

Proposed
State of California
Air Resources Board

Proposed Amendments to the Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles and Engines Specific to Electric Vehicle Conversions

Resolution 23-11

March 23, 2023

Agenda Item No.: 23-3-5

Whereas, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

Whereas, in section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the State, and sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility of air pollution control from motor vehicles;

Whereas, in section 43000.5 of the Health and Safety Code, the Legislature has further found and declared that the attainment and maintenance of air quality standards will necessitate the achievement of substantial improvements in the durability of vehicle emissions systems;

Whereas, section 43011 of the Health and Safety Code authorizes the Board to establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices;

Whereas, section 27156 of the California Vehicle Code prohibits the installation, sale, offer for sale, or advertisement of any device, apparatus, or mechanism intended for use with or as part of any required motor vehicle pollution control device or system that alters or modifies the original design or performance of any such motor vehicle pollution control device or system unless the Board finds that the device, apparatus, or mechanism either does not reduce the effectiveness of any required motor vehicle pollution control device or does not result in emissions from a modified vehicle that exceed the applicable emission standards for the vehicle;

Whereas, an add-on or modified part is any component or device used on a vehicle or engine that may impact emissions or emission controls and that was not part of that vehicle or engine when it was originally certified by CARB for sale in California;

Whereas, the current "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines," adopted June 29, 2021, provides the process for aftermarket parts

manufacturers to submit an application for exemption and for CARB to review and issue an exemption from the prohibitions of California Vehicle Code section 27156;

Whereas, an electric vehicle (EV) conversion is a set of parts that converts a previously certified gasoline-, diesel-, or alternative-fueled vehicle to an electric vehicle;

Whereas, EV conversions are unique when compared to other aftermarket parts as they completely replace the existing combustion engine, rather than being used in conjunction with it;

Whereas, the unique nature of an EV conversion was not specifically addressed by the current procedures;

Whereas, staff is proposing amendments to California Code of Regulations, title 13, sections 2222 and 2224, and to the "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines," as set forth in Appendix A and Appendix B, respectively, to the Initial Statement of Reasons (ISOR) released to the public on January 24, 2023;

Whereas, the proposed amendments help to clarify, simplify, and streamline the application process for a manufacturer of EV conversions by clearly identifying the requirements for EV conversions to receive a Vehicle Code section 27156 exemption;

Whereas, the proposed amendments do not establish any new requirements for EV conversions to receive an exemption from Vehicle Code section 27156;

Whereas, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

Whereas, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter VII of the Staff Report;

Whereas, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

Whereas, the Board finds that:

The proposed amendments establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices, as authorized by section 43011 of the Health and Safety Code and section 27156 of the Vehicle Code;

The proposed amendments were developed in an open public process, in consultation with affected parties, through the release of the proposed draft amendments to stakeholders, individual meetings, and other outreach efforts, and these efforts are expected to continue;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed amendments are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin; and

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment.

Now, therefore, be it resolved that the Board hereby approves for adoption amendments to sections 2222 and 2224, title 13, California Code of Regulations, as set forth in Appendix A and the proposed amendments to the "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines," as set forth in Appendix B of the Initial Statement of Reasons released to the public on January 24, 2023.

Be it further resolved that if there is a possibility that any modifications to the regulation made available for one or more 15-day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by CARB's regulations at title 17, CCR, section 60004.

Be it further resolved that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Appendix A and Appendix B of the Initial Statement of Reasons released to the public on January 24, 2023. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.