

**Considerations from the User regarding
Roadside Noise Enforcement provisions within
a revision of Regulation 41**

Transmitted by the Federation of European Motorcyclists' Associations (FEMA) representing the American Motorcyclists' Association, the Federation Internationale de Motocyclisme and the Motorcycle Riders' Foundation of the United States

1. Introduction

Throughout our involvement in the process of reviewing Regulation 41 the representatives of the four above mentioned motorcycle riders' organisations, all of which have UN consultative status, have acknowledged that noise from illegal motorcycle exhaust systems constitutes a serious problem. Whilst we believe that is a relatively small proportion of riders who have machines with modified or illegal replacement exhaust systems, it is none-the-less, a serious issue and one that should be addressed.

Over many years we have believed that a fair system of roadside enforcement is the answer to the motorcycle noise problem. We recognise however that even where fair systems have been developed, limitations in public spending and policing priorities have ensured that the problem has only been, at best, spasmodically addressed. More often than not however enforcement campaigns have been based on poor scientific criteria, with inadequate equipment and untrained enforcement officers.

Whilst we continue to be supportive of fair roadside enforcement measures being contained within a revision of Regulation 41, we have become increasingly concerned at the emphasis that is being given to a rolling, or moving, roadside noise enforcement approach.

As a consequence this document will first address our considerable concerns regarding rolling or moving roadside noise enforcement and then raise a number of points relating stationary roadside enforcement procedures that we believe would be necessary to include within any approach contained within Regulation 41.

2. Rolling or moving roadside noise enforcement

Without any doubt any rolling or moving approach to roadside motorcycle noise testing will be more complex and costly than a stationary alternative. This in itself, we would argue, is reason enough not to pursue its development within Regulation 41. It is widely acknowledged that even scientifically sound and properly applied existing stationary roadside enforcement systems often fail to make a significant impact on illegal motorcycle noise. This, it is also widely acknowledged, is because the enforcement agencies rarely have the necessary resources and whilst loud motorcycle noise can upset many people, citizens, when asked for their opinion, will generally agree that other more pressing social problems should be given priority when it comes to allocating limited police time.

A second reason why a rolling enforcement provision should not be included in a revised Regulation 41 is that it would have high safety risks associated with it. It would be a test requiring wide open throttle settings and high acceleration on public roads, with variable surfaces and other road users in close proximity. Certainly highly trained and experienced enforcement officers would be required to ride the different motorcycles, many very powerful, some with peculiarities of their own.

If Regulation 41 were to contain a rolling roadside test one could envisage a situation where a local police chief, under pressure from irate citizens, instructs a normal traffic officer, who rides a motorcycle, to conduct the "UN approved" rolling motorcycle noise test!

A third reason is the difficulties that there would be in finding suitable sites for such a rolling roadside enforcement approach. Not only would it have to be of a suitable (considerable) size and have a good surface, it would also need good visibility in both directions, adequate opportunities for traffic segregation to avoid serious congestion and not be too close to where people are living. Added to these requirements would be the need to find a location which did not have too high an ambient noise level, and not have features leading to problems with absorbed and reflected noise.

Finally there is the question of whether conducting a rolling or moving test of a vehicle on public roads is legally permissible. At the 5th meeting of the R.41 Informal Group we said that we believed that in at least one country it would be illegal for an enforcement officer to test ride a vehicle that he or she had stopped.

Following that meeting we undertook a survey as to the legality of this and included in the questionnaire some other matters related to roadside motorcycle noise enforcement. The main findings of this survey were presented to the 6th meeting of the R.41 Informal group.

Responses to the survey were received from 18 countries. Where they did not come directly from a police or legal authority, our responding national organisation was required to verify their accuracy with an appropriate legal or law enforcement agency.

In ten of the 18 countries it was not legal or permissible for an enforcement officer to test ride, on public roads, a vehicle that had been stopped at the roadside. In two of the remaining countries the legality was dependent upon the owner of the vehicle giving permission.

Significantly in none of the countries, even those where it could take be undertaken within the law, were rolling or moving roadside enforcement test being employed. When asked why this was so, many respondents said that the most frequent reasons they had been given were that such an approach had a high risk of injury to riders and damage to the machines, with attendant high liability.

In eight of the 18 countries no roadside motorcycle noise enforcement measures were undertaken at all. In three of those countries however a police officer could require a noise test to be subsequently taken at an official test centre. In five of the ten countries that were undertaking roadside enforcement measures, the measures were perceived by the riders to be fair and by the authorities to be effective. Interestingly in the two countries where noise control is now being given a new national priority, they have opted for stationary roadside controls with investment being made in scientific equipment and trained officers.

Country	can an enforcement officer legally test ride on public roads	is rider/owner permission required	whose insurance covers the test	is there roadside noise enforcement	is it a stationary or drive-by test	is it felt to be fair and effective	additional information
Austria	no	n/a	n/a	yes	stationary	yes	roadside test failure referred for control at official test centre
Belgium	no	n/a	n/a	no	n/a	n/a	no legal prohibition but police directive against due to liability
Czech Republic	no	n/a	n/a	no	n/a	n/a	noise controlled through two-yearly technical inspection
Denmark	yes	no	rider's	no	n/a	n/a	a police officer can require a noise test at an official test centre
Finland	yes	no	agency's	yes	stationary	yes	newly introduced national noise control strategy
France	no	n/a	n/a	yes	stationary	yes	
Germany	no	n/a	n/a	yes	stationary	no	failing a roadside test then controlled at official test centre
Ireland	yes	yes	agency's	no	n/a	n/a	
Italy	no	n/a	n/a	yes	stationary	no	no equipment, papers held until control undertaken at official test centre
Luxembourg	no	n/a	n/a	no	n/a	n/a	police officer can order a control at an official test centre
Netherlands	yes	no	agency's	yes	stationary	yes	Amsterdam police method now applied nationally
Norway	yes	yes	agency's	yes	stationary	yes	
Portugal	yes	yes	?	no	n/a	n/a	problems arose from occasional earlier attempts to control
Spain	yes	no	agency's	yes	stationary	no	controls only in cities
Sweden	yes	no	rider's	yes	stationary	no	no equipment, police refer for control at official test centre
Slovenia	no	n/a	n/a	yes	stationary	yes	officer can require rider to comply with a test procedure
United Kingdom	no	n/a	n/a	no	n/a	n/a	tests for accident investigation by specialist officers, not on public roads
United States	no	n/a	n/a	no	n/a	n/a	some States control, generally regarded as unenforceable and unfair testing without rider's permission in conflict with 4th Amendment

3. Safeguards within stationary roadside noise control

We have said that as riders' organisations we support a fair system of roadside motorcycle noise enforcement, this being a scientifically credible and properly applied stationary test. In qualifying that support it is necessary to identify a number of considerations that we believe must be included within a revised Regulation 41.

Firstly it is important that the equipment is properly maintained and regularly calibrated. Copies of the records validating this should be available to a rider should they be requested.

Secondly the officers operating the control should be fully trained in the system and its operation.

Thirdly the operating rules should be shown to the rider prior to the control. These should include where it can and cannot be situated, the permitted levels of ambient noise, the acceptable parameters for reflected and absorbed noise, engine speeds and distances from the noise sources of measuring devices. In the event of the control showing that the machine's noise exceeds the permitted limit then the rider should be immediately given a hard record of the test result. This should also include ambient noise level and confirmation that all the other required parameters had been met.

3. Concluding remarks

In the course of the deliberations of the Regulation 41 Informal Group we have been concerned by statements at certain times regarding "appropriate punishment" for riders' whose motorcycles fail a noise test.

Whilst we can understand that very loud motorcycle noise often upsets those who hear it and we can appreciate that certain parties are passionate in their concern to do something about that, advocating extreme penalties is not the answer. Proposing that a motorcycle that fails a noise test, which could be worth as much as \$30,000US, should be destroyed, in addition to any fine and licence endorsement, is out of all perspective. It is saying that governments and their agencies see motorcyclists who infringe a traffic regulation in the same group as international criminal drug cartels. That is obviously ludicrous.

The riders' organisations accept that the United Nation's regulatory process is based on scientific evaluation and reasoned discussion. This paper is, we believe, further evidence of our commitment to that approach.