

# Updated Informative Digest

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

### **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) (collectively "Proposed Amendments").

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

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.

## **Objectives and Benefits of the Proposed Regulatory Action:**

The overall objective of the Proposed Amendments to the Procedures 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 both a new "Category X" application category and a new section XI in the Procedure, which 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 CCR:

1. Section 2222, subdivision (e): Add "...as amended March 23, 2023..."
2. Section 2224, subdivision (b): Add "...as amended March 23, 2023..."

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.

## **Description of Regulatory Action:**

On January 24, 2023, CARB released the Notice of Public Hearing (45-Day Notice) and Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), titled "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," for public review. The Staff Report contains a description of the rationale for the Proposed Amendments. On January 24, 2023, all references relied upon and identified in the Staff Report were made available to the public. CARB did not receive any written comments during the 45-Day Notice comment period.

On March 23, 2023, CARB conducted a public hearing. CARB staff informed the Board of the Proposed Amendments to the CCR and Procedures specific to electric vehicle conversions, and the Board received written and oral comments from the public. At the conclusion of the hearing, the Board approved Resolution 23-11 for adoption of the Proposed Amendments.

The Board directed that, if it is determined that additional conforming modifications are appropriate, the record will be reopened and a 15-day Notice of Public Availability will be issued. No 15-day changes were necessary and none were made.

However, subsequent to the March 23, 2023, public hearing to consider the Proposed Amendments, staff identified a typographical error and made a non-substantive change to the Procedure. An internal section reference cited the wrong section. The 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.

## **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 and therefore, does not conflict with the federal regulation.

## **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.