

## TITLE 13. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED PROCEDURES FOR THE EXEMPTION OF ADD-ON AND MODIFIED PART(S) FOR ON-ROAD VEHICLES/ENGINES

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

DATE: July 23, 2020

TIME: 9:00 A.M.

Please see the Public Agenda for the meeting location and/or any appropriate direction regarding a remote-only Board Meeting as necessary, which will be posted ten days before the July 23, 2020, Board Meeting.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., July 23, 2020, and may continue at 8:30 a.m., on July 24, 2020. Please consult the agenda for the hearing, which will be available at least ten days before July 23, 2020, 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 June 5, 2020. Written comments not physically submitted at the hearing must be submitted on or after June 5, 2020, and **received no later than July 20, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. 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: Clerks' Office, 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, 43000.5, 43011 and 43107. Health and Safety Code; and sections 27156, 38391 and 38395, Vehicle Code. Reference: sections 39002, 39003, 39500, 43000, 43000.5, 43009.5, 43011, 43107, 43204, 43205, 43205.5 and 43644, Health and Safety Code; and sections 27156, 38391 and 38395, Vehicle Code.

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

**Section 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 Proposed Regulatory Action:**

#### **Overview:**

CARB staff is proposing amendments to replace the “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 “Procedures for Exemption of Add-On and Modified Parts” provides 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 “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 is proposing 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 Proposed 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 CARB 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.

### **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.

### **MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9)**

These procedures are 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 procedures 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 procedures would not create costs or savings to any State agency other than CARB, would not impact federal funding to the State, and would not create costs or a 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.

Based on discussions with the industry, CARB staff estimates that it currently takes about eight hours on average for an applicant to complete and file an exemption application. The proposed procedures are expected to reduce the average time to complete an application by about two hours, but the number of applications necessary for product coverage may increase for manufacturers. Staff expects these factors to largely offset each other, and as a result, estimates that the proposed action would result in no cost impacts overall.

The proposed procedures would have no fiscal impact on California State agencies. However, the proposed procedures are likely to minimize the need for questions and answers discussions with aftermarket parts manufacturers regarding missing information or the packaging format of a submitted application. The new procedures are designed to reduce ambiguities that exist in the current procedures and to be more relevant to today's vehicles and engines. Accordingly, the proposed procedures are expected to reduce CARB's staff time in the processing of an exemption application. Applications submitted by manufacturers will be reviewed and approved for exemption faster, providing a pathway for manufacturers to bring products to market quicker. However, with the streamlined application format, staff expects the number of applications received to increase to cover manufacturers' product lines for all intended vehicle and engine model years and models. The staff time savings associated with the reduced amount of time needed to process individual applications is anticipated to be redirected to the subsequent applications that may be submitted by the manufacturer to fully cover its anticipated market of vehicles and engines, resulting in no fiscal impact on CARB overall.

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

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

**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 procedures 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 procedures 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 procedures 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 procedures are to clarify and streamline the current procedures for exemption of add-on and modified parts, thereby assisting aftermarket parts manufacturers in the process of submitting an application for exemption from the prohibitions of VC section 27156.

Please refer to “Objectives and Benefits,” under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) for a summary of these benefits.

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

In developing this proposed procedures, 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 procedures.

**Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subs. (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 add-on and modified part(s) for use in on-road vehicles or on-road engines, which when exempted, can be sold to California

consumers for installation on applicable vehicles or engines. Further, the new procedures are not expected to impose any new costs associated with compliance.

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

Before taking final action on the proposed procedures, 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 procedures.

**ENVIRONMENTAL ANALYSIS**

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed procedures and concluded that it is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter VII of the ISOR.

**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's Office 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 procedures may be directed to the agency representative Mr. Richard Muradliyan, Air Resources Engineer, at (626) 575-6798 or (designated back-up contact) Ms. Jackie Lourenco, Branch Chief, at (626) 450-6152.

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

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below, on June 2, 2020. Copies of the report may also be obtained from CARB's Public Information Office, 1001 I Street, First Floor, Environmental Services Center, Sacramento, California, 95814. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Bradley Bechtold, Regulations Coordinator, at [bradley.bechtold@arb.ca.gov](mailto:bradley.bechtold@arb.ca.gov) or (916) 322-6533, if you need physical copies of the documents

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 procedures. 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/rulemaking/2020/ampts2020>

CALIFORNIA AIR RESOURCES BOARD



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Richard W. Corey  
Executive Officer

Date: May 19, 2020

*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](http://www.arb.ca.gov).*