down the road,  
17 if any of the other bikes will be able to come that close.  
18 The whole bike was redesigned to be quieter.

19 MR. EDWARDS: Mr. Jardine, thank you very much  
20 for coming here today.

21 CHAIRMAN THOMAS: Mr. Jardine, what's your lead  
22 time to produce a new muffler exhaust system?

23 MR. JARDINE: I don't know. It depends. Right  
24 now we're just getting ready for a new run for one of our  
25 automobiles for the next year, and we hope to be in  
26 production by, I think, September, and we've got just a few

1 minor changes, and that will probably take -- that's just  
2 minor changes -- it will probably take three months to  
3 do that.

4 CHAIRMAN THOMAS: So, it could take up to a  
5 year?

6 MR. JARDINE: Well, if we had to go way down,  
7 yeah; if we had to get into something drastic.

8 CHAIRMAN THOMAS: But otherwise, three to six  
9 months? Six months?

10 MR. JARDINE: Yeah.

11 CHAIRMAN THOMAS: However, again, I don't want  
12 to put words in your mouth. I just want to get a sense of  
13 it.

14 MR. JARDINE: Well, we can -- say, if you just  
15 came out with a brand new bike, and we have to design a  
16 whole totally different muffler -- a lot of our designs,  
17 now, they're at say they are at 83 -- getting into 80, it  
18 isn't usually too hard. We can change tooling diameters,  
19 and, you know, a few little refinements. Sometimes you  
20 can get them right down to there.

21 CHAIRMAN THOMAS: I would like to ask you a  
22 couple of questions about your business. If any of this  
23 is proprietary or confidential, please don't answer at  
24 this point, until you're obligated to.

25 Do you do the majority of your business by sales  
26 to individuals, or to distributors and dealers?

1           MR. JARDINE: We sell through distributors, and  
2 they sell to the dealers.

3           CHAIRMAN THOMAS: Through distributors, and  
4 through dealership chains. Do you sell to individuals  
5 directly?

6           MR. JARDINE: Just a few local guys; nothing,  
7 you know; maybe one a week. That would be about it. If  
8 a guy calls in from some isolated area, and he smashed in  
9 a muffler, or one pipe, we'll ship him the pipe, so the  
10 dealer won't have to order through the chain of distributors.

11          CHAIRMAN THOMAS: Now, I'd like for you to  
12 educate me on something, if you would, please.

13          MR. JARDINE: Certainly.

14          CHAIRMAN THOMAS: How do your dealers or your  
15 distributors relate to you with respect to the noise  
16 attenuation of the system you produce? Now, that's a lot  
17 of fancy words; let me put it another way.

18               Essentially, if they're going to sell a product,  
19 are they looking at all, in your view, from what you can  
20 tell, are they looking at all as to whether the system  
21 that they're going to buy from you is going to give, when  
22 installed on a given machine, is going to give a given  
23 amount of noise attenuation or noise reduction? Do they  
24 come to you at all, or do you provide information to them  
25 of any technical nature, that says, "This is the dB level.  
26 Whatever the machine is, in here, you can use this system

1 on it and get this noise leve, but you can't use this  
2 one," or, "you can't use that one." Is there any of this  
3 interplay between you, with your products, and your  
4 distributors and dealers?

5 MR. JARDINE: Most of our stuff is handled --  
6 has been handled through trade shows, a lot of direct  
7 contact between myself and the salesmen at trade shows,  
8 with dealers that come to us. We don't sell to dealers.  
9 They buy through our distributors. Education of our  
10 distributors' salesman, so that when they talk to their  
11 dealers they can rely -- you know, relay the message on.

12 In the last three years, since Ross Little  
13 made us really get quieter, our sales have gone up  
14 considerably in replacement muffler systems, and slip-on  
15 mufflers, and the low dollar cheapie stuff -- it's not  
16 "cheapie stuff" it's quality, but it's a lot cheaper than  
17 the factory stuff. It's roughly half the price.

18 The average guy that's got a 350 or a 500 Honda,  
19 or one of these bikes with four big mufflers, and is  
20 probably riding it just for transportation, and a little  
21 bit of pleasure on weekends, maybe he doesn't ride it very  
22 much, the mufflers on a lot of those bikes would rust out  
23 really quick, and our primary sale is right to that guy,  
24 and he wants a muffler that will ride quiet and still run  
25 good and look decent, you know. He looks at the chrome  
26 quality, and sound doesn't enter into the picture.

1           Really, your noise problem just comes from a  
2 small group of people that just want to hear noise, usually  
3 a lot of the younger guys. You hardly ever see a real young  
4 guy try to ride a quiet bike. It's a surprise when you do  
5 see it.

6           CHAIRMAN THOMAS: Mr. Jardine, do you see these  
7 regulations, as they are implemented, as repropoed, helping  
8 your business or hurting your business?

9           MR. JARDINE: I think it can hurt the industry  
10 considerably. It could help my business a little in some  
11 areas, but it's also going to raise the price of my  
12 product. It would be a lot of record keeping, and a lot  
13 of extra testing that we don't do now. We know, we do our  
14 own basic testing coming in. When something goes into  
15 production, you know, jigs are permanent, they can't change  
16 the manufacture, hardly, once the tooling is made and  
17 everything is running. Things pretty much stay at the  
18 same noise level, you know, if the gap inside the muffler  
19 is changed or separated.

20           MR. KOZLOWSKI: I just want to follow up with  
21 another request I had earlier. I'd like to see or hear  
22 your comments on our test procedure, our compliance procedure.  
23 If you know a better way to test, a cheaper way to test,  
24 we would like to hear about that and take it apart.

25           MR. JARDINE: Well, I haven't tried your tachometer  
26 deal yet. I was too busy, too busy worrying about what we



1 were going to do, you know. It's coming up right away in  
2 the future.

3 CHAIRMAN THOMAS: Mr. Jardine, you have been  
4 very helpful. Thank you for taking your time and coming  
5 here today.

6 MR. JARDINE: Thank you.

7 CHAIRMAN THOMAS: Thank you.

8 I would like to hear next from the Honorable  
9 Ralph Clark, Supervisor from Orange County, please.

10 HON. RALPH B. CLARK

11 Thank you. I appreciate the opportunity to  
12 speak with you today. I am Ralph Clark, member of the  
13 Orange County Board of Supervisors. And I am also Chairman  
14 of the Orange County Transit District Board of Directors.

15 I would like to extend greetings to you, and  
16 complement you on your decision to visit our fine County.  
17 I hope your stay here will be a memorable one.

18 The problems of urban noise, and particularly  
19 the problems caused by excessive motorcycle noise, have  
20 long been pet peeves of mine, and if you suffered the brain  
21 blasting experience of having some character roar up and  
22 down your residential street on a motorcycle with a  
23 defective muffler, then you know exactly why I want to do  
24 something about motorcycle noise.

25 So, as an initial comment, I want to commend  
26 you on the Environmental Protection Agency Noise Emission

1 Standards for transportation equipment, motorcycles, and  
2 motorcycle replacement exhaust systems. While the  
3 regulations are not yet perfect, they do recognize many of  
4 the problems of modified motorcycle mufflers.

5 Also, I believe you have taken a major step  
6 towards balancing the rights of motorcyclists who should be  
7 allowed to select any means of transportation they choose,  
8 and the rights of citizens who do not want the mind numbing  
9 noise of motorcycles intruding in their homes, their  
10 businesses, and their life styles.

11 Gentlemen, you were wise in selecting Anaheim as  
12 a principal location for your hearings because of our fine  
13 weather. Southern California is a nationwide center for  
14 motorcycle use. According to the County Health Department,  
15 Orange County has seventy eight thousand seven hundred and  
16 fifty motorcycles registered here. There are three thousand  
17 four hundred and fourteen on-road vehicles, twenty two  
18 thousand and seventy-five off-road vehicles, twenty six  
19 thousand two hundred and sixty-one combination vehicles.

20 Most of these motorcyclists are responsible,  
21 reasonable people. Most of them are considerate and law  
22 abiding. But a group of these motorcyclists -- unfortunately,  
23 too large a group -- enjoy making noise just for the sake  
24 of making noise. They remove their baffles, use straight  
25 pipes, or do anything they can do to make their vehicles  
26 noise makers. These people are obnoxious, and I'm not sure

1 these fine regulations will do very much to handle these  
2 noisy outlaws.

3 We wanted an ordinance with real clout, an  
4 ordinance that would do the job, but we ran into a major  
5 problem because the State of California preempts the County  
6 on noise issues involving traffic and motor vehicles, a  
7 major source of urban noise.

8 According to information generated by the  
9 California Highway Patrol, about fourteen per cent of the  
10 motorcycles tested in this State were found to be in  
11 violation of the State noise standards. Using the State  
12 generated percentage, we can estimate that there are about  
13 eleven thousand motorcycles in Orange County today which  
14 are violating State standards, and as you beef up the  
15 regulations, more and more vehicles will be in violation  
16 of the law.

17 Our problem, then, is one of catching the  
18 lawbreakers. You, at the Federal level, may set the  
19 standards, but it's the people at the local level that must  
20 enforce these laws. So far, we haven't been entirely  
21 successful.

22 Here, in Orange County, we've been trying to  
23 quiet down the urban noise problem. Beginning in 1970, we  
24 initiated community noise control regulations. In 1973,  
25 the Orange County Board of Supervisors enacted one of the  
26 nation's first local noise ordinances, and eleven Orange

1 County cities followed the County government lead, and they,  
2 too, enacted noise ordinances.

3 The County regulations have served us well in  
4 dealing with stationary noise sources, like the sounds of  
5 factories, or sand and gravel operations. We even have had  
6 some success in using our local ordinance to combat some  
7 motorcycle noise.

8 The County's Environmental Health Department has  
9 investigated, and in some cases actually closed down, overly  
10 loud organized off-road motorcycle park vehicle race tracks.  
11 In one court case, the District Attorney was able to use the  
12 County ordinance to obtain an order quieting the roar of  
13 motorcycle engines at the El Toro Raceway.

14 But, in spite of our success, we have not been  
15 able to hit the problem of motor vehicle noise. In that  
16 area of vehicle noise, we have been preempted by the State.  
17 Now, with these new regulations, you, at the Federal level,  
18 will be preempting the State.

19 The method of solving this problem is getting  
20 further and further away from local control, and that, I  
21 believe, is going to lead to some enforcement problems.

22 Although we are all aware of the health problems  
23 caused by excessive noise and defective mufflers, the  
24 problem of motorcycle noise is perceived as a matter of  
25 annoyance. It is seen as an inconvenience rather than a  
26 matter of public safety. And because of that perception,

1 will be hard to get local law enforcement to really crack  
2 down on those few motorcyclists who just love to hear the  
3 deafening sound of their own engines.

4 Loud noise just is not a top priority of local  
5 law enforcement officials, and when compared to major crimes,  
6 or enforcement of regulations involving public safety, like  
7 ticketing speeders, I am not sure local law enforcement  
8 agencies are arranging their priorities properly compared  
9 to more serious crimes, including crimes which endanger life  
10 and property. Noise emissions control just doesn't have  
11 that great an impact. Please perceive that ticketing a loud  
12 motorcycle is a way to deal with a nuisance, and that's a  
13 fact of life.

14 However, we, at the County level, have tried to  
15 underscore the problems of motorcycle noise. In the past  
16 two years, I have successfully introduced regulations calling  
17 for our local sheriff to crack down on noisy motorcycles.  
18 Some city councils have followed our lead. Some law  
19 enforcement officials have cooperated and done the best  
20 they can do to get something going. But if you want to do  
21 more than put another meaningless unenforceable law on the  
22 books, you are going to have to do more than just hold these  
23 hearings. You will have to dramatize the problem of noise  
24 pollution for law enforcement. You will have to assist  
25 local agencies, particularly local police, by providing  
26 technical information, model enforcement guidelines, and

1 educational programs. You will have to put more emphasis on  
2 how these rules will be enforced on the front lines, on the  
3 streets.

4 In California, where there is an active State  
5 noise control program, EPA assistance could be administered  
6 and coordinated by the State Office of Noise Abatement and  
7 Control, and the California Highway Patrol.

8 You should also explore the possibility of  
9 Federal grants to stimulate the creation of local noise  
10 control programs.

11 It is clear that your regulations, particularly  
12 the labeling requirements, are well drafted, and could be  
13 enforced by a field enforcement officer with hand held  
14 sound meters. Now that you have the regulations, you must  
15 find a way to get the noise meters in the hands of educated  
16 knowledgeable local law enforcement officers, and if you, at  
17 the EPA, furnish the meters, that would be one way to get  
18 the enforcement program going.

19 Now, these next two areas that I want to address  
20 briefly -- I have been asked to include from the County  
21 Health Department wishes in here -- and they are two technical  
22 issues that I would like to raise, and they feel that this  
23 could undermine the enforcement value of Section 205.158.

24 First, Section 205.160.2b allows ten per cent of  
25 a test batch of motorcycles to exceed the label stationary  
26 noise value. It would seem, then, that anti-tampering

1 citations issued to motorcycle operators by State or local  
2 enforcement officers, could easily be contested in court.  
3 All a defendant would have to do is refer to the EPA  
4 regulation itself, which allows one out of every ten new  
5 motorcycles to exceed this stationary standard as it comes  
6 off the assembly line.

7           The second weakness they wanted to point out is  
8 the stationary noise level labeling requirement that relates  
9 to the acoustical assurance period of street motorcycles of  
10 only one year or six thousand kilometers, as specified in  
11 Section 2051523. Such a short AAP would seem to encourage  
12 the manufacture of a short-lived inferior product which  
13 would soon exceed label noise levels, and place an unfair  
14 burden for correction on the purchaser, if he is cited.

15           Also, a person receiving a citation for a noisy  
16 motorcycle, which has gone beyond an AAP could, we believe,  
17 use this fact as a successful defense in court.

18           The problem with the AAP, we believe, is the  
19 six thousand kilometer value. It would not be at all  
20 uncommon for that distance to be traveled in as little as  
21 six months, in California, or even less.

22           We think that a reasonably well built vehicle  
23 and/or exhaust system should be warranted for a period of  
24 one year or twelve thousand kilometers.

25           Gentlemen, allow me to close by saying that I  
26 support the concept behind these regulations. I applaud

1 your efforts in what you are trying to do, and I stand  
2 willing to assist you in any way possible.

3 Thank you once again for the opportunity to speak  
4 to you today, and I would like to respond to any questions,  
5 if you might have any.

6 CHAIRMAN THOMAS: Thank you, Mr. Clark, for a  
7 very comprehensive statement. You certainly touched upon  
8 some problems with the regulations at the Federal level,  
9 and it is intriguing to hear your comments about preemption.  
10 Normally, we hear only the state governments telling us  
11 about the Federal preemption. It is intriguing to hear the  
12 city and county talking about state preemption. Okay.  
13 You're right. Keep rolling along there.

14 You mentioned the point of Federal grants to aid  
15 local communities. Earlier today, another spokesman  
16 mentioned the same type of concern. At the present time,  
17 the Federal Noise Control Act does not permit grants, it  
18 does not include a provision such as exists for air and  
19 water programs, for permitting Federal funds to be used  
20 in a grant mechanism.

21 Over the last month and a half, both the United  
22 States House of Representatives and Senate have been  
23 reviewing the Federal Noise Control Act, and several  
24 representatives from state and local governments urged the  
25 amendment of that Act to incorporate the grant authority.

26 I might suggest to you, since you have raised



1 the point here, that perhaps either you or Orange County may  
2 decide to make their views on this known to the United States  
3 Congress directly.

4 The question on the standards which could be  
5 exceeded: I might indicate there that we do not permit the  
6 manufacturer to exceed the noise levels when the Federal  
7 standards become effective. I would let my colleagues in  
8 enforcement speak more specifically to that, but these are  
9 absolutely not to exceed the standards, and manufacturers  
10 would not be permitted to introduce into commerce any  
11 products that exceed those standards.

12 However, there is a sampling plan which we have  
13 as to how we go through testing these products, and whether  
14 or not to sample more or less, depending on what the noise  
15 levels are. Perhaps Mr. Kozlowski would like to speak to  
16 that.

17 MR. KOZLOWSKI: That's right. I'm not sure your  
18 question was directed towards the manufacturer, but it is  
19 right, at the time of sale, no motorcycle manufacturer can  
20 market any product that exceeds the standards. What we are  
21 doing with the AQL is saying that we will not issue any  
22 remedial orders if under our statistical sampling scheme you  
23 meet the AQL, which is ten per cent.

24 Now, I'm not sure that your comment was directed  
25 towards that.

26 MR. CLARK: What we are concerned with is the

1 fact that this could be used in the successful defense of  
2 the fact that they have been cited for making noise.

3 MR. KOZLOWSKI: Are you referring to the labeling  
4 program, the 90 per cent labeling program?

5 MR. CLARK: Ten per cent of what comes off of  
6 the line, as I understand from our Public Health Department  
7 that asked me to call this to your attention, that they  
8 allow for -- that they can point to that rule themselves,  
9 that the defendant would do if he was defending his case  
10 there, and refer to the regulation that allows one out of  
11 every ten vehicles to exceed the stationary standard as it  
12 comes off the assembly line.

13 MR. KOZLOWSKI: Okay, you're talking about the  
14 labeling value. That's a good comment, and one that the  
15 Agency is looking at now. We appreciate that. That's a  
16 good comment.

17 CHAIRMAN THOMAS: We obviously haven't solved  
18 that one yet. This whole labeling scheme is a new ball  
19 game, and still has got some holes in it, and I think your  
20 staff, or whoever prepared that textbook comment, knew what  
21 they were doing, they certainly did.

22 MR. KOZLOWSKI: I have one statement, rather  
23 than a question, Mr. Clark, and that is, the Agency is  
24 currently working on a noise training program for enforcement  
25 officers. It will be ready probably within six months.  
26 It's our hope that we'll get this into a training program

1 for all police officers nationwide. It's done by the police  
2 union, and I forget what they are called, the Benevolent  
3 Association, or something like that, and if we can work  
4 that into that program, almost every police officer in the  
5 country who gets any formal training will become somewhat  
6 familiar with the noise enforcement program, the noise  
7 enforcement techniques. That's a long range program, and  
8 that may not have any effect for a couple of years, maybe  
9 ten years, but we are working on it at this time.

10 CHAIRMAN THOMAS: Mr. Edwards?

11 MR. EDWARDS: Supervisor Clark, you place a  
12 great deal of emphasis, I think rightly so, on modified  
13 motorcycles, and the Federal government's assistance to  
14 sustain local governments to help deal with that problem.

15 On the other side of the issue, we are also  
16 proposing to regulate new motorcycles to make them quieter  
17 than they are today.

18 We've had suggestions from Mr. Davidson, and  
19 others, this morning and this afternoon, that EPA should  
20 just set an 83 decibel standard, and then concentrate all  
21 of its efforts on getting rid of the tampering problem.  
22 This is a very serious suggestion that we have to address.

23 I was wondering if you had some comments on  
24 whether EPA should be requiring new motorcycles be quieter  
25 over the next several decades, whether we should set the  
26 83 decibel standard that is recommended, or whether EPA

1 should not regulate new motorcycles at all, and in the case  
2 of the State of California, you will have the California  
3 law?

4 MR. CLARK: To the technicality there, it is  
5 pretty difficult to address myself, but what I can tell you  
6 is that, I know that we regulate the building area around  
7 an airport to 65 CNEL, and this is really because it is  
8 such a danger to health, and so forth, to have to live in  
9 this area, and when you are talking about moving into an  
10 allowable area of 83, well, I'm scared that we might just  
11 be talking about -- you know, if one motorcycle goes down  
12 the street, you look at him, and all of a sudden he's gone,  
13 you know, but if forty of them are coming down, and every  
14 one of them is going along at this -- this particular --  
15 and exercise his rights as an American to blast this little  
16 bit of noise out, whatever it might be, but if you figure  
17 everyone doing the same thing, well, it would just be to  
18 where we can't live with it, and I can't understand it  
19 because I have friends -- friends of my son -- and actually,  
20 a father of one of the friends of my son is a motorcyclist,  
21 and they've got some beautiful equipment, and it just  
22 doesn't make a bit of noise. They can just drive right up  
23 and park it and then take off and go anywhere they want to,  
24 and they enjoy it, and they are wonderful people, and I  
25 just can't understand why we can't build motorcycles like  
26 that, that are going to operate in cities in competition

1 with the automobile, which has the mufflers that make it so  
2 that you can live with them, and I can't understand why  
3 they have to use such a high decibel rating as being  
4 acceptable to me. I think that they should be held down to  
5 at least automobile noise because there's no reason why they  
6 have to have that noise. I've seen the equipment, and I've  
7 listened to it, and I have watched it operate, and seen  
8 people getting enjoyment out of using this, so I don't know  
9 why it's -- someone just has to have noise in order to  
10 enjoy a product.

11 MR. EDWARDS: Okay, thank you very much.

12 Now, you addressed most of your comments to the  
13 street motorcycle situation, but you cited that Orange  
14 County has got a great number of off-road and combination  
15 motorcycles.

16 Now, are these motorcycles operated in Orange  
17 County, or are they taken out to the desert?

18 MR. CLARK: Well, we have motorcycle areas that  
19 they can ride in. We try to keep it under control, up there,  
20 and if we're not getting any problems with the people that  
21 live in the surrounding area, and we've had to close down  
22 one of them because of a traffic problem in the small canyon  
23 road that serviced the area so that people couldn't get  
24 up there to their own homes, so there's all kinds of  
25 problems that get generated from it, but we tried to live  
26 with it, and to allow it, and encourage people to enjoy

1 their equipment, but not at the expense of others.

2 MR. EDWARDS: Supervisor Clark, thank you very  
3 much.

4 MR. NAVEEN: Let me speak briefly, sir, for a  
5 second, about possible . . .

6 MR. CLARK: I beg your pardon.

7 MR. NAVEEN: Let me speak for a moment about the  
8 possible defense that might be raised in enforcement actions  
9 if a motorcycle enthusiast is stopped and eventually  
10 ticketed for a problem.

11 I don't think that he can point to our regulations  
12 and claim that that protects him in some way because ten  
13 per cent of the new bikes of his style or class that are  
14 out on the street are allowed to exceed the Federal standard.

15 As was noted a few seconds ago, there are a  
16 number of testing schemes that we have in the regulations to  
17 assure ourselves that the manufacturers are manufacturing  
18 quiet products and are selling them, selling quiet products.  
19 That is the intent of the law.

20 However, the law also states that if any one  
21 vehicle, any one new product is sold that exceeds that  
22 standard, it is a violation of the regulations and can be  
23 enforced appropriately, that enforcement action can be  
24 taken, appropriate enforcement action.

25 The enthusiast who is out there, it seems, will  
26 only be enforced against if he has tampered in some way

1 with the new product that he has bought. If he has removed,  
2 or injured or inoperated some of the noise attenuation  
3 devices placed on that vehicle or product in compliance with  
4 our regulations, then he may be subject to an enforcement  
5 action, and we believe that the labeling scheme, and other  
6 awareness techniques that we have got in the regulations  
7 will help their enforceability.

8 I do not think that the problem you raised will  
9 be a real one. We will investigate it and look at it a  
10 little further. I appreciate your concern. We certainly  
11 don't want that to be happening. We do believe that the  
12 only way this regulation will work, and the motorcycles  
13 will be quieted, is if the Federal government, and the  
14 state and local governments, can work together, and it is  
15 important to have the state and local governments enforce  
16 actively, and well, and we don't want to impede their  
17 efforts in any way, so we will check this out for you  
18 further. We don't think, offhand, that you've got the  
19 problem that you raised.

20 CHAIRMAN THOMAS: Mr. Clark, the point that you  
21 have raised about the enforcement element is obviously a  
22 valid one. We don't believe that these regulations will be  
23 effective on the modification and tampering without active,  
24 perhaps even aggressive, state and local action, and  
25 especially, local. So, in that regard, unless there is  
26 that complementary program at the state and local government

1 level, the benefits which we would otherwise expect to see  
2 will be illusory.

3 One of the comments made earlier today by a  
4 spokesman here, somebody in the motorcycle business, is  
5 that the fines that are levied are inadequate to really  
6 cause the person who has modified that motorcycle to really  
7 take this whole matter seriously.

8 It has been suggested that some folks, that  
9 relatively small percentage, but nonetheless, demonstrable  
10 percentage, that modify these motorcycles, permit them to  
11 make unacceptable noise levels, perhaps even have two  
12 exhaust systems, two mufflers, one of which they put on to  
13 go show that they are in compliance if they get a ticket,  
14 but the other one, which is the fun and games one, which  
15 is the one they normally keep on.

16 Does Orange County have the authority under its  
17 statutes that are complementary to the State statutes, do  
18 you have the authority to set the fines that would be  
19 imposed for violation, or subsequent violation, repeat  
20 offenses, on such things as noise?

21 MR. CLARK: Oh, yes. I would say yes, because  
22 when we make an ordinance, we can automatically make the  
23 sentencing go with whatever it is. If it's a misdemeanor,  
24 for example, it's assessable by six months in jail or five  
25 hundred dollars fine maximum. That is set by law, and, of  
26 course, any violation of this would be a misdemeanor at the



1 most. So, consequently, I could say that that could be  
2 levied.

3 Now, what the courts do with this when it does  
4 come in, that makes a little bit different story, but I  
5 really feel that where we have the problems in the enforcement  
6 is that not enough of them are being stopped, and the reason  
7 is, because there are other priorities that are in the  
8 field that the officer now is involved in to fulfill his  
9 duties on his shift, and until the time would come when  
10 there would be a noise meter, a simple gadget, that he could  
11 have, that is available, that he could utilize in doing  
12 this, I really don't think that the desire is there for  
13 them to be involved in that part of a program, and I think  
14 that is why I was talking along the lines of this Federal  
15 grant area, and the training, so that they are more  
16 comfortable in this, because they're not noise experts, so  
17 to speak, they're trained in law enforcement, and apprehending  
18 people, it's a wrong society, but in this area it is  
19 something that I think we do need, some education and some  
20 help in there.

21 There's a lot of Federal grants that are coming  
22 in to all types of police programs, and I see no reason why  
23 this couldn't be included.

24 CHAIRMAN THOMAS: You wouldn't, perhaps -- and  
25 I don't want to put words in your mouth, sir -- but I would  
26 read from what you said, that perhaps it would be more

1 appropriate for the County, for example, to have officers  
2 designated specifically to handle noise problems, as opposed  
3 to burdening, as it were, duly constituted police authorities  
4 who also have complementary responsibilities in such things  
5 as criminal actions, speeders and the like.

6 MR. CLARK: Well, I think it would be a little  
7 difficult to agree with that because of the fact that, to  
8 have a specialist out in the field doing this when there's  
9 many other things that a law enforcement officer could be  
10 doing. This is like radar that they use now quite commonly  
11 in all police departments. It could be very well that their  
12 noise could be made as simple as radar in order to enforce  
13 that and then they wouldn't be hesitant about doing it  
14 because, of they can't be held as a fact that they're not  
15 technical enough to really understand the decibel violation,  
16 and so forth, and I just feel, your point on education is  
17 a very good one where you could incorporate that in there  
18 to help any of these officers, but also some simple type of  
19 equipment that could be utilized, that could be made  
20 available, for the departments to use, I think would be a  
21 big boom.

22 CHAIRMAN THOMAS: I think we can address that one,  
23 and I will discuss that one further with my colleagues back  
24 in Washington on the equipment issue in particular.

25 I appreciate your taking the time to come in and  
26 speak with us today. Thank you.

1 MR. CLARK: It was my pleasure. Thank you kindly.

2 CHAIRMAN THOMAS: At the moment, we have scheduled  
3 to hear from Mr. Ross Little, California Highway Patrol,  
4 later, and Mr. John Hector, of the State of Oregon has also  
5 asked to speak today.

6 May I ask, at this time, if there are any others  
7 in the audience who would care to make comments other than  
8 Mr. Little or Mr. Hector, this afternoon? (No response  
9 to the question from the audience.)

10 All right, we will take about a fifteen minute  
11 break at this point, please, and when we return, we would  
12 like to hear from Mr. Hector, representing the State of  
13 Oregon.

14 (Whereupon, the proceedings were in  
15 recess from 3:55 o'clock, p.m. until 4:12  
16 o'clock, p.m.)

17 CHAIRMAN THOMAS: Ladies and gentlemen, we will  
18 reconvene, and at this time, will hear from Mr. John Hector,  
19 representing the State of Oregon.

20 JOHN HECTOR

21 Gentlemen, thank you for getting me on at this  
22 time. I am anxious to get out of the Los Angeles basin.

23 I am John Hector, representing the Oregon  
24 Department of Environmental Quality, headquarterd in  
25 Portland Oregon.

26 Our agency has statewide responsibility for air

1 and water quality, solid waste management and hazardous  
2 waste disposal, and noise pollution abatement and control.  
3 We regulate within these areas under the authority of the  
4 Oregon Environmental Quality Commission, a panel of five  
5 citizens appointed by the Governor. The Commission adopts  
6 administrative rules, and sets policies within the legal  
7 guidelines established by the Oregon legislature.

8 Let me give you some background on Oregon's  
9 efforts, current efforts again, in the motorcycle regulation  
10 of noise: In 1971, the Oregon Legislature charged the  
11 Commission with the control of excessive noise emissions.  
12 By 1974, as part of our developing state noise program, the  
13 Commission adopted noise emission standards for new  
14 motorcycles sold in Oregon.

15 The standards prohibited the selling, or  
16 offering for sale, of new motorcycles which would exceed  
17 a specific noise level, the different sizes and intended  
18 uses of the motorcycles notwithstanding.

19 It was the view of the Commission that equally  
20 stringent standards for all non-racing motorcycles were  
21 reasonable and necessary.

22 Off-road motorcycles are a major source of  
23 citizen complaints in Oregon. The disturbance caused by  
24 a loud street motorcycle is momentary. The vehicle approaches,  
25 and then travels out of earshot. Off-road motorcycles may  
26 be operated in back yard areas for hours at a time, causing

1 continuous annoyance to nearby residents.

2 When off-road motorcycles are operated in  
3 recreational areas, the low ambient noise level increases  
4 the annoyance factor of the loud motorcycle.

5 The Commission felt that, had the technology  
6 been available, more stringent standards for off-road  
7 motorcycles would have been appropriate. Although the  
8 Commission agreed, in 1976, to allow manufacturers more  
9 time to meet Oregon's noise standards, the Commission has  
10 refused to approve rule modifications that would distinguish  
11 between off-road and street motorcycles.

12 I will briefly go over our present standards so  
13 you get an idea how they set up with EPA's proposed  
14 regulations.

15 We operate under Effective Model Years rather  
16 than the manufacturers' basis, in Oregon. In 1975, we  
17 started out at 86 decibels, down to 82 decibels in '76,  
18 the period '77 through '82 81 decibels, 1983 to 1987 78  
19 decibels, and after 1987 75 decibels.

20 Oregon administrative rules exempt racing  
21 motorcycles from noise standards provided that:

22 a. Racing motorcycles are operated  
23 only in sanctioned racing events.

24 b. Prior to sale, the prospective  
25 purchaser files with this agency an  
26 affidavit of Intent to Use the motorcycle

1           only in sanctioned races.

2           c. Any display or advertisement of  
3           a racing motorcycle includes a disclaimer  
4           nothing the conditions of use and purchase  
5           of such vehicles.

6           Manufacturers are required to certify compliance  
7           of their products with the noise regulations before retail  
8           sales are permitted in Oregon.

9           Complementing in-use standards have also been  
10          adopted. These standards are included in Oregon's statutes  
11          as part of the Motor Vehicle Code, and utilize both a  
12          fifty-foot moving operational standard, and a twenty-inch  
13          exhaust system equipment standard.

14          A land use standard prohibits the recreational  
15          operation of motorcycles on private property if an ambient  
16          limit of 60 dB(A) is exceeded.

17          The 1974 version of the Oregon rules exempted  
18          non-certified racing vehicles only if it could be adequately  
19          demonstrated that those vehicles were used exclusively in  
20          sanctioned racing events

21          The manufacturers, and Oregon dealers, however,  
22          felt that all off-road motorcycles should be exempt as  
23          "Racing Motorcycles." After long negotiation with Oregon  
24          dealers, and the Motorcycle Industry Council, it was agreed  
25          that an affidavit of intended use, executed by the purchaser,  
26          would be adequate demonstration, under the rules.

1           A prospective purchaser would be required to  
2 swear that the uncertified motorcycle, or racing motorcycle,  
3 he purchased, would be operated only in sanctioned races.  
4 The rules were later amended to reflect this compromise.

5           After sale of a non-certified motorcycle under  
6 the exemption provision, it is difficult to determine whether  
7 the purchaser abides by the terms of the affidavit. We  
8 are therefore concerned that increasingly large numbers of  
9 non-competitive off-road motorcycles are being sold as  
10 racing motorcycles under this exemption.

11           In 1976, three-point-one per cent of the motorcycles  
12 sold in Oregon under the affidavit provision were non-  
13 competitive or non-racing motorcycles; that is to say,  
14 enduro and trail types. In 1977, this number rose to  
15 fifteen per cent, and then, in 1978, thus far, it's risen to  
16 slightly over twenty-four per cent.

17           It is suspected that many purchasers do not ever  
18 intend to ride competitively, but falsify an affidavit to  
19 obtain an uncertified bike.

20           In-use enforcement has become exasperatingly  
21 complex, and we feel that much of the problem is a result  
22 of motorcycle manufacturers distributing uncertified  
23 motorcycles to dealers within Oregon aware that a purchaser  
24 must circumvent DEQ's administrative rules to effect a  
25 purchase.

26           If Oregon's experience is indicative of the

1 cooperation that EPA can expect from the motorcycle industry,  
2 regulation of competition motorcycles will be a necessity  
3 before significant control of off-road use can be gained.

4 DEQ operates a motor vehicle air emission  
5 inspection program in the Portland metropolitan area through  
6 which a motor vehicle must demonstrate compliance with  
7 departmental air emission regulations before the license  
8 plate of that vehicle may be renewed. We are now phasing  
9 a noise emission element into the air emission test stations,  
10 and hope to complete the process by mid-fall.

11 A twenty-inch stationary test works well at the  
12 tests stations, and police agencies around the state also  
13 seem to prefer this test of a long distance operational  
14 test.

15 In-use enforcement programs are expensive to  
16 initiate and maintain, and Oregon is now committed to an  
17 enforcement procedure centered around a twenty-inch  
18 stationary test. DEQ would support any rule by EPA that  
19 would assist our in-use enforcement or would help validate  
20 a stationary twenty-inch test.

21 Now, some comments on the proposed rules,  
22 concerning best available technology:

23 Proposed standards for street motorcycles will  
24 require that new motorcycles manufactured after 1985 emit  
25 no more than 78 decibels, but even motorcycles that meet  
26 this standard will be the loudest transportation-type



1 vehicle in most residential settings.

2           The amount and degree of motorcycle noise impact,  
3 even with 78 dB(A) new motorcycle standards and active  
4 in-use enforcement, will exceed the impact from other  
5 residential-type traffic.

6           EPA envisions that even medium and heavy trucks  
7 will emit no more than 75 dB(A) by the year 1985. EPA rules  
8 should look toward an eventual reduction in motorcycle noise  
9 beyond the levels now proposed.

10           Oregon does not support EPA's rationale for  
11 defining best available technology, nor the conclusions  
12 that derive from that rationale. EPA's definition of best  
13 available technology should focus upon a mid-point within  
14 the motorcycle industry, and the engineering capacity that  
15 has been demonstrated by some manufacturers.

16           Technological capacity is not standard throughout  
17 the industry, and the least innovative of the makers should  
18 not be used as a standard.

19           It is certainly true that major engine modifications  
20 will be necessary for Harley-Davidson to meet the standards  
21 as proposed. It is worth noting that Harley-Davidson --  
22 their design has changed little over the past several  
23 decades. It is unfortunate that this firm might suffer  
24 economic impact by updating its new models to meet proposed  
25 standards, but we do not believe that the exhaust tone  
26 should be predominant on any motorcycle, no matter what

1 place it holds in American tradition.

2           Regarding the test procedure the acceleration  
3 test proposed by EPA for ensuring compliance with new  
4 motorcycle standards appears well designed. The test  
5 obviates many of the inequities of the SAE J-331(a), such  
6 as bias for certain gear structures. The EPA proposed test  
7 also appears to be simple enough to be performed accurately,  
8 and with repeatability.

9           It is, of course, exceedingly important that the  
10 acceleration test finally adopted pursuant to the proposed  
11 rules will correlate well enough with a stationary test  
12 procedure to allow local promulgation of in-use test  
13 standards without fear of overlap or inconsistency with  
14 Federal acceleration test standards.

15           It is also important that the test be simple  
16 enough to be administered accurately by personnel with  
17 limited training.

18           The test must be flexible enough to be performed  
19 in varying locations, without the necessity of complex  
20 set-up or equipment.

21           We do not think it advisable for EPA to adopt  
22 standards for both acceleration and stationary tests, nor  
23 do we feel that any enforcement test that requires a  
24 motorcycle engine to approach ninety-five per cent maximum  
25 rated RPM is acceptable. Any procedure that requires  
26 over-revving of in-use vehicles will expose testing

1 authorities to great liability.

2 DEQ agrees, in main, with EPA's proposed labeling  
3 requirements, but believes that labeling requirements  
4 should extend to mopeds. In Oregon, mopeds are considered  
5 motorcycles, and will be tested under a stationary test.

6 If EPA were to require moped manufacturers to  
7 place labels on mopeds giving stationary test dB(A) and  
8 RPM, in-use enforcement would be facilitated.

9 The ninetieth percentile value suggested by  
10 EPA as a labeling norm should be acceptable, but any  
11 statistical distribution information gathered by either  
12 EPA or the manufacturers would make in-use enforcement with  
13 the labeled value more effective and fair.

14 EPA has suggested that the ninetieth percentile  
15 dB(A) and RPM should be stamped on each manufactured frame  
16 as an aid to in-use enforcement. The dB(A) value would be  
17 the ninetieth percentile of that model, and the RPM value  
18 would indicated the engine speed at which the dB(A) value  
19 is determined.

20 These measurement parameters are entirely  
21 unrelated to EPA's new product standards, and will be used  
22 only to assist in-use standard enforcers in determining a  
23 general trend in deterioration from the brand new quality.  
24 These parameters will have been determined by a stationary  
25 test that measures primarily exhaust noise.

26 Thus, the value stamped on the motorcycle frame

1 is really an indicator of the original equipment muffler  
2 on that bike. Once the muffler is replaced, the utility  
3 of the dB(A) number stamped on the frame is lost.

4 Each muffler, whether original equipment or  
5 replacement, should be manufacturer-labeled giving the  
6 ninetieth percentile dB(A) value, and the RPM, and the  
7 motorcycle model, for each motorcycle for which the muffler  
8 is intended. Pertinent information would be available for  
9 in-use enforcement, even when the motorcycle's original  
10 exhaust system has been replaced.

11 A motorcycle exhaust system is designed to be  
12 easily modified. Without a labeling system linked to the  
13 exhaust rather than bike frames, in-use enforcement will be  
14 a hopeless morass.

15 Categories of mufflers by design rather than  
16 noise output should not be adopted. Consideration should  
17 be given to requiring certain design features for mufflers,  
18 but these requirements should be separate and distinct  
19 from the labeling requirements.

20 One factor that should be considered is whether  
21 or not mufflers can be designed so that cleaning is not  
22 necessary during the AAP. If it is necessary to dismantle  
23 some mufflers during that period, perhaps the mufflers  
24 should be designed so that if baffles are not replaced,  
25 the muffler becomes completely ineffective. Violators  
26 would be so noticeable that enforcement would be facilitated.

1           It is not necessary, for our purposes, that  
2 tachometers meet specifications concerning lag, but in-use  
3 enforcement would be much easier if all motorcycles have  
4 tachometers that have a steady-state accuracy of plus or  
5 minus three per cent.

6           If EPA determines that this requirement not be  
7 adopted, information on the reliability and accuracy of  
8 original equipment motorcycle tachometers would be of  
9 value to the Oregon program.

10           Regarding categories and control, the proposed  
11 rules set a break point between large and small off-road  
12 motorcycles at 170 cubic centimeters. DEQ does not feel  
13 that any differentiation between groups is desirable, but  
14 if distinction is made, a more reasonable dividing line  
15 can be drawn at 225 cubic centimeters.

16           Many manufacturers have models close to the  
17 170cc size, and a regulation centered around this point  
18 might encourage modifications that would take advantage of  
19 the larger less restrictive category.

20           Proposed EPA standards do not place restrictions  
21 on noise emissions from racing motorcycles. Oregon has a  
22 serious problem with racing noise, and may want to place  
23 new product restrictions on competition motorcycles sold  
24 within the state.

25           We request that EPA specifically address the  
26 issue of Federal preemption of new product standards,

1 and state whether or not, in its opinion, Oregon can place  
2 new competition motorcycle noise emission standards on  
3 manufacturers.

4 In summary:

5 1. Oregon regulations of motorcycle  
6 noise were adopted to protect public health  
7 and welfare considering cost and technology.  
8 EPA's proposal is less stringent than  
9 Oregon standards, and therefore, are not  
10 adequate.

11 2. EPA's decision to place less  
12 restrictive standards on off-road motorcycles  
13 than street bikes does not adequately  
14 protect public health and welfare.

15 3. Many states already have in  
16 effect noise standards that require off-  
17 road bikes to be quieter than 86 decibels.  
18 EPA's decision to use that standard as a  
19 starting point for control is disfavored.

20 4. Standards for motorcycles of  
21 any category do not go far enough. In  
22 ten years, motorcycles will still be the  
23 noisiest vehicles on the road. A long  
24 term standard no less restrictive than 75  
25 decibels should be adopted.

26 5. All muffler systems, whether

1 original equipment or after-market, should  
2 be labeled with the ninetieth percentile  
3 values and RPM levels obtained during  
4 stationary one-half meter testing, if  
5 effective in-use enforcement is to be  
6 achieved.

7 Could I answer any questions?

8 CHAIRMAN THOMAS: Thank you, Mr. Hector, You  
9 have raised several points that we're going to have to think  
10 about further. I have two items that I would like to ask  
11 you about, please.

12 I don't know for sure the answer to this. You  
13 have suggested that EPA, or ask EPA to specifically address the  
14 issues of Federal preemption of new product standards, state  
15 whether or not, in our opinion, "Are you going to place new  
16 competition motorcycle noise emission restrictions on  
17 manufacturers?"

18 We've proposed two programs here. One is the  
19 labeling program, and the other has to do with emission  
20 standards.

21 I will presume -- and I assume counsel will  
22 correct me if I am in error here -- that you would be  
23 preempted from labeling, because the labeling sections of  
24 the Noise Control Act state that you must have regulations  
25 only that would be . . .

26 MR. HECTOR: Any non-identical labeling.

1           CHAIRMAN THOMAS: . . . on labeling, but since  
2 we have set -- and we do not propose to set noise emission  
3 limits on new competition motorcycles, you would be free  
4 to set whatever standards Oregon thought were appropriate.

5           Is that a fair reading?

6           MR. NAVEEN: That's a fair reading. The only  
7 problem is that there's no way that the U. S. government  
8 can stamp its imprimatur on a certain opinion, that is the  
9 case, and can give you the kind of protection that you  
10 might like to see before you go ahead and promulgate wrong  
11 state standard.

12           You may also, I believe, wind up with somebody  
13 claiming that your standards are preempted, but that's  
14 going to be a battle between Oregon and whoever the  
15 petitioner is. But you have the problem . . .

16           MR. HECTOR: I hope that the record states that  
17 EPA has an opinion on this matter.

18           CHAIRMAN THOMAS: Well, I'll hold my question  
19 until later. Mr. Kozlowski?

20           MR. KOZLOWSKI: Mr. Hector, how is Oregon  
21 currently enforcing the 81 standard; i.e., how many  
22 manufacturers are, in fact, meeting the Oregon standard  
23 in the marketing of their products?

24           MR. HECTOR: Manufacturers have to certify  
25 directly to us, and I brought a list with me of all the  
26 manufacturers' models that are currently certified in



1 meeting that standard.

2 MR. KOZLOWSKI: Would you give that to us for  
3 the record? Would you briefly skim over some of the names  
4 of manufacturers so that we might ask them if they are  
5 going to testify here in the next two days?

6 MR. HECTOR: BMW, I think, has all of its  
7 models. There's quite a few here that none of the models  
8 have been certified, although this list is not up to date  
9 completely.

10 MR. KOZLOWSKI: I am asking those that are  
11 certified.

12 MR. HECTOR: Harley-Davidson had about approximately  
13 fifteen models, Hodaka had a few, Honda had twenty-five,  
14 Husqvarna had four, Kawasaki twenty-five or more, Moto  
15 Guzzi had three, Suzuki had a whole bunch, Triumph had a  
16 few models, Vespa . . .

17 MR. KOZLOWSKI: Are these generally large bikes,  
18 small bikes?

19 MR. HECTOR: Yamaha has quite a few, the small --  
20 the larger bike here, 650, 750, here's an 1100, plus the  
21 smaller ones down to 80, 100cc. Pretty much the full range  
22 of, I think, almost what they market in most places. I'm  
23 sure there are some that are not sold in Oregon.

24 MR. KOZLOWSKI: Would you submit that for the  
25 record?

26 MR. HECTOR: Sure.

1 MR. EDWARDS: I just have one thing.

2 John, are there any models of the real large  
3 manufacturers which are not certified for sale in Oregon?  
4 And the question would be, do you know, for a fact, that  
5 they are not, indeed, selling them in Oregon?

6 MR. HECTOR: I don't know off the top of my  
7 head if there are models that are being manufactured. I  
8 don't have that information. But we do attempt to make  
9 field checks through the dealerships to make sure that the  
10 bikes that are sitting on the floor are on this list.

11 Occasionally, we find that there are bikes  
12 sitting right there that are not on the list. There is  
13 a continual enforcement problem in that regard.

14 MR. KOZLOWSKI: Second question: How do you  
15 enforce in-use? What are your enforcement practices for  
16 in-use?

17 MR. HECTOR: We're just starting to get into  
18 some somewhat comprehensive enforcement for in-use. The  
19 legislature, this past session, took the administrative  
20 standards that were adopted and put them in the Motor  
21 Vehicle Code.

22 Now, all the stations, and other places, work  
23 from the Uniform Motor Vehicle Code, and those numbers are  
24 there, so they're not looking toward us for explanation  
25 what those standards mean, to provide technical assistance  
26 and training, and we're hoping to get quite a bit of local

1 enforcement.

2 We also have the Air Emission Program in the  
3 metropolitan area. That's about forty per cent of the motor  
4 vehicle population of the state, in that area, and we think  
5 we can phase in most types of motor vehicle testing into  
6 those stations. Right now, it's limited to automobiles  
7 only, but we think that motorcycles can be brought into  
8 there for testing.

9 MR. KOZLOWSKI: More specifically, outside of  
10 Portland, would you run stationary tests, twenty-inch tests?

11 MR. HECTOR: That's the test that we like the  
12 best, that we think that the law enforcement people can  
13 work with the best. It's an equipment standard.

14 We think that most of the noise violations are  
15 equipment modifications. It's not primarily an operational  
16 problem. Most of the law enforcement agencies would  
17 rather identify potential violators subjectively, and then  
18 run them through a stationary test to determine whether or  
19 not the equipment is good, rather than monitor fifty feet  
20 on the side of the road all day and catch a few people.

21 MR. KOZLOWSKI: Were you here for Mr. Clark's  
22 testimony?

23 MR. HECTOR: No, I was not.

24 MR. KOZLOWSKI: Well, I'll try to reconstruct it.  
25 I'm not sure I can, but -- In the labeling scheme for  
26 after-market systems, we have the technique whereby the

1 manufacturer labels the ninetieth percentile. Now, you  
2 indicated that you approved of that technique. That would  
3 work.

4 Mr. Clark indicated that his staff said that it  
5 would not work because ten per cent of the bikes would be  
6 over that labeled guide at any one time, by design, by law,  
7 and I think he said it is impossible to enforce.

8 Would you comment on that?

9 MR. HECTOR: Why, I agree with him that there is  
10 the legal possibility there's going to be ten per cent in  
11 excess of that, and certainly, more statistical information,  
12 I am sure, will be coming down the line if these proposed  
13 standards are adopted, but the number that's stamped in that  
14 bike, those RPM numbers, can be used by us by adding the  
15 fudge factor on top of that, and whether we need a fudge  
16 factor to cover the statistical distribution, or a fudge  
17 factor to cover the test procedure of the equipment,  
18 etcetera, doesn't make any difference to us. If you've  
19 got that information, I'm sure that everything will be  
20 okay.

21 MR. KOZLOWSKI: And you think, at least, your  
22 enforcers could use that fudge factor, reasonably?

23 MR. HECTOR: I don't see any problem.

24 MR. KOZLOWSKI: There's one other question that  
25 came from the floor, from Alan Isley. It says, "Isn't it  
26 a fact that Oregon administrative rules allow 2 decibel

1 testing variance thereby equating Oregon's 81 decibel  
2 limit to EPA's proposed 83 decibel limit?"

3 I guess the question is, do you have a 2 decibel  
4 variance?

5 MR. HECTOR: That's true, and there's a number  
6 of models in this list that use that 2 decibel tolerance,  
7 and we had to use it liberally in the case of Harley-  
8 Davidson or they wouldn't be selling any bikes in Oregon,  
9 so you can look at it, our standards are up to 2 decibels  
10 above the numbers that are printed.

11 MR. KOZLOWSKI: Very good. Thank you.

12 CHAIRMAN THOMAS: Vic?

13 MR. PETROLATI: John, one point here that you  
14 make that isn't clarified to any extent, you say that EPA  
15 should not adopt standards for both the acceleration test  
16 and the stationary test. Why do you state that, especially  
17 for the stationary test?

18 MR. HECTOR: We don't see how the stationary  
19 test can help us. We don't see any benefits for in-use  
20 enforcement from the stationary test, and the way the  
21 proposed rule is laid out, it appears to us that EPA would  
22 certainly encourage us to use that as an enforcement  
23 mechanism, and I see too many problems with that test as  
24 an enforcement mechanism.

25 MR. PETROLATI: You're talking about the twenty-  
26 inch test now?

1 MR. HECTOR: I think we're talking about the  
2 IMI, or the high RPM stationary test, which was proposed to  
3 be, possibly, in addition, or substituted for the acceleration  
4 test.

5 MR. PETROLATI: Okay. The fudge factor that you  
6 would add on to the labeled value so as not to enforce on  
7 ten per cent of the motorcycles that would naturally exceed  
8 that labeled value because of the requirement, how would you  
9 determine that fudge factor? Would this be from, hopefully,  
10 the data the EPA would supply you of the statistical  
11 distribution of the manufacturers' model lines?

12 MR. HECTOR: I think so. That is the way I see  
13 it. You can take a wild guess and say, "Okay, let's stick  
14 2 decibels on there; that would cover our testing procedure,  
15 our instrumentation," and so forth, and wait for the rest  
16 of the data to come up. I am sure that EPA is not going  
17 to have good statistical data for a while, so . . .

18 MR. PETROLATI: Right.

19 MR. HECTOR: . . . I'm sure we're going to need  
20 that to assure ourselves that we're not failing products  
21 that do, indeed, meet the Federal standards.

22 MR. PETROLATI: Okay. Another statement that  
23 you made is that the dB(A) value stamped on the motorcycle  
24 relates only to the original equipment muffler, and that  
25 you would not enforce on the motorcycle if the did not have  
26 the original equipment muffler. In other words, you would

1 not use that stationary test to enforce against replacement  
2 exhaust systems?

3 MR. HECTOR: No, I don't think that's what I  
4 tried to get across. I said, there's a real danger in  
5 labeling only the frame because the frame is tied to the  
6 OAM exhaust muffler, and that's what we're talking about,  
7 mufflers, and we're saying, you should take that label off  
8 the frame and stick it down on the muffler, and then also  
9 require your after-market muffler manufacturers, that part  
10 of the regulation should also display the dB(A) level, and  
11 the RPM level, on to the muffler, so the label is always  
12 there, rather than just on the frame.

13 MR. PETROLATI: Okay. In your scenario, the  
14 replacement exhaust system manufacturer would still have to  
15 use the same number that the motorcycle manufacturer put on  
16 that motorcycle; isn't that correct?

17 MR. HECTOR: No. He doesn't have to use the  
18 same twenty-inch RPM and dB(A) line. He has the option to  
19 run the acceleration test. But, no matter what he does,  
20 whether he tests it under the stationary provision or he  
21 tests it under the acceleration provision, he has to label  
22 his muffler with the appropriate dB(A) and RPM.

23 MR. PETROLATI: Okay. Thank you very much.

24 MR. NAVEEN: Mr. Hector, you, and others in the  
25 state, have taken us to task at various times with respect  
26 to various regulations, about how we view technology, what is

1 best, what is worst, what fits in between. Would you expand  
2 a little bit regarding your comment on page 5, that the  
3 State of Oregon does not support our rationale for best  
4 available technology. I would like to understand a little  
5 bit better what you mean.

6 MR. HECTOR: Well, it appears to us that EPA has  
7 used the "current best available technology" as what the  
8 most non-innovative, or the least technically competent, or  
9 whatever phrase you want to use, to establish that as your  
10 base line, and we feel the best available technology should  
11 be, at least, in the mid-point there.

12 I'm not saying that all the motorcycle manufacturers  
13 should be looking at the Honda GL-1000, whatever that water  
14 cooled bike is, but to use the, basically, Harley-Davidson  
15 design as best available technology, as testified.

16 MR. NAVEEN: There is one point. I was thinking  
17 that, perhaps, your complaint was that our standard might  
18 not -- I know you're upset that our standard may not be as  
19 tough as you would like, and there may be some difficulties  
20 in Oregon compared to what you've got now.

21 My concern was whether you were taking us to  
22 task for that, which is really, EPA determining, because of  
23 what technology is, and what the costs of compliance are, that  
24 this is the kind of standard that we should propose.

25 I gather that you are focusing away from the  
26 cost item and simply on to technology, and after we get to



1 the point where you are with technology, then we plug in our  
2 costs.

3 MR. HECTOR: Yeah, I'm another one of those dumb  
4 engineers, and I'm not going to play attorney today.  
5 (Laughter)

6 MR. NAVEEN: No comment.

7 CHAIRMAN THOMAS: That never stops our attorney.  
8 (Continued laughter)

9 Okay, I think we have got that straight. EPA has  
10 said that, best available technology, as we define it now,  
11 we believe would permit the motorcycle manufacturers to  
12 meet a 78 decibel not-to-exceed noise level, which says  
13 that, in effect, we would assume that motorcycle manufacturers  
14 would have to design and build motorcycles in the 75, 76  
15 decibel range. That's what we have said. It's not only  
16 the best available technology but takes into account costs  
17 of compliance as well.

18 Now, if I might follow that up, I see from the  
19 data that you've presented -- the information that you've  
20 presented, for 1987, Oregon, for example, has a 75 decibel  
21 standard that would take effect.

22 Now, we heard from the State of California  
23 representative earlier that with respect to their noise  
24 level, that there's is likewise a not-to-exceed maximum  
25 not-to-exceed noise level, and we would presume, then, that  
26 manufacturers would be manufacturing, for example, their

1 75 decibel level to take effect in 1986.

2 Now, we would presume, based on the statements  
3 made by the California representative that motorcycle design  
4 to be sold in California would be certainly no higher than  
5 75 decibels, and perhaps a couple of dB lower than that.

6 Would the same hold true for the 75 decibel  
7 level for Oregon?

8 MR. HECTOR: No, not necessarily. We do have a  
9 2 decibel tolerance on top of these standards. We do allow  
10 manufacturers, if need be, to use that tolerance. We  
11 believe in the overall noise level of the population of  
12 new bikes sold in Oregon certainly should be standard, but  
13 there is also some combination type of bikes that are  
14 certified, and they are above the printed number by no more  
15 than 2 decibels.

16 CHAIRMAN THOMAS: So, on that basis, except for  
17 the split where we have different levels for off-road bikes,  
18 then would you be suggesting that the EPA 78 decibel level  
19 in 1985 would really be not much different than what the  
20 75 decibel level would otherwise be for Oregon in 1987?

21 MR. HECTOR: I would say that that is probably  
22 very close.

23 CHAIRMAN THOMAS: But except for the difference  
24 where you are comprehensive in your coverage in the off-  
25 road bikes . . .

26 MR. HECTOR: Uh huh.

1           CHAIRMAN THOMAS: . . . and we're not. Okay.

2           MR. EDWARDS: Just so I can understand the outcome  
3 of that last go around, does that mean -- do you still hold  
4 that EPA should be proposing or establishing standards for  
5 street motorcycles according to our testing procedure and  
6 our enforcement protocols; that is, a lower number than  
7 that 78 decibel standard that we are proposing?

8           MR. HECTOR: That is a sensitive area, but I  
9 agree with the little thing that hangs just right there,  
10 but when you look at our 75 decibels, and you look at your  
11 proposed 77, there is probably not going to be a great deal  
12 of difference between the two.

13           But, we still do not believe those standards are  
14 adequate to protect public health. We don't believe that  
15 the motorcycle should be noisier than any other vehicle  
16 that is used in the urban-suburban area.

17           In fact, the director of my agency said to say  
18 something about buses, if I had a chance. Now is the time.  
19 All of those classifications.

20           CHAIRMAN THOMAS: Let the record show, John, that  
21 we once again have the State of Oregon on record as wanting  
22 lower noise levels for buses. I've heard repeatedly from  
23 Congress to get on this subject. Thank you. (Laughter)

24           MR. HECTOR: Yes; yes.

25           MR. NAVEEN: That was the reference I made a few  
26 seconds ago when I was referring to Oregon buses.

1 MR. HECTOR: Jack Swing, I think, mentioned,  
2 today, that we can't play this noise business strictly on  
3 the cumulative noise constrictures, the LEQ, the Ldn,  
4 etcetera.

5 When the motorcycle goes by us, you know that's  
6 a bike, there is no question about it, and so, the single  
7 event, that intrusive noise level, is the thing that causes  
8 problems, and wreaking public health effects, but as that  
9 information becomes more and more available, I think we're  
10 going to find out that we are not going to be able to place  
11 all of our marbles on the Ldn, and philosophically, we've  
12 got to get all those vehicles down about to the same  
13 operational level. They may not be all the same SAE  
14 acceleration test level under operational conditions,  
15 depending on where they're operated.

16 I'm not saying you're driving a semi-truck down  
17 the neighborhood street, but these vehicles that are  
18 operating in that area certainly should be all at the same  
19 operational noise level.

20 MR. EDWARDS: I think that is one of the tenets  
21 that is evidenced in the documentation that we have  
22 provided, that we have at least made the claim -- and you  
23 may dispute it -- that at the 78 decibel level under our  
24 rapid acceleration test procedure, that the operational  
25 level under acceleration, normal acceleration, in the urban  
26 environment, you will find that the motorcycle is no louder

1 than a passenger car is today, and we're looking at the  
2 kinds of levels that we're focusing on for heavier vehicles  
3 like trucks and buses.

4 If we want to go down lower than that, I think  
5 that we're going to have to, at least, face the question  
6 that Mr. Girdler posed this morning, that if you take certain  
7 current models of motorcycles and rolled them down a hill  
8 with the engine off but with the drive train engaged, we're  
9 getting down to a pretty darn low number, and that's a  
10 reasonably high number in comparison to numbers we're  
11 talking about, and that's why we have to focus on the best  
12 available technology, as you pointed out earlier.

13 You noted in your statement that the affidavit  
14 system that's going on in Oregon right now may not be as  
15 effective as you would hope, and you seem to be getting an  
16 awful lot of -- Could you please explain it. Am I correct  
17 in understanding that there seems like there is an awful  
18 lot of racing -- a lot more racing motorcycles -- or at  
19 least motorcycles that claim to be racing motorcycles --  
20 sold now than in the past, and possibly, in violation of  
21 your regulations?

22 MR. HECTOR: It's hard to get a handle on total  
23 numbers. We're not sure that every non-certified bike sold  
24 in the state we will receive an affidavit on. We receive  
25 a heck of a lot of affidavits. But, the percentages that I  
26 quoted are comparisons between what we evaluate as a

1 competition bike, a moto-cross type bike, in relation to the  
2 non-competition type bikes, the enduros, etcetera, and  
3 that appears that that portion is growing.

4 MR. EDWARDS: Have you had cases where you have  
5 found motorcyclists operating a non-certified bike in an  
6 area where he should not, and you took enforcement action  
7 against them?

8 MR. HECTOR: We have never taken enforcement  
9 action. We have had some cases where we suspected that the  
10 one staff bike is off the showroom floor. Those vehicles  
11 are not registered in Oregon. Therefore, you can't trace  
12 it by a license plate. It becomes very difficult to  
13 determine whether or not that bike sold under the affidavit  
14 procedures.

15 MR. EDWARDS: Do you have any suggestions for  
16 EPA specifically in the area of off-road motorcycles,  
17 particularly in the distinction between what is a competition  
18 and what is not a competition motorcycle, and any other  
19 provisions that we can add, which will ease your problem of  
20 making sure that the motorcycles here are used in the right  
21 places?

22 MR. HECTOR: It's a difficult problem, it really  
23 is. I agree with your concept that the enduro bike, and  
24 some of the others, are not really competition bikes, and  
25 there's no reason at all why they should meet your off-road  
26 standards, but the full-out competition bike is a real

1 problem, and we are promulgating standards in Oregon to  
2 control racing events, and we will probably do it by the  
3 emissions standards on the individual vehicles rather than  
4 a property line ambient type of standard, and it may become  
5 as direct for us to regulate at the manufacturers' level.

6 MR. EDWARDS: Thank you very much, sir.

7 CHAIRMAN THOMAS: I've got one last question  
8 for you, Mr. Hector: You state that categories of mufflers  
9 by design rather than noise output should not be adopted,  
10 consideration should be given to requiring certain design  
11 features for mufflers, but these requirements should be  
12 separate and distinct from the labeling requirements.

13 Now, EPA has -- Federal EPA has -- no authority  
14 to set design standards for products. We can only set  
15 performance standards for products. I'm not sure whether  
16 you make that distinction here or not.

17 MR. HECTOR: The way I read your proposed rule  
18 making, it appeared that EPA was at least conceptually  
19 considering the idea of a design standard, and maybe that's  
20 a mistake on our part to make that interpretation.

21 MR. EDWARDS: We foreshadowed a possible use of  
22 design standards in the muffler area, particular as regards  
23 to the AAP requirement that EPA put out. We asked for  
24 specific comments if it was at least technically feasible  
25 to establish design criteria which would allow you to  
26 determine whether or not the muffler would comply with an

1 AAP requirement without having to do a year's work of  
2 testing on the product.

3 CHAIRMAN THOMAS: All right. There should be  
4 no doubt about this. The EPA wants the straight pipes, the  
5 bad mufflers, out of business, and we intend to do everything  
6 we can to get those out of interstate commerce, and off  
7 the shelves, and we intend to get those people out of that  
8 business if we can find a way to do it. We haven't found  
9 a good way yet. That's what we're searching for here in  
10 this muffler --

11 MR. HECTOR: Well, would you?

12 CHAIRMAN THOMAS: Thank you very much. Any  
13 other questions? (No response to the question.)

14 Ladies and gentlemen, it is 5:00 o'clock. We  
15 are supposed to take a break at this time for dinner, for  
16 those that call it that in these parts of the area. In  
17 consideration to my home state, we're going to take a  
18 break for supper, right now. We will be back a 7:00  
19 o'clock this evening to hear -- 7:30 -- 7:30, to hear,  
20 at that time, from Mr. Ross Little, representing the  
21 California Highway Patrol, and any others who would care  
22 to speak after that hour.

23 Thank you.

24 (Whereupon, the proceedings were in  
25 dinner recess from 5:00 o'clock, p.m.,  
26 until 7:35 o'clock, p.m.)



P R O C E E D I N G S

CHAIRMAN THOMAS: We will reconvene at this point. It is 7:35. Mr. Ross Little, representing the California Highway Patrol.

ROSS LITTLE

Thank you. It is really my pleasure to be here and address the audience and the EPA, and I want to begin by giving you a little background of California's noise laws and regulations, and give you a feel from where we're coming from.

The California legislature became concerned, in the early 40's, about vehicle noise, which resulted in the purchase of a sound level meter, and attempts to use that meter for noise enforcement didn't go over. We couldn't use the meter because there were actually no methods established for measuring vehicle noise, and in the 50's, the American Trucking Association established one hundred and twenty-five sones, and all vehicles, heavy trucks, were supposed to have complied with one hundred and twenty-five sones at that time. One hundred and twenty-five sones is roughly 85 dB(A) at fifty feet, and during this same period, the legislature considered, but rejected, two bills, which would have required the approval of mufflers.

In 1961, the California legislature enacted a law requiring the California Highway Patrol to develop

1 measurement standards for maximum permissible noise; and in  
2 1963, considered and rejected a bill incorporating the  
3 limits for vehicles based on the data that we had gathered.

4 The legislature then directed the Department to  
5 study the feasibility of enforcement officers using sound  
6 level meters for measuring noise produced by vehicles on  
7 the highway.

8 The Department purchased three sets of sound  
9 measuring instruments in 1965, and gathered a group of  
10 data, and submitted it to the legislature.

11 In 1967, the California legislature adopted  
12 maximum permissible noise limits for vehicles operating on  
13 California highways, and maximum permissible noise limits  
14 for new vehicles offered for sale in the State of California.

15 At this time, there were no vehicle noise  
16 testing procedures, there were no set methods of measuring  
17 vehicle noise, and the A-weighting network had not yet been  
18 established as the proper function to measure vehicle  
19 noise.

20 The California Highway Patrol's Engineering  
21 Section worked with the vehicle manufacturers and the  
22 Society of Automotive Engineers Sound Level Committee to  
23 develop the present vehicle noise test procedures as used  
24 by the California Highway Patrol.

25 The SAE went on and developed them into the  
26 present SAE procedures, J-986, J-331a, J-47, and some of

1 the other procedures.

2 During the regulation development process, the  
3 Department experimented with several means of measuring  
4 noise, and decided that we would adopt the standard A-  
5 weighting network for all vehicle noise measurements. Since  
6 then, this method has become the preferred method of  
7 measuring vehicle noise throughout the United States and  
8 throughout the world.

9 On-highway noise enforcement was first started  
10 by the Highway Patrol in 1968 under an experimental  
11 program upon which the Department built its present noise  
12 enforcement program.

13 Then, in 1969, the Department started noise  
14 enforcement using sound level meters on a Statewide basis  
15 using six trained noise teams, and the Department has had  
16 noise enforcement teams in the field ever since.

17 Based on the full time noise enforcement teams  
18 the Department's beat officers enforce against the vehicles  
19 with loud exhaust systems, by ear. The Department now has  
20 thirteen people that work throughout the State in noise  
21 enforcement. To enforce it besides this, the normal beat  
22 officers take enforcement by ear and not with a sound level  
23 meter.

24 The California Highway Patrol has a total of  
25 nine enforcement teams spread out throughout the State who  
26 are equipped with sound measuring equipment, and who spend

1 the major portion of their time measuring noise from the  
2 vehicles operating on the highway, and we will have one of  
3 the team members tomorrow to testify for you.

4 In 1975, the teams measured an excess of one  
5 million two hundred and seventy-five thousand vehicles. Of  
6 these, eleven thousand and sixty-four were motorcycles.  
7 Fourteen per cent of the motorcycles measured were in  
8 violation.

9 Of the one thousand and fourteen vehicles  
10 receiving enforcement action, seventy-eight per cent were  
11 reported to have modified exhaust systems, twelve per cent  
12 were reported as having defective exhaust systems, and  
13 ten per cent were reported as having inadequate exhausts.  
14 We suspect that this ten per cent really should be  
15 included with the modified exhaust.

16 At any rate, the figures show that ninety per  
17 cent of the vehicles were producing noise created from  
18 the problems caused by the operators themselves.

19 This background on the noise enforcement program  
20 has been presented to give you, the audience and the EPA,  
21 a better understanding of where our comments are coming  
22 from.

23 I have been involved with the Department's  
24 noise program since its inception, and responsible for the  
25 present regulations and enforcement program.

26 The one thing that, when we -- this part isn't

1 in the notes -- but we of the Highway Patrol feel that the  
2 manufacturers really do need one local agency, the Federal  
3 government, to have -- to develop standards, so they can  
4 make one vehicle for the whole United States, but we were  
5 very apprehensive of EPA's program when they first started.

6 But, Mr. Scott Edwards and his noise group are  
7 to be complimented on their efforts to take existing  
8 programs and build upon them. The Highway Patrol Engineering  
9 Section has been involved with them and their contractor  
10 in developing the present proposed motorcycle noise emissions  
11 test procedure in Annex I of their proposed regulations.

12 We do have some specific comments on portions  
13 of the regulations. However, we are very pleased, and wish  
14 to publicly express our appreciation to the Environmental  
15 Protection Agency for their efforts in developing a good,  
16 strong, workable motorcycle noise program.

17 The main item of concern to the Highway Patrol  
18 is that the enforcement personnel in EPA, or whoever takes  
19 over the program after the regulations are adopted, may  
20 not continue to work closely with the enforcement agencies.  
21 We are aware, as is the EPA, that without enforcement, the  
22 noise program will be of no value.

23 We feel sure that the fine work that Mr. Scott  
24 Edwards has done will result in him receiving a promotion  
25 and transfer to bigger and better things. I can see it  
26 coming. (Laughter) His replacement, or whoever picks up

1 the program -- picks up the reins of the program -- may  
2 forget all about the cooperation that has preceded, and  
3 manufacturers and individuals with specific problems will  
4 no doubt present them to EPA, and this fine cooperation  
5 will be forgotten, and changes will be made in the  
6 regulations without consulting the enforcement agencies.

7           Therefore, we strongly urge that the EPA's  
8 enforcement arm, or whoever is responsible for the  
9 regulations after they are once adopted, consult with, and  
10 communicate with, the Highway Patrol and other enforcement  
11 agencies that will be responsible for making the motorcycle  
12 noise program workable.

13           The EPA program specifically builds upon the  
14 Highway Patrol's noise enforcement program with the  
15 proposal of a muffler certification program, and with the  
16 requirement that vehicles be permanently identified with  
17 sound levels, and with their intended use.

18           One of the serious problems in California, and  
19 other states, is with individuals buying motorcycles  
20 designed strictly for closed-course racing and using these  
21 vehicles off the highways, or even on the highways.

22           To digress a little bit from the notes:  
23 California just dealt with this in requiring noise tests  
24 on these vehicles, and we list the vehicle not acceptable  
25 for on-highway use in one of our manuals.

26           We find many of these off-highway -- like my

1 next notes say -- fire-breathing monsters with license plates  
2 fastened on the side of them, and so forth, and they are  
3 operated on the highway as well as out in the woods.

4           These fire-breathing monsters, as least in  
5 California, have been responsible for the closure of much  
6 of the off-highway riding areas, and many, many complaints  
7 from the citizens about the noisy motorcycles. The  
8 complaints that Jack Swing talked about earlier are referred  
9 to my office.

10           The proposed marking requirements should greatly  
11 assist in the enforcement by permitting the officer to  
12 easily determine if a vehicle or exhaust system is improperly  
13 used.

14           The problem, of course, will be the older  
15 motorcycles, with their replacement exhaust systems. This  
16 problem will have to be settled by the State regulations.

17           I strongly feel that the after-market muffler  
18 manufacturer should be required to develop a muffler which  
19 is as quiet, or quieter, than the vehicle's original system.  
20 Where the after-market muffler manufacturers put little or  
21 no research into the problem, they generally merely make a  
22 good looking pipe which sits on the vehicle, that carries  
23 its exhaust gas out from the engine out to the end of the  
24 tail pipe without actually doing any or very little noise  
25 testing. That isn't true of all of them, but with many of  
26 them, that's the case.

1           One of the specific comments we have is Annex I  
2 to the proposal. It contains a new innovative test  
3 procedure which is designed to remove many of the variables  
4 from the present SAE procedure, which is basically the  
5 California procedure, and removes some of the hazards from  
6 the SAE J-47, which was developed as a method to determine  
7 maximum vehicle noise, and one omission from the procedure  
8 is a deceleration procedure, and we recommend that EPA  
9 adopt the procedure that is described in SAE J-47, in  
10 Section IV.3.1.

11           Performing the deceleration procedure on most  
12 highway machines is not necessary, and rarely would be  
13 used. Our regulations call for the deceleration procedure be  
14 used only when it is determined that the acceleration,  
15 that the deceleration noise is excessive.

16           However, the off-highway machines, particularly  
17 those with compression releases, or those fitted out that  
18 compression releases can be installed, should have  
19 deceleration procedures run, because the compression release,  
20 in some cases, increases the vehicle noise significantly.

21           In off-highway operation, this racket becomes  
22 a very irritating element, and results in individuals  
23 objecting to the vehicle's noise.

24           Again, let me express the fact that the Highway  
25 Patrol Engineering Section, who is responsible for the  
26 vehicle noise program in California, is very pleased with



1 the work done so far by the Environmental Protection Agency's  
2 motorcycle group with this proposed regulation and procedure.

3 We have only a few specific comments which have  
4 been submitted to the docket. Most are related to some  
5 grammatical problem, and the lack of the deceleration  
6 procedure, which was discussed.

7 We would be quite pleased if the procedure  
8 were adopted "as is" and we could live quite nicely with it.  
9 The important point that I would like to stress is the  
10 importance of EPA's continued work with the Department.  
11 I am sure that our goals are the same, and that is, to  
12 result in the quiet vehicles operating on the highways.

13 I think I skipped a page. I did.

14 The EPA's proposal suggests the motorcycle  
15 limits descend -- back to page 6 -- descends to 78 dB(A).  
16 I believe -- or we believe -- that this, at this time,  
17 does not appear to be a cost effective level.

18 New street motorcycles, at least in California,  
19 must comply with the 83 dB(A) test under a somewhat  
20 different procedure. However, they are barely noticeable  
21 in the flow of traffic unless their exhaust systems have  
22 been modified.

23 Lower limits are likely to increase the  
24 tendency for customers to make modifications in the belief  
25 that more power would be the result.

26 Now, all of this gets back to the key issue of

1 enforcement, for a law that is unenforced is worse than no  
2 law at all. We suggest that the 78 dB(A) be omitted from  
3 the standard, or at least the effective date be omitted.

4 A survey of the noise from motorcycles operating  
5 on the highways in four different localities should be  
6 undertaken; probably in California, and maybe Florida, and  
7 maybe Texas, and Michigan. That would be two states with  
8 laws, and two without.

9 Data should be gathered from two states with  
10 enforcement noise laws, and two without specific enforcement.  
11 The survey should be conducted now, and then again, during  
12 the same measuring period, probably 1983. Data from this  
13 survey could be used to determine if the lower new vehicle  
14 limits have affected noise from motorcycles in operation,  
15 and if lower limits should be adopted for 1985.

16 The effects from the previous noise programs --  
17 in other words, the 80 dB(A) -- would indicate if future  
18 lowered noise limits should be enacted.

19 That's really all I have. I do want to say  
20 again, we, at the Highway Patrol, really do appreciate the  
21 close cooperation we have had from the EPA. The EPA is  
22 not going out to reinvent the wheel and come up with a  
23 whole new program, but build upon the program which we  
24 have had.

25 CHAIRMAN THOMAS: Thank you very much. Your  
26 comments are -- obviously, we will take under advisement,

1 the recommendation with respect to Mr. Edwards (laughter),  
2 depending on how the final regulations do come out.

3 The position you have taken on behalf of the  
4 California Highway Patrol differs somewhat from the position  
5 taken by the Department of Health of the State with respect  
6 to what noise levels the Federal government should institute.

7 I presume, of course, that yours is -- and I  
8 understand them, in here, the context is really the  
9 enforcement elements; but they are also suggesting that --  
10 the Department of Health is suggesting in their earlier  
11 tatements that the Federal government has not gone far  
12 enough, and I would quote, specifically, from the testimony  
13 given by Mr. Swing, that says that, "We think the ultimate  
14 goal of 78 dB(A) should be reduced further," whereas you  
15 are suggesting in here, "I do not believe that reducing the  
16 noise limits for new motorcycles to 78 dB(A) is at all cost  
17 effective."

18 Admittedly, you looked at cost. Perhaps Mr.  
19 Swing was looking more at the health effective side. But,  
20 do I understand, that here the CHP is taking a somewhat  
21 different position than the Department of Health?

22 MR. LITTLE: Yes, we are. These comments were  
23 prepared, and I am not really permitted to establish the  
24 State policy. However, the Commissioner -- these were  
25 reviewed by our own Department, so they know the stand that  
26 I have taken. Now, I do know that our position, which I

1 have stated, differs from the Department of Public Health,  
2 and when the bill was in before the legislature, it was set  
3 recently, which modified our limits in California.

4 The limits that are in there now are the ones  
5 that I believe the Public Health presented. I objected to  
6 those limits at that time. I believe --

7 Let me go back a little further. The noise  
8 limits in the California law were adopted originally with  
9 one number for each class of vehicles, motorcycles, trucks  
10 and passenger cars, and every year, the legislature would  
11 open that up again and put out to try to reduce the limits,  
12 and that's when this committee was put together to try and  
13 make a schedule for people, and those numbers in California  
14 law, if you go back to the Vehicle Code, Section 26310,  
15 they were devised very carefully a very in-depth data one  
16 morning while shaving (laughter), they weren't based on  
17 anything excepting as goals that were -- that may or may  
18 not be possible to meet.

19 We suspected, at the time they were suggested  
20 that the -- that they wouldn't be reasonable. The passenger  
21 car people have come before our legislature, and have  
22 presented data, and very good information, and the legislature  
23 accepted the data and dropped off the descending limits to  
24 80 dB(A). Trucks are dropped also at 80 dB(A).

25 I had the hope that the motorcycle -- that the  
26 data -- the motorcycle people presented the same type of

1 data, but somehow or another, it got lost, or got mixed up,  
2 downtown, and I don't know about all of this and somebody  
3 else will have to explain that to you.

4 I believe it would have been a lot better if  
5 it had stopped at 80 with everything in it. I firmly believe  
6 that manufacturers of motorcycles can meet 80 dB(A). Of  
7 costs? I really don't know too much about that, but I  
8 believe they can do it.

9 I have a hard time believing that under a test  
10 procedure which we use, which comes fairly close to  
11 measuring maximum noise, but motorcycles should be allowed  
12 to make more noise than other vehicles -- other classes of  
13 vehicles. And that's primarily where I am.

14 I believe that they probably can go to 78, but  
15 I don't believe that it's right to make the new vehicles go  
16 down to 78, or anything less than the 80, until something  
17 very substantial is done with the on-highway noise problem,  
18 because even at 83 dB, it's very acceptable in the flow,  
19 even under a lack of flow.

20 MR. KOZLOWSKI: Yes. Mr. Little, I have a  
21 number of questions, but I would like to follow up on that:

22 If modifications is the major problem, and that's  
23 what you said once again -- we've heard a number of people  
24 say that, the same thing, in different ways, and if the  
25 motorcycles are currently at 83 decibels, even though  
26 sound carries, why should the Federal government regulate?

1           MR. LITTLE: The only reason they need the 83  
2 dB(A) throughout the whole U. S. is because of the efforts  
3 in California. I don't intend to break my arm patting, but  
4 that's the way it is.

5           It isn't economically feasible for a manufacturer  
6 to develop a special motorcycle for California, so that any  
7 motorcycle -- most motorcycles, as far as I know, introduced  
8 into the U. S. market, comply with the California noise  
9 limits. There are one or two that are sold only on the  
10 east coast that do not, and the ones -- there are some  
11 off-highway vehicles that don't comply with California  
12 noise limits, but --

13           No, I think it is important for EPA to regulate  
14 it, the government, for a nationwide --

15           MR. KOZLOWSKI: But why? If the people on the  
16 east coast want those noisy bikes, or if Oregon wants  
17 this, whatever levels it wants, 83, 81, maybe 82, or  
18 whatever, and California, in fact, has a standard which  
19 sets the pace such that industry generally complies, why  
20 should the Federal government enter into what could be a  
21 relatively massive program duplicating what California already  
22 apparently successfully has done, if, in fact, modifications  
23 are --

24           As a matter of fact, you might take it a step  
25 further. Why go from -- and you seem to say this -- why go  
26 from 83 to 80, if modification is the major problem?

1           MR. LITTLE: Well, as far as California is  
2 concerned, we would be perfectly happy if you didn't enter  
3 into the picture, but because you've cooperated with us,  
4 and you're building upon our program, you've done a real  
5 good job.

6           Our present procedure, which is basically 331,  
7 has some problems with it. You have improved that with  
8 this, with your S-76 program.

9           Well, I can't really answer why you should get  
10 into the program, with the present amount of on-highway  
11 noise enforcement in California.

12           And, let me take a step a little bit away. It's  
13 done primarily by the Highway Patrol, and we have fourteen  
14 people throughout the State that are doing noise enforcement.

15           The legislator that spoke here a minute ago,  
16 like most all of them, have a copout. They want to write  
17 their own laws, and won't enforce the State laws, which  
18 really bothers me. Very few cities enforce the noise  
19 program.

20           The City of San Francisco -- Mr. Bodisco is  
21 going to speak. He can show that his program is better,  
22 and pays for itself, but police are busy enforcing against  
23 robbers, and whatever else they do, and noise has a very,  
24 very low priority.

25           MR. KOZLOWSKI: Now, let me get off that subject  
26 again. I would like to assure you that I think we will pick

1 where Scott left off. We certainly intend to cooperate with  
2 the State of California. We don't want to reinvent the  
3 wheel. And you've been there, and we would like to borrow  
4 from you, so we will make avid efforts between now and  
5 final promulgation, should we finally promulgate these  
6 regulations, and after that, enforcement, to make sure that  
7 we learn from your experience, so I can assure you that we  
8 will have continued cooperation with the State of California  
9 Highway Patrol in particular, and the Federal Environmental  
10 Protection Agency, I think, and, that's just necessary, I  
11 think.

12 As you know, as the regulations pointed out in  
13 the preamble, that the major -- one of the major problems --  
14 the major problem that you pointed out today -- the  
15 modifications to the bike is basically going to remain a  
16 local function, a state and local function, that the Federal  
17 government just can not muster enough resources to go about  
18 checking every motorcycle to see that it has not been  
19 modified, but we would hope to provide some national  
20 guidance, quote, unquote, with maybe some other types of  
21 training tactics to support the State law, what we can  
22 learn, perhaps, to support you in your program.

23 MR. LITTLE: Thank you.

24 MR. KOZLOWSKI: Oregon is using, or intends to  
25 use, an airfield, for I think the F-50 test, although I'm  
26 not sure. They're stating a twenty-inch measurement



1 stationary test. Mr. Isley suggested a stationary standard  
2 at one hundred and five decibels measured at twenty-inches;  
3 I guess, once again, the F-50 test for the exhaust systems.

4 Would you comment on that?

5 MR. LITTLE: May I, please. What Mr. Isley has  
6 suggested, and what apparently Oregon has done -- and I'm  
7 not real clear on that -- is to establish this F-50 test,  
8 and I have no problem with the test at all, excepting that  
9 the data that it revealed, does not -- as generated from  
10 the test, does not at all correlate with any of the full  
11 acceleration tests, and as long as you have a flexible  
12 number, or a number established to each vehicle, as you  
13 are proposing -- in other words, if the new vehicle  
14 manufacturer will establish a dB(A) level at that procedure  
15 for that vehicle -- I have no problems with the program.

16 But, the minute you establish a single number,  
17 one hundred and five, ninety-five, ninety, I don't care  
18 what, for the existing vehicles, then we're in a heap of  
19 trouble.

20 We now have on the books in California passenger  
21 vehicle noise -- or, an exhaust system certification  
22 program that has suddenly become a license to allow all of  
23 the junk -- excuse me -- all of the straight through  
24 performance exhaust systems that have been illegal for  
25 years, they are now legal, they are now certified, they are  
26 legal to sell, the manufacturers have certified them

1 ninety-five dB(A), and I can go buy one and put it on my  
2 wife's car, and increase the sound level by fourteen  
3 decibels.

4 It is illegal to drive the car, but the muffler  
5 is legal to sell, and that's what you'll get, that's the  
6 trap that you're going to get into with a fixed number under  
7 this present procedure.

8 Now, I do know that Vic's group -- your group,  
9 I guess -- is working with an ignition cutoff. I don't  
10 know what you call the procedure. I'm very . . .

11 MR. KOZLOWSKI: Yes.

12 MR. LITTLE: I'm very hopeful of that procedure  
13 coming about. I'm not sure how it would be used in  
14 enforcement because of the difficulty of putting an ignition  
15 interrupt on to the motorcycle on the road, but for a  
16 muffler certification, maybe muffler shops, I think it would  
17 be a real workable thing because it correlates with the  
18 numbers we have.

19 But any time you take a -- you introduce a whole  
20 new program with a new set of numbers, we're in real  
21 serious problems.

22 MR. KOZLOWSKI: Incidentally, the whole Agency  
23 has been working on that program. Vic has done a lot of  
24 good work in it, but so has Scott, and Hank, and Ron, and  
25 me, and everyone. It's been an Agency effort.

26 CHAIRMAN THOMAS: If that's right, does that

1 mean we all get a promotion?

2 MR. LITTLE: That's right. (Laughter)

3 MR. KOZLOWSKI: Have you enforced, do you --  
4 well, let me be more direct -- when you cite someone -- when  
5 the California Highway Patrol cites someone for violation,  
6 do they only have to fix the bike, or are there fines levied?

7 MR. LITTLE: Well, it depends entirely on the  
8 type of citation, and we'll let Mr. Hanson answer, tomorrow,  
9 more clearly, but let me give you a brief rundown.

10 We have an on-highway noise law which is like a  
11 speed law, which says, "You will drive the vehicle quietly."  
12 Very few citations are written under that. They take the  
13 numbers from that, and when a vehicle exceeds those levels,  
14 they stop the vehicle and inspect it, and most always it  
15 has a modified, a loud, noisy exhaust system on it which  
16 has been modified from stock, so then they use one of two  
17 other sections which says, "You have an inadequate muffler,"  
18 or, "You shall not modify it," and they cite the individual  
19 for that, and then, and those, and that citation requires  
20 that the individual repair the exhaust system, and generally,  
21 it does result in a fine.

22 Now, it's handled in different judicial districts,  
23 and Mr. Hanson can tell you more thoroughly on that.

24 MR. KOZLOWSKI: But in those cases, there may be,  
25 or generally is, a fine?

26 MR. LITTLE: That's true. There most always is

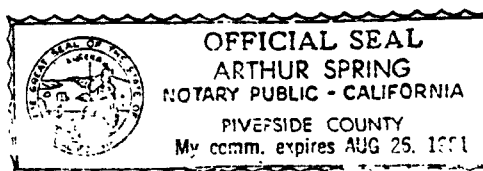
C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing pages,  
numbered from 1 through 268, inclusive, represent a true  
and accurate transcription of my stenographic notes taken  
at the public hearing of the Environmental Protection Agency  
at the Anaheim Convention Center on Friday, April 28, 1978.

DATED this 10th day of May, a.d. 1978.



ARTHUR SPRING, reporter



1 a fine.

2 MR. KOZLOWSKI: And that's about seventy per  
3 cent of the cases, then, too?

4 MR. LITTLE: Yes.

5 MR. KOZLOWSKI: Very interesting. Heavy fines,  
6 or just a slap of the wrist?

7 MR. LITTLE: They're just slaps on the wrist.  
8 Very seldom -- It depends. Different courts set their own  
9 fines. There is no statewide standard. Some are just slaps  
10 on the wrist, and some are significant.

11 MR. KOZLOWSKI: Mr. Jardine made a point earlier  
12 that, if they fine the individual substantially, that he  
13 thought that would get the attention of the people, and we,  
14 of course, agree with that, and we've found that to be true,  
15 the only solution is enforcement, but -- Well, okay.

16 MR. LITTLE; I agree with that too. I think our  
17 enforcement stands us in good reason.

18 MR. KOZLOWSKI: Okay, fine. That's all I have.  
19 Thank you very much.

20 MR. LITTLE: May I make one more comment?

21 MR. KOZLOWSKI: Yes.

22 MR. LITTLE: Someone made a comment this morning  
23 about off-highway vehicle testing on pavement. I don't  
24 recall who that was.

25 MR. KOZLOWSKI: Was it a member of the panel?

26 MR. LITTLE: No, it was one of the people who

1 spoke.

2 We've tested a lot of new vehicles. I am the  
3 highly skilled and lowly paid test engineer for the Highway  
4 Patrol, among other things, and I have tested many, many  
5 off-highway motorcycles on the pavement. I agree, they're  
6 not designed to be driven on the pavement, it wasn't made  
7 to turn it too sharp because they'll slip out from under  
8 you, but on the pavement is the only way you can run a  
9 complete control test, and I strongly recommend we continue  
10 testing on the pavement. Sure, they would like us to run  
11 them only out on the lawn somewhere, a noise absorbant area,  
12 but you can't make the test on the vehicle.

13 MR. EDWARDS: Mr. Little, now I have to uphold  
14 my end of the bargain and recommend you for promotion to  
15 your boss. (Laughter)

16 MR. LITTLE: I've been recommending it for many  
17 years, but he won't listen to me.

18 MR. EDWARDS: I got into a discussion this  
19 morning with Mr. Swing as to how the EPA standard related  
20 to a California standard, and one of the questions that I  
21 asked of him that he referred to you was: How does the  
22 manufacturer, right now, go about showing the State of  
23 California that it's in compliance with its rules, and more  
24 specifically, how many different products do they test, and  
25 do you have some examples of vehicles that have not been  
26 certified for use in California, and how far from the

1 standard were they?

2 MR. LITTLE: Well, I can give you all that  
3 information. That's one of my responsibilities:

4 Number one, vehicle manufacturers do not have to  
5 certify their vehicles in California. The dealer, when he  
6 sells the vehicle, signs a statement that says that the  
7 vehicle complies. We have had new vehicles in Sacramento  
8 on a catch-as-catch-can basis. Our noise teams tell us  
9 when they notice a new vehicle that is excessively loud,  
10 and we go out to measure it. The last one was -- well, what  
11 we do -- the last one we measured was a Ferrari. For the  
12 second or third time, we forbid the sale of Ferrari's in  
13 California. And then, there was a Yamaha motorcycle. It  
14 seems that the production machine had been modified from the  
15 prototype, and Yamaha recalled them. Ferrari did the same.  
16 And we took the ban off.

17 We should really measure more vehicles than we  
18 do. We don't really have the time. There's only two of us  
19 in engineering that work part time in the noise program, as  
20 far as new vehicles go. We have a skeleton crew almost as  
21 small as yours, with the problems we have.

22 But, we find that the threat of forbidding to  
23 sell is rather significant. Every year we set aside,  
24 generally, one month, when we go out and randomly select  
25 vehicles and just measure them, and the last time we did,  
26 last year, we measured a whole group of off-highways, and

1 there were serious consequences from that. But, as a rule,  
2 we just don't measure every vehicle.

3 MR. EDWARDS: I'm not trying to be critical at  
4 all. We, in EPA, know all about not having enough people  
5 to do everything that everybody wants you to do, but I  
6 guess my question is: If, in your program, you are testing  
7 a whole different series of vehicles, and when you find one  
8 that is 84 decibels, do you say, "That's not good for sale,"  
9 or do you say, "Gee, I guess this particular one is not so  
10 bad. We'll go out and test another vehicle." What do you  
11 do?

12 MR. LITTLE: If it's one decibel, or a half a  
13 decibel, over the limit -- Well, let me step back. It  
14 depends on how much over the limit, on what we do. If it's  
15 two decibels or more over the limit, we write the manufacturer  
16 and stop the sale immediately. If it's less than that, we  
17 write the manufacturer and have him bring us another model,  
18 which we will test, and if that's over the limit by half  
19 a decibel, or one decibel, then we make them recall and  
20 refit.

21 We do not apply a tolerance. There is no  
22 tolerance allowed for the vehicle manufacturers.

23 Now, for on-highway enforcement, that's a different  
24 story. We do apply a tolerance there . . .

25 MR. EDWARDS: I understand.

26 MR. LITTLE: . . . but not in the regulations,



1 but it is in our operating procedure.

2 MR. EDWARDS: But if it's sort of on the  
3 borderline, then you essentially revert to additional  
4 testing?

5 MR. LITTLE: We revert to additional testing,  
6 yes, and have the manufacturer -- well, it could be an  
7 error which we make, and would like to be sort of responsible  
8 with, and well, the Ferrari, for instance, we just happened  
9 to pick one car which was way over the limit, and they  
10 brought three other vehicles which were all well within  
11 the limit. That particular vehicle they sold out in  
12 Sandusky, I guess, because it was illegal in California  
13 (Laughter), but no matter, even changing the exhaust and  
14 the manifold, and all, and the intake manifold, they  
15 couldn't bring the noise level down. Ferrari now has a new  
16 complete set of sound measurements, but we do make them  
17 make corrections

18 The Yamaha was less than 2 dB over, but we made  
19 the manufacturer -- Generally, with the major manufacturers,  
20 you don't have to stop sale. All you have to do is tell  
21 them, "Look, you're in trouble," and they do a real good  
22 job of policing themselves.

23 MR. EDWARDS: In another area, if someone in the  
24 State of California was knowledgeable that, say, a  
25 motorcycle dealer, or service shop, was routinely tampering  
26 with the products brought in, whose authority is it, and

1 whose responsibility, in the State of California -- in  
2 California -- is it to go after someone like this?

3 MR. LITTLE: It's really the Department of  
4 Motor Vehicles. However, in the action, it is generally  
5 started in our office, and we generally gather data and  
6 present it to the DMV -- the Department of Motor Vehicles --  
7 or to the Attorney General's Office. But generally, it's  
8 handled through the Department of Motor Vehicles.

9 MR. EDWARDS: Do you ever initiate your own  
10 studies -- I am not trying to be critical -- but do you  
11 ever initiate your own studies, reports, on dealers or  
12 service organizations, or do you work on a complaint basis?

13 MR. LITTLE: We work on a complaint basis. We  
14 never have done that. If we get into a motorcycle muffler  
15 certification program -- which we will be going into --  
16 we have been waiting until we had some of our problems  
17 with our passenger car program out of the way, and kind of  
18 waiting for you, and now that we see the direction in which  
19 you will be going, we will be picking up the muffler  
20 certification of the older motor bikes, and there will be  
21 inspection of retail outlets, and motorcycle shops, in  
22 that program.

23 MR. EDWARDS: Mr. Little, thank you very much.

24 CHAIRMAN THOMAS: Mr. Little, I had a couple of  
25 questions that had been posed by earlier parties from the  
26 floor. Let me ask those questions of you now. They are

1 appropriate. You may not be able to answer the questions  
2 specifically at this time. If you do happen to have the  
3 data available, we would appreciate receiving it later.  
4 And I will also back this up with a letter to you citing  
5 these questions again.

6 I think the first of these is: "What percentage  
7 of motorcycle citations involve sound measurement as opposed  
8 to officer's judgment, within the CHP?"

9 MR. LITTLE: A very high percentage is officer  
10 judgment. I can't give you the percentage. I could get  
11 you that data. Now, wait a minute. The normal beat  
12 officer is at liberty to, and does take enforcement actions,  
13 against noise emissions, and they do not have sound meters,  
14 and that's one thing we have to be careful of in the  
15 program, that we don't require every officer to have a  
16 little black box. That just absolutely does not work.

17 We do have a few officers throughout the State  
18 that do have sound meters, but all of their enforcement is  
19 not done with meters. They, on a rainy day, they will  
20 just rove around, and some vehicles that are noisy, they'll  
21 just stop noisy vehicles.

22 I would say that the major portion of their  
23 enforcement is done by ear.

24 CHAIRMAN THOMAS: Now, when the vehicle is  
25 stopped for enforcement action by ear, does this result  
26 then in a citation, and could this, or have you experienced

1 in these types of citations, presuming a citation is issued,  
2 having to go to court to substantiate the noise level, or  
3 the violation, do you have difficulty, in other words, in  
4 convictions, on normal enforcement by you?

5 MR. LITTLE: We normally don't have trouble with  
6 convictions. However, if it's all right with you, Mr.  
7 Hanson can answer that specifically tomorrow, because that's  
8 primarily his job.

9 CHAIRMAN THOMAS: Thank you. We will hold  
10 those questions for him tomorrow. Then, that's fine.

11 I have one more question if you will bear with  
12 me for just a minute.

13 MR. LITTLE: I'm paid for the month, and the  
14 month isn't up yet. (Laughter)

15 CHAIRMAN THOMAS: In your statement -- there are  
16 two questions, I guess, I have gotten out of here -- in  
17 your comments earlier you made a statement that, "Lower  
18 limits are likely to increase the tendency for customers to  
19 make modifications in the belief that more power would be  
20 the result."

21 Now, my question is this: In your experience in  
22 the State of California with motorcycle noise, can you tell  
23 us what you have seen in terms of efforts by manufacturers,  
24 dealers or distributors, to get to, inform, educate, any  
25 of the above? Motorcyclists are not tampering or modifying  
26 the systems on those motorcycles for noise control purposes.

1           Let me say that again: In your experience, what  
2 have you seen or experienced from motorcycle manufacturers,  
3 distributors, dealers, in trying to educate or inform  
4 motorcyclists buying their products, using those products  
5 in this State, not to tamper or modify muffler exhaust  
6 systems?

7           MR. LITTLE: Well, I have seen very little from  
8 the manufacturers themselves. Some motorcycles have a  
9 warning label on them. The mufflers have warning labels on  
10 them. MIC has done a pretty good job with their "Less  
11 Sound, More Ground", and they have done a pretty good job  
12 with that, and I think that really has paid dividends.

13           Dealers? I have not seen anything at all. We  
14 had a real serious problem with a dealer selling closed  
15 course racing motorcycles for off-highway operation.

16           The manufacturers have developed kits, or did  
17 develop kits, a few years ago, for these vehicles. This  
18 year, Yamaha and Honda elected not to provide kits for  
19 them, the racing motorcycles. They're going to leave  
20 racing motorcycles. But dealers still insist on selling  
21 them for trail riding. So, I don't know whether the  
22 dealers don't know, or they are not interested, or they are  
23 just interested in the sale, but I don't see any efforts on  
24 the dealers' part.

25           CHAIRMAN THOMAS: In other words, in your view --  
26 and I don't mean to put words in your mouth but I am going

1 to try to I guess -- are you seeing, then, motorcycle  
2 dealers, in your experience, as being part of the problem,  
3 not part of the solution here, on this modification of  
4 exhaust system problem?

5 MR. LITTLE: Some of them are, yes. Lots of  
6 them are. There's a dealer right across the street from  
7 our office who is pretty conscious of us (laughter), there  
8 are other dealers -- every once in a while I walk over  
9 there, and he knows me quite well -- there are other dealers  
10 in town, one particular one that I don't think he sells a  
11 motorcycle out of there with the stock exhaust that's been  
12 on it -- I'm not sure what he does with the stock systems,  
13 but the major new motorcycles that he sells, I see on the  
14 streets, with modified systems on them, and we have a real  
15 serious problem of enforcement, or lack of enforcement,  
16 with the city PD, and that's the case there where the  
17 city police are just not interested.

18 CHAIRMAN THOMAS: Well, it seems to me -- and I  
19 may be a little naive in this business, I haven't been  
20 around motorcycles that long yet, this side of it at any  
21 rate -- it seems to me that if these dealers are representing  
22 manufacturers selling their products, servicing their  
23 products, that the manufacturers themselves probably hold  
24 the most persuasive power over these dealers to influence  
25 them.

26 Do you see, or have you seen, any of this

1 kind of influence being exerted by the manufacturers of  
2 these products, in the State of California?

3 MR. LITTLE: No, I have not. I really haven't.  
4 I think it's partially our fault too, because we have not  
5 taken the enforcement against the dealers. We're just  
6 starting to do something with this off-highway thing.

7 But I do believe that if we were to take some  
8 enforcement action against a few of the dealers, to make  
9 it very unprofitable for them to do so, that we would get  
10 the dealers and the manufacturers support, and I believe  
11 there are court cases -- the lawyer here can back me up --  
12 that has something to do with kangaroo shoes, and selling  
13 of Studebaker mufflers.

14 I think we can show that the manufacturers who  
15 sell great quantities of the older mufflers to dealers  
16 would be pretty obvious -- there aren't that many of these  
17 older vehicles around -- it would be pretty obvious that  
18 these mufflers were being installed on the newer vehicles,  
19 but we have not gone out and made that kind of a protest.

20 CHAIRMAN THOMAS: That's very informative. You  
21 indicated, and you singled out two companies who are not  
22 offering kits this year, that I presume, if I understand  
23 you correctly, would have permitted their bikes to have  
24 been modified, in some form, to permit them to operate on  
25 the streets, but marginally so.

26 Would you go back over that again, please?

1 MR. LITTLE: No, these are off-highway bikes.

2 CHAIRMAN THOMAS: Off-highway bikes; right.

3 MR. LITTLE: Yamaha -- most manufacturers; I'm  
4 not picking on one in particular -- Yamaha and Honda, this  
5 year, with their closed course racing motor-cross bikes,  
6 do no supply silencing kits.

7 Now, last year, and I believe the year before,  
8 they elected to supply silencing kits for them.

9 We don't really care if the vehicle is designed  
10 for racing, or what, as long as it is out in the woods when  
11 it's off-highway rated, and it meets the noise requirements,  
12 and I don't like -- I think it's improper for the manufacturer  
13 to not inform the dealer -- and I'm not sure that the dealer  
14 isn't -- but I think if they are selling racing bikes to  
15 the dealer, he should be informed that they are racing  
16 bikes, and that they are not originally approved.

17 Now, I don't know what steps Yamaha and Honda  
18 has done to inform the dealers on the problem, but I know  
19 they decided, this year, and I think very wisely, that the  
20 vehicle should not be ridden off the road -- off-road --  
21 away from the race track, even if they do install -- the  
22 operator does install some kind of a kit on them.

23 CHAIRMAN THOMAS: Well, I presume, from your  
24 statement, since you've singled out two companies, that  
25 you don't know whether the others have withdrawn these  
26 kits, or, in fact, to your knowledge, they are still



1 offering this kind of an option?

2 MR. LITTLE: Well, Suzuki, with their RM  
3 model, which is a moto-cross bike, I believe they do  
4 provide silencing kits, which is perfectly acceptable. Once  
5 the kit is on, it is not with the muffler, it's a muffler  
6 as well as dampers in the fins, and air intake manifolds,  
7 and all of this. (Speaker barely audible)

8 Once the kit is installed, if it stays on,  
9 the motorcycle is perfectly acceptable off-road. It does  
10 meet California's 86 -- and by the way, I think your 82  
11 dB(A) limit is fabulous. I think it should be the same  
12 as highway. That wasn't too popular with the manufacturers.

13 I kind of feel myself that these closed course  
14 racing motorcycles that you're proposing to identify should  
15 remain closed course racing motorcycles. If somebody wants  
16 to ride it out in an enduro event, or if they want to go  
17 out trail riding, I believe they ought to have a trail bike  
18 and not a closed course racing bike.

19 CHAIRMAN THOMAS: That's very helpful, Mr. Little.  
20 We appreciate your comments very much indeed. They are  
21 obviously straight to the point, resulting from an awful lot  
22 of experience in this business, probably more so than  
23 anybody we have talked to, from one who has had the  
24 responsibility for enforcing these kinds of regulations, and  
25 establishing regulations that are enforceable, and also,  
26 determining what doesn't work, and of course, that's what

1 we're interested in more than anything else, what doesn't  
2 work.

3 I think that the experience of California, and  
4 yours, are invaluable to us, and of course, that's part of  
5 the reason why we have cooperated so well with you, is that  
6 we have learned an awful lot from you.

7 Thank you very much.

8 MR. LITTLE: Thank you, and thank you for coming  
9 here so we could comment.

10 CHAIRMAN THOMAS: Are there any others in the  
11 audience who would care to speak tonight, who have not  
12 indicated so far? (No response to the question.)

13 Going once, twice. Ladies and gentlemen, this  
14 hearing will now recess until 9:00 o'clock tomorrow morning,  
15 when it will reconvene. Thank you.

16  
17 (Whereupon, the hearing was  
18 recessed at 8:25 o'clock, p.m.)  
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