

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED CALIFORNIA REGULATION AND CERTIFICATION PROCEDURES FOR LIGHT-DUTY ENGINE PACKAGES FOR USE IN NEW LIGHT-DUTY SPECIALLY-PRODUCED MOTOR VEHICLES FOR 2019 AND SUBSEQUENT MODEL YEARS

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed California Regulation and Certification Procedures for Light-Duty Engine Packages for Use In New Light-Duty Specially-Produced Motor Vehicles for 2019 And Subsequent Model Years:

DATE: October 25, 2018

TIME: 9:00 A.M.

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

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., October 25, 2018, and may continue at 8:30 a.m., on October 26, 2018. Please consult the agenda for the hearing, which will be available at least ten days before October 25, 2018, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on September 7, 2018. Written comments not physically submitted at the hearing must be submitted on or after September 7, 2018, and received **no later than 5:00 p.m. on October 22, 2018**. CARB requests that when possible written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also 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. Comments submitted in advance of the hearing must be addressed to one of the following:

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

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

Please note that under the California Public Records Act (Gov. Code, § 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, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600, 39601, 43000, 43100, 43101, 43102, 43104, and 43105. This action is proposed to implement, interpret, and make specific sections 39002, 39003, 43000, 43100, 43101, 43102, 43104, 43105, 43106, 43205, California Health and Safety Code, and 580 Vehicle Code.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, § 11346.5, subd. (a)(3))

Sections Affected: Proposed adoption of California Code of Regulations, title 13, new sections 2209, 2209.1, 2209.2, 2209.3, 2209.4, 2209.5, 2209.6, 2209.7, 2209.8, 2209.9, and 2209.10.

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

The following documents, test methods, and model would be incorporated in the regulation by reference:

California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as last amended September 2, 2015.

California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles,” last amended September 2, 2015.

California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” last amended September 3, 2015.

California Non-Methane Organic Gas Test Procedures for 2017 and Subsequent Model Year Vehicles,” adopted September 2, 2015.

California Certification Procedures for Light-Duty Engine Packages for Use In Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years,” set forth as Appendix B of the Initial Statement of Reasons.

Title 40, Code of Federal Regulations, section 86.1827-01, last amended May 7, 2010.

Title 40 Code of Federal Regulations, section 86.1821-01, last amended April 28, 2014.

Title 40, Code of Federal Regulations, section 86.1828-01, last amended April 28, 2014.

Title 40 Code of Federal Regulations, section 1051.130, last amended July 13, 2005.

Background and Effect of the Proposed Regulatory Action:

Overview:

CARB staff is proposing the California Certification Procedures for Light-Duty Engine Packages for Use in New Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years (proposed regulation) to create a process for the certification of a replica car (referred to as a specially-produced motor vehicle or SPMV) in California. A SPMV resembles the body of a motor vehicle that had been commercially manufactured for sale not less than 25 years ago, such as replica versions of the Shelby Cobras and Ford GT40s. The proposed regulation provides two certification paths, one for engine manufacturers, and one for SPMV manufacturers.

First, engine manufacturers could certify a light-duty engine package intended for use in an SPMV complete with emission control systems (ECS), on-board diagnostics (OBD) installation instructions, and warranty. Second, SPMV manufacturers could purchase and install a certified engine package into a SPMV, and qualify for a CARB Executive Order (EO), which would enable them to sell those SPMVs to end users in California. This new certification process for SPMVs would ease the burden on the manufacturers for these relatively low volume new vehicles.

The proposed regulation would require engine packages to meet current Low Emission Vehicle (LEV II and LEV III) exhaust and evaporative emissions standards. Staff proposes that the OBD system included with the engine package must comply with section 1968.2, title 13, CCR for the model year of the certified engine package. The proposal includes flexibility on the evaporative system leak monitoring requirements. The proposed regulation would also allow CARB to issue an EO to the SPMV manufacturer for each production year SPMVs are built for sale in California. The SPMV manufacturer would need to meet certain requirements in order to receive a CARB EO and provide a warranty for the engine installation and the supplied fuel system.

Objectives and Benefits of the Proposed Regulatory Action:

The objective of the proposed regulation is to create a path for manufacturers to sell low emitting replica cars in California as new vehicles. This proposed regulation achieves this by allowing engine manufacturers to certify engine packages that meet California's current LEV requirements. The proposed regulation also allows CARB to issue an EO for SPMVs that use certified engine packages. The proposed regulation provides the

flexibility needed for the unique characteristics of SPMVs, while ensuring new SPMVs meet the key emissions standards applicable to other new production vehicles.

There are no quantified benefits to the protection of public health and safety or to worker safety. However, CARB staff expects some SPMV sales to displace higher-emitting, non-California certified replica vehicles that are brought into and appealed in California.

Comparable Federal Regulations:

On December 4, 2015, United States (U.S.) lawmakers enacted legislation allowing SPMV manufacturers to sell up to 325 SPMVs per manufacturer per year, starting in 2017 (H.R. 22, the Fixing America's Surface Transportation Act, section 24405). While these vehicles do not have to meet crash safety standards or be included in any applicable state's inspection and maintenance program, they must meet current Clean Air Act standards for the model year in which they are produced by using a motor vehicle engine from a motor vehicle that is covered by a certificate of conformity or a CARB EO for the current model year the SPMV is produced.

After HR 22 passed, the National Highway Traffic Safety Administration (NHTSA) proposed a process to ensure SPMV manufacturers met minimum qualifications to sell vehicles. Staff anticipates that NHTSA will verify that a SPMV manufacturer qualifies to produce SPMVs and that the SPMV resembles the body of another motor vehicle that was produced at least 25 years ago. NHTSA will also review annual production reports submitted by the SPMV manufacturer along with other required information.

Additionally, SPMVs will be manufactured under a license agreement for the intellectual property rights for the replicated vehicle from the original manufacturer or its current owner, successor or assignee.

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 regulation, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

STATEMENT REGARDING WHETHER REGULATION IS MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9)

This regulation is not mandated by federal law or regulation.

DISCLOSURE REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(6)):

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

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulation would not create costs or savings to any State agency other than CARB, or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

CARB staff believe that only one or two established light-duty vehicle manufacturers may certify engine packages for SPMVs and up to ten SPMV vehicle manufacturers may certify SPMVs. This is the highest level of interest anticipated based on discussions with industry and the Specialty Equipment Market Association (SEMA). As a comparison, in 2012, CARB adopted similar regulations to certify engine packages for specially constructed vehicles (kit cars). Only one established light-duty vehicle manufacturer certified an engine package for specially constructed vehicles. CARB staff believe the number of new manufacturers and the associated added workload may be more similar to specially constructed vehicles and thus, can be absorbed with current resources.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has also made the initial determination that the proposed regulation will not have a significant effect on housing costs.

Consideration of Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made an initial determination that the proposed regulation 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.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulation would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulation can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The primary objectives of the proposed regulation are to align with the federal Fixing America's Surface Transportation Act (H.R. 22, 2014), and to create a process for SPMV manufacturers to sell low-emitting replica cars in California. This is achieved by allowing engine manufacturers to certify engine packages that meet California's current LEV standards for new vehicles, which will be made available for SPMV manufacturers to install into replica cars. The proposal also allows CARB to issue an EO to SPMV manufacturers for vehicles with a certified engine package. Staff's proposal provides the necessary flexibility needed for the unique characteristics of SPMVs, while ensuring new SPMVs are as low-emitting as new production vehicles.

A summary of these benefits is provided in the "Objectives and Benefits" subsection of the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3). See page 3 of this notice.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

In developing this proposed regulation, staff evaluated the potential economic impacts on representative private persons or businesses. Staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposal would not adversely affect small businesses because it is an optional certification procedure for new light-duty engine packages for use in SPMVs, as well as an optional certification procedures for SPMVs.

Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):

Before taking final action on the proposed regulation, 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, would be as effective and less burdensome to affected private persons than the staff's proposal, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. See section X of the ISOR for more detail regarding the alternatives considered for this proposed regulation.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed regulation, has prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA determined that the proposed regulation would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Chapter VII of the ISOR. Written comments on the EA will be accepted during a 45-day public review period starting on September 7, 2018, and ending at 5 p.m. on October 22, 2018.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulation may be directed to the agency representative Richard Muradliyan, Air Resources Engineer, at (626) 575-6798 or (designated back-up contact) Tony Martino, Aftermarket Parts Manager, at (626) 575-6848.

AVAILABILITY OF DOCUMENTS

CARB 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: Initial Statement of Reasons for Public Hearing To Consider California Certification Procedures For Light-Duty Engine Packages For Use In New Light-Duty Specially-Produced Motor Vehicles For 2019 And Subsequent Model Years.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on September 4, 2018.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, at (916) 322-6533. The Board staff 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.

HEARING PROCEDURES

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

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption 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 and that the regulatory language as modified could result from the proposed regulation. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.


FINAL STATEMENT OF REASONS AVAILABILITY

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 CARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://www.arb.ca.gov/regact/2018/spmv2018/spmv2018.htm>

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: August 21, 2018

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.