

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATIONS REGARDING NEW AFTERMARKET AND USED CATALYTIC CONVERTERS OFFERED FOR SALE AND USE IN CALIFORNIA

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to California's regulations regarding new aftermarket and used catalytic converters sold, offered for sale, or advertised for use on California motor vehicles, or installed on California motor vehicles.

DATE: October 25, 2007

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 25, 2007, and may continue at 8:30 a.m., October 26, 2007. This item may not be considered until October 26, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before October 25, 2007, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 2222, title 13, California Code of Regulations, Add-on Parts and Modified Parts, and proposed adoption of the incorporated document, "California Evaluation Procedures for New Aftermarket Catalytic Converters."

Background: California Vehicle Code sections 27156 and 38391 generally prohibit the sale, offer for sale, advertisement, or installation of any device that alters the design or performance of any required motor vehicle pollution control device or system. ARB has the authority to exempt non-original equipment components from this prohibition if it determines that such components will not reduce the effectiveness of any required

pollution control device or would not cause vehicle emissions to exceed applicable standards.

Within this context, ARB has promulgated regulations that allow the sale of new aftermarket catalytic converters and used original equipment converters if they comply with established performance and other criteria. The availability of these aftermarket converters creates a less expensive option for vehicle owners needing a new catalytic converter compared to the cost of purchasing an original equipment manufacturer (OEM) catalytic converter. The performance requirements for these aftermarket converters balance the continued need to control in-use emissions from motor vehicles as they age with the cost of replacing catalytic converters on vehicles that often have a limited remaining lifetime and relatively low market value.

The ARB's current aftermarket converter requirements, adopted in 1988, specify fixed minimum conversion efficiencies that aftermarket converters must meet through 25,000 miles of use. However, with the significant advances in the emission-control performance and durability of motor vehicles that have occurred since 1988, improvements to the performance requirements for non-original equipment aftermarket catalytic converters are needed to keep pace.

Proposed Amendments: Current aftermarket catalyst evaluation procedures require new aftermarket catalytic converters to be at least 70 percent efficient in converting hydrocarbons (HC) and carbon monoxide (CO) emissions in the exhaust stream, and 60 percent efficient for reducing oxides of nitrogen (NOx) pollutants, for a period of 25,000 miles.

The amendments proposed by staff would replace these requirements with performance standards based on reducing engine out emissions to levels allowing in-use vehicles equipped with aftermarket catalysts to comply with certification emission standards for a period of 5 years or 50,000 miles. The proposed requirements would apply to all new aftermarket catalytic converters sold, advertised, or installed on or after January 1, 2009. The amendments would also require manufacturers to demonstrate that their new aftermarket converters are compatible with catalytic converter malfunction detection monitoring that is part of the on-board diagnostic system (OBD II system) on 1996 and newer model year vehicles. Manufacturers would need to demonstrate that new aftermarket catalytic converters would not cause the test vehicle's Malfunction Indicator Light (MIL) to illuminate when the catalyst is functioning properly, and that the test vehicle's OBD II system would detect an aged converter by the time its conversion efficiency decreases to a level causing the vehicle emissions to exceed the manufacturers' limits for malfunction detection by no more than a factor of 50 percent.

Staff is also proposing amendments to extend the current warranty period for new aftermarket converters from 25,000 miles to 5 years or 50,000 miles, establish warranty data reporting requirements, require more informative labeling on the shell of the catalytic converter, and establish requirements for quality control checks on the converter manufacturing process.

The proposed amendments would sunset ARB's existing provisions allowing the sale of used original equipment catalytic converters for California vehicles, effective July 1, 2008 or 30 days after the amendments are filed with the Secretary of State's office, whichever date is later. Current methods used to screen the condition of used catalytic converters before resale are not sophisticated enough to ensure levels of performance necessary for current technology motor vehicles to meet emission standards. The staff believes that adequately improved screening methods would not be economically practical (i.e., screening costs would exceed the value of the used converter itself). Without an economically feasible way to ensure that used converters function at levels appropriate for the vehicle models they would be installed on, benefits to air quality may not be realized.

COMPARABLE FEDERAL REGULATIONS

Aftermarket catalytic converters are legal for sale federally under an enforcement policy established by the United States Environmental Protection Agency (U.S. EPA) in 1986. Under this policy, aftermarket catalytic converters must achieve at least 70 percent conversion efficiency for HC and CO emissions, and 30 percent for NOx emissions. With the exception of the lower NOx efficiency, the federal requirements are very similar to California's existing requirements. Therefore, as described above, the proposed amendments would significantly strengthen California's requirements for new aftermarket catalytic converters compared to U.S. EPA's guidelines in terms of required conversion efficiencies and converter durability.

Current U.S. EPA policy permits the sale of used original equipment catalytic converters if they are screened to ensure they perform at levels generally comparable to those required for new aftermarket converters. ARB is proposing to sunset California's similar provisions because screening methods to ensure that used original equipment converters can perform at levels comparable to staff's proposed requirements for new aftermarket converters are not economically feasible.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Public Hearing to Consider Amendments to Regulations Regarding New Aftermarket Catalytic Converters and Used Catalytic Converters Offered for Sale and Use in California."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on October 25, 2007.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Allen Lyons, Staff Air Pollution Specialist, at (626) 698-1966 or alyons@arb.ca.gov, or Michael McCarthy, Manager, Advanced Engineering Section, at (626) 771-3614 or mmccarth@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/amcat07/amcat07.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed amendments would not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulatory action would result in some additional costs to ARB and could create negligible costs to all other state agencies that operate fleet vehicles that are 1995 or older model year and undergo a future repair involving replacement of the catalytic converter. In addition, the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, will not create costs or savings to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, and will not result in other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses, and has determined that businesses or individuals that purchase new aftermarket catalytic converters for their motor vehicles would incur additional costs as a result of this regulation. Specifically, retail costs for new aftermarket converters would increase by \$200 on average. When

considering the increased durability of the converters meeting ARB staff's proposed requirements, staff estimates the price increase would amount to 10 to 28 cents per 100 miles of vehicle operation.

The proposed amendments to sunset provisions for the sale of used original equipment catalytic converters would limit converter replacement options to the purchase of a new aftermarket catalytic converter or a new original equipment converter. In cases where a new aftermarket converter is not available for a particular vehicle model, private persons and businesses could incur additional costs of \$500 or more in purchasing a new original equipment converter compared to the cost of a used catalytic converter (assuming a used converter would have been available absent adoption of the proposed amendments). Staff has determined that such circumstances are likely to be limited to low-volume vehicle models with unique original equipment catalytic converter designs.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action could result in the elimination of a small number of jobs within the State of California. The ARB staff's proposal to sunset provisions for the sale of used original equipment catalytic converters would impact three businesses that currently offer these converters for sale in California. Employees that acquire, refurbish, or market used catalytic converters specifically for California vehicles would be impacted. Staff believes that no more than 10 jobs statewide would be eliminated. Overall, the volume of used converters sold in California is relatively small, making up less than 2 percent of the California replacement catalytic converter market. Although businesses that currently offer used catalytic converters for sale in California would be negatively impacted, staff does not believe its proposal would result in their elimination because used catalytic converters would remain legal for sale outside of California, and non-California sales currently make up the majority of their business activity. The Executive Officer has determined that the proposed regulatory action would not result in the creation of new jobs or businesses within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses that distribute used catalytic converters for sale in California. As discussed above, staff's proposal to sunset provisions permitting the sale of used converters in California would reduce their nationwide market. Retail providers of replacement catalytic converters would not be significantly impacted because the majority of their business involves the sale of new aftermarket catalytic converters. The small portion of their business that involves the sale of used catalytic converters would likely be replaced by increased new aftermarket converter sales.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by email before the meeting. To be considered by the Board, written comment submissions not physically submitted at the meeting must be received **no later than 12:00 noon, October 24, 2007**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, 43000, 43000.5, and 43011, and Vehicle Code sections 27156, 38391 and 38395. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39500, 43000, 43000.5, 43011, 43204, 43205, and 43644, Health and Safety Code, and Sections 27156, 38391, and 38395, Vehicle Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Tom Cackette
Acting Executive Officer

Date:

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our website at www.arb.ca.gov.