

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

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and
Agency Response**

***Public Hearing Date: March 23, 2023
Agenda Item No.: 23-3-5***

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I. General

The Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), entitled Public Hearing to Consider Proposed Amendments to the Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines Specific to Electric Vehicle Conversions, released January 24, 2023, is incorporated by reference herein. The Staff Report contained a description of the rationale for the changes made to California Code of Regulations (CCR), title 13, division 3, chapter 4, article 2, section 2222, subdivision (e) and section 2224, subdivision (b) and to the "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines," as adopted June 29, 2021, incorporated by reference in CCR, title 13, division 3, chapter 4, article 2, section 2222, subdivision (e) and section 2224, subdivision (b) (collectively "Proposed Amendments").

On January 24, 2023, all references relied upon and identified in the Staff Report were made available to the public.

On March 23, 2023, the California Air Resources Board (CARB or Board) conducted a public hearing to consider the Proposed Amendments to the CCR and "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines" (Procedure). At this hearing, the Board received oral and written comments. At the conclusion of the hearing, the Board approved Resolution 23-11, in which it directed the Executive Officer to make the Proposed Amendments to the regulation and incorporated Procedure.

A. Mandates and Fiscal Impacts to Local Governments and School Districts

The Board has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

B. Consideration of Alternatives

The Board has not identified any reasonable alternatives that would lessen any adverse impact on small businesses, because no potential adverse impacts on small businesses have been identified.

For the reasons set forth in the Staff Report, in staff's comments and responses at the hearing, and in this Final Statement of Reasons (FSOR), the Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board.

II. Modifications Made to the Original Proposal

Non-Substantial Modifications

Subsequent to the March 23, 2023, public hearing to consider the Proposed Amendments, staff identified the following non-substantive change to the Procedure:

- (a) A typographical error to an internal section reference was corrected in the Procedure. In the proposed amendments, Section XI(b)(1)(F) of the Procedure states, "A facsimile of the exemption label (see Section XI(f) for labeling requirements)..." The correct citation should have been Section XI(e), which is entitled, "Labeling." Section XI(f) is entitled, "Issuing an Exemption Executive Order." The citation was clearly intended to reference the "Labeling" section and not the section pertaining to issuing an Executive Order. Therefore, the Procedure has been modified accordingly, so that Section XI(b)(1)(F) states, "A facsimile of the exemption label (see Section XI(e) for labeling requirements)..."
- (b) In Section XI(e), "its" was removed from the proposed language "...instructions for its installation of the label..." to correct a grammatical error.

The above-described modification constitutes a non-substantial change to the regulatory text because it more accurately reflects the numbering of a section and correct spelling and grammatical errors, but does not materially alter the requirements or conditions of the proposed rulemaking action.

Update to the Initial Statement of Reasons

Staff would like to add additional necessity to List of Changes to Appendix B-1 – "Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines." In section XI(b)(1)(F), staff proposed the following language: "Manufacturers with a previously issued exemption Executive Order must include an actual physical label with the first application submission of each calendar year..." This language is necessary to be consistent with the language and requirements of existing language in section III(b)(6) of the procedure.

III. Documents Incorporated by Reference

The regulation and the incorporated evaluation procedure adopted by the Executive Officer do not incorporate by reference any additional documents.

IV. Summary of Comments and Agency Response

No written comments were received during the 45-day comment period in response to the March 23, 2023, public hearing notice. One set of written comments and four oral comments were presented at the Board hearing. Listed below are the organizations and individuals who submitted written comments or who testified at the Board hearing.

Table 1. Written and Oral Comments Presented at the Board Hearing

Commenter	Affiliation
Barnes, Eric	Motorcycle Industry Council (MIC), Specialty Vehicle Institute of America (SVIA), and Recreational Off-Highway Vehicle Association (ROHVA)
Morales, Luis (oral comments) and Peter Treydte (written comments)	Specialty Equipment Market Association (SEMA)
Fulks, Tom	Mightycomm, representing Karma Automotive
Bogard, Dan	General Motors

Set forth below are either the full text or a summary of each comment specifically directed at the Proposed Amendments or to the procedures followed by CARB in proposing or adopting the regulation, together with an agency response.

A. Written Comments Presented at the Board Hearing

- 1) **Comment:** SEMA is supportive of the effort to update the Procedures to include EV conversion kits. In general, the proposed modifications seem appropriately basic for kits that align with California's goal of reducing pollution by minimizing emissions from mobile sources. (Peter Treydte, Director of Emissions Compliance, SEMA).

Agency Response: No changes were made in response to the comment. CARB appreciates this comment in support of the staff proposal.

- 2) **Comment:** Procedure Specific Comments: Upon review of the proposed Procedure revision, SEMA respectfully offers the following comments regarding vehicle coverage - The requirements for presenting vehicle coverage are unclear. Section III XI(b)(1)(B) states that an application must contain "Vehicle coverage. Specify vehicles or engines that the manufacturer is including in the application to be covered by the Executive Order." Section III XI(b)(2)(A) further states that applications must be prepared and organized according to five available weight classification categories. EV conversion kits are likely to be designed to work in a variety of vehicles. Is there an expectation that a manufacturer will identify a specific range of vehicles that their product will be applicable to, or is it only necessary to identify one or more of the five categories that the product will be applicable to? (Peter Treydte, Director of Emissions Compliance, SEMA).

Agency Response: No changes were made in response to the comment. Section XI(b)(1)(B) and section XI(b)(3) are independent sections of the Procedure and a manufacturer is expected to comply with both sections. Section XI(b)(1)(B) requires the applicant to specify the vehicles or engines that the manufacturer is including in the application to be covered by the Executive Order. Section XI(b)(3) merely requires applications to be organized according to the groupings specified in section XI(b)(3)(A) or XI(b)(3)(B). In addition, section XI(3)(c) permits manufacturers

to voluntarily exclude vehicle or engine models from the submitted application, if applicable to its application. These three sections work in combination to ensure that the manufacturer provides all necessary information for CARB to effectively evaluate its application.

The proposed section XI(b)(1)(B) is analogous to section III(b)(2) of the existing procedure. Both sections require the applicant to specify the “vehicles or engines that the manufacturer is including in the application to be covered by the Executive Order.” Section XI(b)(1)(B) does not include additional specific requirements (e.g., specifying vehicle or engine test groups) that are in section III(b)(2) but are not pertinent to EV conversions.

The proposed section XI(b)(3) is analogous to section III(d) of the existing procedure. Both sections require that applications for exemption, “...must be prepared and organized according to...” a list of specified criteria. Section III(d) lists criteria that are pertinent to aftermarket parts that are used in conjunction with the existing engine. The proposed Section XI(b)(3)(A) lists criteria that are pertinent to EV conversions, which have had the engine and aftertreatment removed and replaced, and Section XI(b)(3)(B) allows manufacturers to propose alternative criteria to give them flexibility.

There is nothing in the language of section XI(b)(3) that suggests that a manufacturer does not have to specify the vehicles to which their requested EO would apply, as required by section XI(b)(1)(B). The manufacturer must comply with both sections. Therefore, the manufacturer must identify a specific range of vehicles that their product will be applicable to (per Section XI(b)(1)(B)), and it must organize the application according to the categories that the product will be applicable to (Section XI(b)(3)(A) or Section XI(b)(3)(B)).

- 3) **Comment:** Procedure Specific Comments: Upon review of the proposed Procedure revision, SEMA respectfully offers the following comments regarding existing emissions equipment - Use of an EV conversion kit, by definition will eliminate the gasoline-, diesel- or alternative-fueled engine from the vehicle and will render emissions devices unnecessary and therefore ineffective. Section III XI (f) states that the Executive Officer will make a determination that the conversion kit will not “reduce the effectiveness of the emissions control system...”. This section further discusses the vehicle meeting applicable emissions standards which become irrelevant when an EV conversion is done. These statements are unnecessary and misleading. They appear to be a carryover from language copied from section IX of the current Procedures. SEMA proposes striking a portion of the text such that it reads, “If the Executive Officer determines that the EV conversion kit will not reduce the effectiveness of the emissions control system, will not result in emissions that exceed the applicable model-year standards or comparative baseline levels for the vehicles and/or engines listed in the application, and that it meets all the requirements set forth in these procedures...” (Peter Treydte, Director of Emissions Compliance, SEMA).

Agency Response: No changes were made in response to the comment. CARB appreciates the comment. The language SEMA has questioned reflects the conditions under which CARB is permitted to grant exemptions to the anti-tampering provisions of California Vehicle Code (VC) section 27156. VC section

27156 generally prohibits the sale, offer for sale, advertisement, or installation of any devices that alter the design or performance of any required motor vehicle pollution control device or system. CARB has the statutory authority under VC section 27156(h) 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. The existing Procedure provides a pathway for aftermarket parts manufacturers to receive this exemption, including language in section IX that requires compliance with the conditions for exemption listed in VC section 27156(h). Thus, section XI(f) of the proposed amendments includes the same requirements from section IX of the Procedure, such that all aftermarket parts are subject to the same requirements of VC section 27156, but have included minor modifications to other portions of the proposed section XI(f) so that it is relevant in its entirety to EV conversions. Omitting this requirement—and doing so for only EV conversions—would result in less clarity of the overall Procedure with respect to CARB's exemption process.

B. Oral Comments Presented at the Board Hearing

- 4) **Comment:** We recognize that CARB doesn't currently have regulations or requirements for on-highway motorcycles or off-highway vehicles with regards to electric vehicles or zero-emissions vehicles. But, we would like staff to consider, if not now, but when appropriate, the inclusion of on-highway motorcycles and off-highway recreational vehicles in this opportunity for aftermarket conversions. We look forward to working with staff on this. (Eric Barnes, Vice President, Technical Programs, MIC; representing MIC, SVIA, ROHVA).

Agency Response: No changes were made in response to the comment. CARB appreciates the comment. An on-road motorcycle EV conversion kit that meets all the requirements of the Procedure may be assessed by the Procedure. The current rulemaking was limited to on-road vehicles/engines. Off-road vehicles, such as off-highway recreational vehicles, are outside the scope of this rulemaking and therefore no response is provided. CARB is happy to work with industry regarding opportunities for off-road EV conversions in a future rulemaking.

- 5) **Comment:** We are seeking clarity on a couple of action items in that proposal. We are specifically seeking clarity on the vehicle coverage section of the proposal. Is there an expectation for the manufacturers to identify the specific range of the vehicles or is it only necessary to identify one or more of the five vehicle categories. (Luis Morales, SEMA).

Agency Response: No changes were made in response to the comment. CARB appreciates the comment regarding vehicle selection. Please see the response to question 2 of the written comments, above.

- 6) **Comment:** We're also seeking clarity on the existing emissions equipment section of the proposal. This section states that the Executive Officer will make a determination that the conversion kit will not quote, "Reduce the effectiveness of the emissions control systems", end quote. This section further discusses that the vehicle meeting applicable emission standards will become irrelevant when the EV

conversion is done. We propose that this section gets striked out as it can -- as it brings up confusion for the proposal (Luis Morales, SEMA).

Agency Response: No changes were made in response to the comment. CARB appreciates this comment. Please see the reply to written comment 3, above.

- 7) **Comment:** Karma supports wholeheartedly these amendments to the rule. This is really going to be beneficial, we believe, to the entire state, in that it is going to help fill a segment of the heavy-duty market that right now is experiencing quite a shortage of product, and that's the Class 2B through Class 5 segment. Karma is focusing on the Class 4 segment, which is the shuttlebus segment, work trucks, bucket trucks. These fleets will all be obligated under the coming Advanced Clean Fleet rule, and it's important to provide product to fleets that are going to be required to comply. (Tom Fulks, President, Mightycomm, representing Karma Automotive).

Agency Response: No changes were made in response to the comment. CARB appreciates this comment in support of the staff proposal.

- 8) **Comment:** GM appreciates CARB's willingness to clarify, simplify, and streamline the application process for electric vehicle conversions under California law. Maintaining the current procedure would likely limit the market for electric vehicle conversions in California. The proposal streamlines the CARB certification process, so that GM can bring EV conversions to the California market for cars, trucks, and big trucks. (Dan Bogard, General Motors).

Agency Response: No changes were made in response to the comment. CARB appreciates this comment in support of the staff proposal.

- 9) **Comment:** We need to start working on innovation with the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) program, because HVIP provides half as much money for conversions as it does for original OEM product. And, again, there's a dearth of product within that mid-range section. (Tom Fulks, President, Mightycomm, representing Karma Automotive)

Agency Response: No changes were made in response to the comment. CARB appreciates the comment. However, this comment concerns the HVIP program and falls outside the scope of this rulemaking. Therefore, no response is required or provided.

V. Peer Review

Health and Safety Code section 57004 sets forth requirements for peer review of identified portions of rulemakings proposed by entities within the California Environmental Protection Agency, including CARB. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer review process. The Proposed Amendments to the CCR and Procedure do not add any new requirements to manufacturers of EV conversions. Rather, the existing requirements are reorganized, and language is clarified regarding how to apply certain provisions to EV conversions. Therefore, a peer review is not required.