

Updated Informative Digest

Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines

Sections Affected: Proposed amendment of California Code of Regulations, title 13, sections 2222 (e) and 2224 (b).

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):

The following documents and test methods would be incorporated in the procedures by reference:

1. California Air Resources Board, *Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines*, set forth as Appendix B of the Initial Statement of Reasons.
2. California Air Resources Board, *California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles*, last amended September 2, 2015.
3. California Air Resources Board, *California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles*, last amended September 2, 2015.
4. California Air Resources Board, *Specifications for Fill Pipes and Openings of 2015 and Subsequent Model Motor Vehicle Fuel Tanks*, last amended May 31, 2019.
5. Code of Federal Regulations, Title 40, section 86.1803-01, last amended October 25, 2016.
6. Code of Federal Regulations, Title 40, section 86.162-00, last amended July 1, 2012.
7. Code of Federal Regulations, Title 49, Part 565, last amended April 30, 2008.
8. Official Journal of the European Union, *Regulation (EU) No. 168/2013 of the European Parliament and of the Council of 15 January 2013 on the Approval and Market Surveillance of Two- or Three-Wheel Vehicles and Quadricycles*, January 15, 2013.

Background and Effect of the Regulatory Action:

The proposed new "Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines" will replace the current "Procedures for Exemption of Add-On and Modified Parts" which was adopted on November 4, 1977, and amended on May 19, 1981, and June 1, 1990. The current "Procedures for Exemption of Add-On and Modified Parts" has provided a pathway for aftermarket parts manufacturers to receive an exemption from the prohibitions of section 27156 of the California Vehicle Code (VC) for add-on and modified parts or other modifications that affect emissions.

The current "Procedures for Exemption of Add-On and Modified Parts," last amended on June 1, 1990, provide staff the tools to work with aftermarket parts manufacturers in the daily processing of submitted exemption applications; however, there have been many changes in the design of new vehicles and engines since 1990. Accordingly, staff has proposed the replacement of the current procedures with the new "Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines" (procedures) to improve the exemption process in light of these changes.

The new procedures will clarify and streamline the processes associated with a VC section 27156 exemption. They will facilitate compliance by making the process easier for manufacturers to submit applications, conduct necessary testing, and receive exemptions, potentially resulting in some cost savings on a per application basis. However, the new procedures may increase the total number of applications required by an aftermarket parts manufacturer to cover its whole product line, possibly resulting in no cost savings for the manufacturer overall. Notwithstanding, faster turnaround on staff review and approval is expected to result from use of the new procedures, providing a pathway for manufacturers to bring products to market faster.

Objectives and Benefits of the Regulatory Action:

The objectives of the proposed procedures are to clarify, streamline, and update the current exemption process for add-on and modified parts, thereby assisting aftermarket parts manufacturers in successfully completing the process of obtaining an exemption from the prohibitions of VC Section 27156 and reducing staff burden on application review and approval, with the goal of providing a pathway for manufacturers to bring products to market faster without impacting projected emissions benefits.

The new proposed procedures will clarify, streamline, and update the California Air Resources Board (CARB or Board) processes associated with a VC Section 27156 exemption, potentially resulting in cost savings on a per application basis. Clarity and updating is achieved through the creation of the following sections: 1) Application Submission Requirements, 2) Evaluation and Testing Criteria, 3) Test Vehicle or Engine Selection and Testing, and 4) Action on Application. Streamlining and updating would be achieved by: 1) new part specific applications with clear submission requirements, 2) requiring manufacturers to prepare and submit simplified and better organized vehicle or engine lists, and 3) outlining clear requirements for laboratory reports. The ability to streamline the review and approval process would also be achieved through the creation of new sections that would provide an exemption pathway for less complicated requests, such as: 1) Part Number(s) or Name Change(s), 2) Model-Year Additions on Carryover Vehicle(s) or Engine(s), 3) Private Label(s) or Extending Coverage to Subsidiaries, or 4) Consolidation of Executive Orders. With these proposed changes, the expectation is faster turnaround on staff review and approval, providing a pathway for manufacturers to bring products to market faster. The new proposed procedures may also increase the total number of applications per manufacturer.

Activity since the Board Hearing:

Based on direction from the Board, CARB staff proposed modified language regarding the demonstrations that the manufacturers must make to show that On-Board Diagnostic system performance will not be negatively impacted by the aftermarket device, proposed modified language that allows new exemption applications submitted concurrently to be combined into one new issued exemption Executive Order, and proposed modified language allowing manufacturers to include only one of the following to the product information label: reference numbers, device numbers, or kit numbers. The Final Statement of Reasons includes a description of these changes. These changes were made available for public comment, and staff prepared responses to all timely received comments that addressed changes in the 15-day notice.

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) has adopted regulations applicable to aftermarket parts in the Code of Federal Regulations, title 40, part 85. Federally, an aftermarket emission control device is covered under U.S. EPA's 1974 "Interim Tampering Enforcement Policy." However, these regulations establish only a voluntary self-certification program. In contrast, CARB's aftermarket parts procedures require aftermarket part manufacturers to receive and obtain an exemption before they can offer parts for sale in California.

**An Evaluation of Inconsistency or Incompatibility with Existing State Regulations
(Gov. Code § 11346.5, subd. (a)(3)(D)):**

During the process of developing the proposed procedures, CARB conducted a search of any similar requirements or procedures on this topic, and concluded these procedures are neither inconsistent nor incompatible with existing state regulations or procedures.