

Title 13. California Air Resources Board

Notice of 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

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed amendments to the Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines specific to electric vehicle conversions.

Date: March 23, 2023

Time: 9:00 A.M.

In-Person Location:

California Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

Remote Option:

Zoom

This public meeting may continue at 8:30 a.m., on March 24, 2023. Please consult the public agenda, which will be posted ten days before the March 23, 2023, Board Meeting, for important details, including the day on which this item will be considered and how the public can participate via Zoom if they choose to be remote.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing during 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 January 27, 2023. Written comments not submitted during the hearing must be submitted on or after January 27, 2023, and received **no later than March 13, 2023**. 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. 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](https://www.arb.ca.gov/lispub/comm/bclist.php): <https://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 and Vehicle Code, sections 27156, 38391, and 38395. This action is proposed to implement, interpret, and make specific Health and Safety Code, sections 39002, 39003, 39500, 43000, 43000.5, 43009.5, 43011, 43107, 43204, 43205, 43205.5, and 43644; and Vehicle Code, sections 27156, 38391, and 38395.

Informative Digest of Proposed Action and Policy Statement Overview (Gov. Code, § 11346.5, subd. (a)(3))

Sections Affected:

Proposed amendments 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).

Documents Incorporated by Reference:

1. California Air Resources Board (CARB), "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.

Background and Effect of the Proposed Regulatory Action:

On June 29, 2021, CARB adopted the “Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines” (“Procedure”), effective January 1, 2022, that provides a pathway for aftermarket parts manufacturers to receive an exemption from the anti-tampering prohibitions 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 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. Under this authority, CARB previously adopted the “Procedures for Exemption of Add-On and Modified Parts,” which was last amended June 1, 1990.

An electric vehicle (EV) conversion is a set of parts that converts a previously certified gasoline-, diesel-, or alternative-fueled vehicle to an EV. Under the existing Procedure, EV conversions are currently assessed as Category IX applications, which is a “catch all” category for products that do not fall in any other category.

Although EV conversions are included in Category IX, they are unlike the other aftermarket parts covered by this category that have the potential to adversely affect the emissions of a vehicle. EV conversions are unique when compared to other aftermarket parts, as they completely replace the existing combustion engine, rather than being used in conjunction with it and therefore, removing regulated emissions. Requirements of the Procedure that are critical when assessing other aftermarket parts are of limited technical value when assessing an EV conversion due in large part to the fact that the original engine is removed from the vehicle, and assessing the effect of the EV conversion on the now-removed engine is irrelevant. As such, manufacturers of EV conversions have found the existing Procedure confusing to follow when submitting a Category IX application.

For example, the existing Procedure requires that within each application category, separate applications must be submitted for each aftermarket part based on the characteristics of the vehicle (e.g., engine size, emission control system, etc.) in which it is intended to be used. This requirement exists because the potential emissions impact of installing an aftermarket part on a vehicle could vary based on the engine and emission control system for that vehicle. For EV conversions, these concerns do not exist, because all sources of combustion emissions are removed from a vehicle when it is converted to an EV.

The proposed amendments provide clarity for manufacturers of EV conversions through the creation of a new “Category X” application category and section XI of the Procedure that are specific to EV conversions. The new category and new section will clearly identify what the requirements are for these types of parts to receive a VC section 27156 exemption, thereby helping to clarify, simplify, and streamline the application process for a manufacturer of these types of products. There is expected to be a small cost savings to manufacturers of EV conversions due to a reduction in the number of application fees paid by each manufacturer.

This rulemaking modifies only portions of the Procedure that pertain to EV conversions. The remainder of the Procedure is unmodified. The proposed amendments are solely intended to apply to EV conversions that have no source of combustion (e.g., engine, fuel-fired heater) and emit no regulated emissions. The modifications are intended to address the unique considerations when assessing applications for EV conversions. The proposed amendments do not apply to EV conversions of vehicles originally certified as EVs, hybrids, or to other types of aftermarket parts other than EV conversions.

CARB may also consider other changes to the sections affected, as listed on page 4 of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

The overall objective of the proposed amendments to the “Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines” is to provide clarity and further streamline the Procedure for manufacturers of EV conversions to receive an exemption from the prohibitions of VC section 27156. No changes to the Procedure for products other than EV conversions are being proposed or considered.

These proposed amendments achieve improved clarity for manufacturers of EV conversions through the creation of a new application category, “Category X,” and a new section, section XI, in the Procedure that clearly identify all requirements that apply to these types of products. In addition, the proposed amendments may enable manufacturers of EV conversions to submit fewer applications for exemptions, thereby creating a direct cost savings to the manufacturer.

The following is a summary of the key modifications to the Procedure:

1. Adding definitions for EV, EV conversion, hybrid, and fuel-fired heater;
2. Creating a new application category, “Category X”, solely for EV conversions that have no sources of combustion and emit no regulated emissions;
3. Clarifying the criteria for Category I applications for EV conversions; and
4. Adding a new section to the Procedure, section XI, to specifically list all of the application, evaluation, and administrative requirements for EV conversions.

No changes are being proposed to the Procedure that impact smog-forming emissions, public health, or greenhouse gas emissions. The proposed amendments may have a small but unquantifiable air quality benefit. While the aftermarket parts program does not recognize emission reductions and only grants exemptions to the anti-tampering provisions of VC section 27156, the removal of each internal combustion engine and subsequent replacement with an EV conversion reduces emissions on a vehicle-by-vehicle basis. The modifications do not add any requirements in the Procedure, but the streamlining and clarification of the process is expected to facilitate EV conversion applications and allow EV conversions to get to the California market sooner. The actual air quality benefit will depend on other factors such as the market acceptance of the EV conversion kits; therefore, it is hard to quantify the emission benefit at this early stage.

The proposed amendments do not create any other unquantified benefits such as ecosystem benefits, welfare, occupational exposure, the prevention of discrimination, the promotion of fairness or social equity, the increase in openness and transparency in business and government, etc.

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) has adopted a regulation governing voluntary aftermarket parts certification: Code of Federal Regulations, title 40, Chapter I, Subchapter C, Part 85, Subpart V "Emissions Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program." This regulation establishes a voluntary self-certification program. In contrast, CARB's aftermarket parts procedures require aftermarket part manufacturers that wish to market and sell product in California to receive and obtain an exemption from the anti-tampering provisions of VC section 27156 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 regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

Mandated by Federal Law or Regulations (Gov. Code, §§ 11346.2, subd. (c), 11346.9)

This Procedure is not mandated by federal law or regulation.

Disclosure Regarding the Proposed Regulation:

Fiscal Impact/Local Mandate Determination Regarding the Proposed Amendments (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 regulatory action 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 amendments would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create 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.

The only potential economic impact of the proposed amendments may be a cost savings to businesses if a business is able to submit fewer applications for EV conversions, thereby, paying fewer application fees. The application fee for an EV conversion is \$1,290.¹ This potential cost savings is not expected to be passed through to purchasers of the EV conversions. If manufacturers of EV conversions are able to submit fewer applications, the amount of application fees collected by CARB will be reduced by \$1,290 per application. However, the amount of time spent by CARB staff reviewing the applications will be reduced by an amount that is proportional to the reduction in application fees. For example, if the number of applications under the proposed amendments is reduced compared to the existing Procedure, both the total application fees collected and the workload to process the applications would both be reduced by a commensurate amount, resulting in no fiscal impact on CARB overall. As explained in Section IX of the Initial Statement of Reasons (ISOR), the estimated reduction in application fees would be equal to the cost savings to manufacturers, which could be an aggregate total of \$17,000 per year or \$85,000 over a 5-year period.

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

The Executive Officer has also made the initial determination that the proposed regulatory action 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 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.

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 regulatory action 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 regulatory action can be found in the Economic Impact Analysis in the ISOR. There is expected to be a small cost savings to

¹ California Code of Regulations, title 13, division 3, chapter 16, article 5, section 2910.
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/mobilesourcefee2021/fro.pdf>.

manufacturers of EV conversions due to a reduction in the number of application fees paid by each manufacturer.

Benefits of the Proposed Regulation:

The objective of the proposed amendments is to clarify and further streamline the Procedure for exempting EV conversions from the prohibitions of VC section 27156 and to assist aftermarket parts manufacturers of EV conversions in the process of submitting an application for this exemption. There is expected direct cost savings to manufacturers of EV conversions due to a reduction in the number of application fees paid by each manufacturer. There are no direct, quantifiable expected benefits to the health and welfare of California residents, worker safety, or the state's environment. However, the proposed amendments may have small but unquantifiable air quality benefits on a vehicle-by-vehicle basis from the removal of each internal combustion engine and subsequent replacement with an EV conversion kit. For a summary of the benefits of the proposed amendments, please refer to "Objectives and Benefits," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3) discussion on page 4.

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

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The proposed amendments may enable manufacturers of EV conversion kits to submit fewer applications for exemptions, thereby creating a direct cost savings to the manufacturer. This potential cost savings is estimated to be approximately \$1,000 per year. (See the Economic Impact Analysis in the ISOR for a more detailed analysis.)

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 proposed regulatory action may affect small businesses. The potential cost savings for small businesses is also estimated to be approximately \$1,000 per year. (See the Economic Impact Analysis in the ISOR for a more detailed analysis.)

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

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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions

of law. Staff considered two alternatives to the proposed amendments. As explained in section X of the ISOR, no alternative proposal was found to be less burdensome and equally effective in achieving the purposes of the proposed regulation in a manner that ensures full compliance with the authorizing law. Staff has not identified any reasonable alternatives that would lessen any adverse impact on small business.

Environmental Analysis

CARB, as the lead agency for the proposed amendments, has prepared an environmental analysis 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).

CARB has determined that the proposed amendments are exempt from CEQA under the "general rule" or "common sense" exemption (Cal. Code Regs., tit. 14 § 15061(b)(3)). Based on CARB's review it can be seen with certainty that there is no possibility that the proposed amendments may result in a significant adverse impact on the environment; therefore, this activity is exempt from CEQA. The basis for reaching this conclusion is provided 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 Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten 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 cotb@arb.ca.gov o (916) 322-5594 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 regulatory action may be directed to the agency representative Shawn Daley, Manager, Aftermarket Diesel and Off-Road Section, at (951) 542-3134 or at shawn.daley@arb.ca.gov or (designated back-up contact) Sarah Carter, Staff Air Pollution Specialist, at (951) 542-3100 or at sarah.carter@arb.ca.gov.

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: Public Hearing to Consider the Proposed Amendments to the On-Road Aftermarket Parts Procedure Specific to Electric Vehicle Conversions.

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 CARB's website listed below, on January 24, 2023. Please contact Bradley Bechtold, Regulations Coordinator, at Bradley.Bechtold@arb.ca.gov or (279) 208-7266 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, at Bradley.Bechtold@arb.ca.gov or (279) 208-7266. 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.

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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 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 and that the regulatory language as modified could result from the proposed regulatory action. 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, California 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://ww2.arb.ca.gov/rulemaking/2023/evconversion>

California Air Resources Board



Steven S. Cliff, Ph.D.
Executive Officer

Date: January 10, 2023

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 [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).