

Title 13. California Air Resources Board

Notice of Public Hearing to Consider Proposed Mobile Source Certification and Compliance Fees

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 mobile source certification and compliance fees.

Date: April 22, 2021

Time: 9:00 A.M.

Please see the public agenda which will be posted ten days before the April 22, 2021, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the 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., April 22, 2021, and may continue at 8:30 a.m., on April 23, 2021. Please consult the agenda for the hearing, which will be available at least ten days before April 22, 2021, to determine the day on which this item will be considered.

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 March 5, 2021. Written comments not submitted during the hearing must be submitted on or after March 5, 2021, and received **no later than** April 19, 2021. 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:](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, 43019. 43019.1, and 43202.6. This action is proposed to implement, interpret, and make specific sections 43000, 43000.5, 43013, 43018, 43019, and 43019.1.

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

Sections Affected:

Proposed repeal of California Code of Regulations, title 13, division 3, chapter 1, article 2.5, sections 1990, 1991, 1992, 1993, and 1994.

Proposed adoption of California Code of Regulations, title 13, division 3, chapter 16, articles 1 through 7, sections 2900 through 2914.

Background and Effect of the Proposed Regulatory Action:

In 1966, California established the first tailpipe motor vehicle emission standards for carbon monoxide and hydrocarbons as a strategy to improve the severe air pollution plaguing our state. Today, stringent standards cover not only cars and trucks, but any vehicle or equipment with a combustion engine. State law prohibits the sale of new motor vehicles or new engines used in mobile sources within California unless they meet the currently applicable emission standards adopted by CARB. Similarly, state law generally prohibits the installation, sale, offer for sale, or advertisement of aftermarket emission-related parts without approval from CARB to prevent tampering with emission control systems. Manufacturer compliance with these requirements is demonstrated through CARB's certification and compliance programs.

When a manufacturer requests certification of a product (i.e., vehicle, engine, or add-on component), CARB may as part of its certification review, verify the information provided by the manufacturer using pre-sale audits and confirmatory emissions testing of that product prior to issuing a certification document (Executive Order [EO] or other approval document). CARB may also perform screening testing that can include standard testing in the lab, testing in the field using Portable Emission Measurement Systems (PEMS), and/or by using special operating cycles in the lab that replicate conditions encountered in normal use to identify defeat devices.

After the product is sold, continued compliance with emission standards are double-checked through a variety of in-use programs which includes laboratory audits and on

vehicle monitoring systems. In-use emissions testing and warranty activities help confirm that vehicles and engines continue to comply with CARB requirements throughout their useful lives. Compliance issues found through these programs can result in required corrective actions, including product recall.

CARB issues EOs for all types of vehicles and engines, including automobiles and heavy-duty trucks, as well as large off-road equipment and small lawn and garden engines, evaporative systems, and aftermarket components that are used in automobiles, trucks, and off-road engines. Each product is certified by CARB according to the regulations and test procedures established based on the product's specific equipment classification or operating category.

In 1988, the legislature gave CARB authority (Health and Safety Code [HSC] section 43019) to assess a fee for motor vehicles and engines (generally, cars, trucks, and motorcycles) that was capped at \$4.5 million a year, but with annual adjustment of the cap based on the California Consumer Price Index (CPI). In 1990, CARB implemented this authority through regulation that provides a formula to assess fees on a limited class of motor vehicle and engine manufacturers. Manufacturers of vehicles and engines not subject to an emission standard at the time were not included in regulation. Since then, however, emission standards and certification requirements have expanded to include nearly all mobile sources. CARB currently issues over 3,700 EOs annually, which allow manufacturers to sell their products in California. This is close to ten times more than the 430 EOs issued by CARB when the fee was first collected in 1990. As such, only about one third of the products currently certified by CARB are assessed a certification fee. The amount collected in 2018 under these existing rules was roughly \$9.7 million, only about one quarter of the cost to implement the mobile source emissions control programs. The balance of the program costs is being paid through other revenue sources. Specifically, CARB has historically used existing funds (primarily the Air Pollution Control Fund (APCF), Motor Vehicle Account (MVA), and Vehicle Inspection and Repair Fund (VIRF)) to implement its mobile source certification and compliance programs.

On June 27, 2018, Senate Bill (SB) 854 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2018) was passed and signed into law that directs CARB to adopt a schedule of fees to cover all or part of CARB's reasonable costs associated with certification, audit, and compliance of off-road or non-vehicular engines and equipment, aftermarket parts, and emission control components sold in the State (limited to activities covered by HSC sections 38560¹, 43013 and 43018, and on-road aftermarket parts under Vehicle Code section 27156(h)). As such, this legislation directs CARB to assess fees to cover its reasonable costs, with specific considerations for impacts on industry and environment. This new requirement is housed in HSC 43019.1. The fees collected will be deposited into the newly established Certification and Compliance Fund (CCF), created specifically to support mobile source certification, audit, and compliance activities.

¹ Section 38560 added with SB 85 in 2019

Also in 2018, Assembly Bill 2381 (Carillo, Chapter 713, Statutes of 2018) became law. This statute directs CARB to enhance its certification, audit, and compliance activities for new motor vehicles to detect defeat devices or other software used to evade emission testing, and allows CARB to recover its reasonable costs. Cost recovery for this activity is capped at \$5 million per year with CPI annual adjustments. The fees collected will also be put into the newly established CCF to support mobile source certification, audit, and compliance activities.

The following year, on June 27, 2019, SB 85 (Committee on Budget and Fiscal Review, Chapter 31, Statutes of 2019) removed the cap on existing fee authority housed in HSC 43019, expanded the activities covered, and redirected the fees collected to the CCF. Under this legislation, CARB is directed to develop by regulation a schedule of fees for the certification, audit, and compliance of motor vehicles and engines sold in the state to cover the state board's reasonable costs of implementing the certification, audit, and compliance program.

CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

This proposed rulemaking is the result of legislative directives to create a more fiscally sustainable funding solution for CARB's mobile source certification, audit, and compliance programs that is based on greater recovery of costs from the businesses that benefit from receiving CARB certification for their products. This proposed rulemaking addresses fees paid by manufacturers to obtain approvals necessary for CARB's existing mobile source certification and compliance programs. This proposed regulation does not change the stringency of current emission standards nor does it create new emission standards. Rather, it establishes upfront fees to fund certification and compliance actions that are already conducted by CARB. Manufacturers of products that are covered by this proposed regulation will be required to pay this fee upon request for services conducted by CARB.

The proposed regulation provides for new fees and increases existing fees, thereby reducing reliance on existing funds and creating a more fiscally sustainable funding solution. The increased new fiscal revenue to CARB and ultimately to the State of California is \$264,447,075 over a ten-year period, with annual revenue from \$9,811,698 in 2022 to \$31,652,886 in 2031 to support the CARB programs that protect public health and safety, and the environment, by reducing greenhouse gas emissions, oxides of nitrogen, diesel particulate matter, and other air contaminants. The proposed regulation addresses fees paid by manufacturers to obtain approvals for meeting compliance requirements for existing mobile source CARB certification and compliance programs. This proposed regulation does not change the stringency of current emission standards nor does it create new emission standards. Rather, the proposed regulation establishes upfront fees to fund certification and compliance actions that are already conducted by CARB to protect public health and safety, and the environment. New regulations are required along with the repeal of Title 13 CCR sections 1990-1994 to implement these Legislative directives.

The total cost to implement the mobile source certification and compliance programs in 2022 is estimated at about \$50 million. Staff's proposal sets up a phased-in fee schedule, starting in calendar year 2022 and fully implemented in 2024. On-Road mobile source fees would be annually adjusted by CPI. Reduced fees include those adjusted for lower CARB workload, to support CARB policy to expand zero-emission technologies, and to assist small businesses and companies with low California sales. The newly proposed fees combined with historical fee collection would cover a high percentage of total costs for CARB's certification and compliance programs, but would not reach 100 percent. Although we may not have a 100% (full-cost) recovery at the time, this is what CARB reasonably expects that the market can bear based on their feedback from industry and staff's analysis. CARB will strive for getting this program to as close to net-zero when possible in the future through planning and development of our existing and future programs. The unrecovered program costs will continue to be offset by existing funds as they represent a benefit to the state. Staff expects minimal or no impact on the processing time for certifications because of this funding structure.

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) has a certification fees programs for certain categories of on-road and off-road mobile sources. The U.S. EPA fee program is based on the actual costs to conduct the activities to ensure mobile source certification and compliance. Similar to CARB's approach, U.S. EPA surveyed its certification and compliance program staff in 2002 to determine the amount of work that was conducted in various parts of their mobile source certification and compliance programs. Their fee determination is based on costs per certification approval. The federal regulation was promulgated in 2003 and the fees are annually adjusted by the number of approvals and a cost of living index.

U.S EPA certification fee program does not in any way reimburse CARB for its costs to conduct its own mobile source certification and compliance program. In addition, CARB's mobile source certification and compliance programs are broader and covers additional emission sources and activities which are not covered in the U.S. EPA 2002 fee program. Therefore there are no federal regulations that address the same issues as CARB's proposed regulations.

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. As noted above and throughout the Staff Report, the fee regulations currently in effect contain requirements for some similar categories of mobile sources. CARB has carefully drafted the Proposed Regulation to supersede the existing regulations, as appropriate.

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 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 regulatory action would create costs or savings to any State agency, would not create costs or savings in federal funding to the State, and would 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.

Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.:

The fiscal costs for local government are calculated based on the estimated increase in price for vehicles/engines/equipment/components (affected by the fee) that are purchased or used by each government entity. For costs that local agencies will pay, it is assumed that local governments do not finance their purchases. The total costs to local government are projected to be \$3.6 million over the modeled lifetime.

Sales taxes are levied in California to fund a variety of programs at the state and local level. For this analysis, the CARB staff assumed an average of 4.56 percent local sales tax revenues based on how the state sales tax is apportioned plus an average of local additional sales taxes.² This leads to a year over year net increase in local sales tax revenue totaling \$10.9 million over the modeled lifetime. See Chapter IX in the Initial Statement of Reasons (ISOR) for a detailed analysis.

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the proposed regulation is a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs to local agencies are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate is not reimbursable because costs associated with the proposed regulation apply generally to all entities that purchase affected vehicles/engines/equipment/components, including local agencies. Therefore, the regulation does not constitute a "Program" imposing any unique requirements on local agencies as set forth in section 17514 of the California Government Code.

² California Department of Tax and Fee Administration. Tax Rates by County and City. <https://cdtfa.ca.gov/formspubs/cdtfa95.pdf>. Accessed June, 2020

Cost or Savings for State Agencies:

The fiscal costs for state government are calculated based on the percentage of the vehicle/engine/equipment/component or use of the product affected by the fee that is purchased or used by each government entity. For costs that state agencies will pay, it is assumed that state governments do not finance their purchases.

The overall fiscal impact of the proposed regulation is projected to be added revenues to the State in the range of \$10 million to \$20 million each year during the phase-in of the proposed fees (2022 and 2023) and approximately \$30 million each year from 2024 through 2031, with a total revenue of almost \$300 million during the lifetime of the proposed regulation. In order to estimate the revenue, staff estimated the additional fees that are expected to be collected by CARB each year under the proposed regulation compared to the Business as Usual scenario and the additional State sales tax that is expected to be collected each year. Then staff estimated the passed on cost of the proposed regulation's requirements each year to all State agencies including CARB. The additional fees collected plus the additional sales tax minus the additional purchase price of vehicles and equipment by State agencies provides revenue to the State. See Chapter IX in the ISOR for a detailed analysis.

Other Non-Discretionary Costs or Savings on Local Agencies:

No other non-discretionary costs or savings to local agencies are expected.

Cost or Savings in Federal Funding to the State:

No costs or savings in federal funding is anticipated.

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)):

Per Department of Finance regulations (California Code of Regulations, title 1, sections 2000-2004), any agency that anticipates promulgating a regulation that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50 million in any 12-month period between the date the

regulation is filed with the California Secretary of State through 12 months after it is fully implemented (defined as major regulation) is required to submit a Standardized Regulatory Impact Assessment (SRIA). The Proposed Regulation and associated amendments would be fully implemented in 2024 and would result in an economic impact exceeding \$50 million starting in 2022, which triggers the threshold for a major regulation and the requirement for a SRIA. The projected economic impact of this rulemaking is in the approximate \$50-\$82 million range as shown in the Revised SRIA for this rulemaking.³

Major Regulation: Statement of the Results of the Standardized Regulatory Impact Analysis (SRIA) (Gov. Code, § 11346.3, subd. (c)):

In December 2020, CARB submitted a Standardized Regulatory Impact Analysis (SRIA) to the Department of Finance (DOF) for its review. CARB has updated the Proposed Regulation since the original SRIA submittal and to address DOF comments. The revisions are discussed in the ISOR, Chapter IX and an updated Revised SRIA is in Appendix B.

(A) The creation or elimination of jobs within the state.

The Proposed Regulation is estimated to result in a positive job growth from 2022 to 2028, then negative job growth from 2029 to 2031. These changes in employment represent less than 0.01 percent of baseline California employment. There is an increase in employment of 420 jobs in the year with the greatest positive impact, and a decrease in employment of 17 jobs in the year with the most negative impact. All of the Industries showing impacts to employment in individual years at levels over 25 jobs per individual year in the period of analysis are as follows: Construction (NAICS 23) Manufacturing (NAICS 31-33), motor vehicle manufacturing (NAICS 3361), retail and whole sale trade (NAICS 42, 44-45), Transportation (NAICS 48).

(B) The creation of new businesses or the elimination of existing businesses within the state.

The Proposed Regulation is not anticipated to directly cause the creation or elimination of any businesses. No businesses are expected to be created, because the Proposed Regulation does not incentivize new business creation. Rather, it only changes the fee structure for CARB's mobile source certification and compliance programs. No businesses are expected to be eliminated, since costs will typically be passed on to purchasers of the products. In addition, as costs are passed on, the end user will experience a relatively small impact. The typical fees per unit are less than one percent of average purchase price and were determined to have a negligible impact on purchasing behavior and emission activity. In addition, the Proposed Regulation is anticipated to have a very negligible impact on California Output, relative to the California economy. As the percentage change for each year is less than 0.01 percent and is therefore unlikely to affect business formation or elimination.

³ Staff Report: Initial Statement of Reasons, Appendix B.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

No advantages or disadvantages were identified.

(D) The increase or decrease of investment in the state.

Private domestic investment consists of purchases of residential and nonresidential structures and of equipment and software by private businesses and nonprofit institutions. It is used as a proxy for impacts on investments in California because it provides an indicator of the future productive capacity of the economy. In 2031, the Proposed Regulation is anticipated to result in a decrease in total Private Domestic Investment of \$11 million, less than 0.01 percent of baseline private domestic investment. In no years is the decrease in investment growth estimated to exceed 0.01 percent of baseline private domestic investment.

(E) The incentives for innovation in products, materials, or processes.

Senate Bill 854, which provided CARB with authority to expand the scope of mobile source certification and compliance fees, directed CARB to work with impacted industries and to consider a number of factors when adopting a schedule of fees. These factors included consideration of a product's potential impact on emissions.

In addition, Executive Order N-79-20⁴ issued by Governor Newsom directing CARB to develop and propose regulations and strategies to reach, if economically and technically feasible, the goal of 100 percent in-state sales of zero-emission new passenger cars and light trucks by 2035. Consistent with these directives, the Proposed Regulation includes seven low-cost application fees for zero-emission technologies, which are set at 25 percent of the Base Fees.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

The proposed regulation helps establish a stable source of funding for CARB's mobile source certification and compliance programs. Those programs (supported by the proposed regulation) protect public health and safety, and the environment, by reducing greenhouse gas emissions, oxides of nitrogen, diesel particulate matter, and other air contaminants.

(G) Department of Finance Comments and Responses.

Finance generally concurs with the methodology used to estimate impacts of the proposed regulation, with the following exceptions.

⁴ <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>

- 1) First, the SRIA must estimate and discuss the impacts of securing additional funding of around \$30 million per year through the proposed fee on existing CARB operations and funding. Freeing up these resources from the funds that currently support the mobile source certification activities should result in avoided negative consequences or added economic and emissions benefits to the state, and impacts will vary depending on fund allocation and use.

CARB Response to Comment from the California Department of Finance:

The benefits of freed up resources resulting from the collection of a certification and compliance fee would include an increase towards sustainability of current and ongoing regulatory and emissions based projects as well as known deficiencies within APCF. Not all regulatory and legislatively mandated activities within CARB are fully funded or funded at all, which results in a strain on current funding sources. The addition of resources that will be offset by the certification and compliance fund will begin to relieve the pressure on strained resources edging closer to sustainability within the fund.

- 2) Second, the baseline should include a description of the number and types of affected manufacturers, as well as the distribution of costs among these manufacturers. This would help support CARB's assessment that the burden is not being borne in a manner to create disparate impacts to California businesses.

CARB Response to Comment from the California Department of Finance:

The ISOR Tables IX-B-1 through IX-B-3 show costs to manufacturers that have indicated they will pass all costs on to purchasers of mobile sources. Tables IX-B-4 and IX-B-5 shows costs to manufacturers that have indicated they will not pass any costs to purchasers. Average Cost Per Year is the average cost per year from 2022 through 2031. Estimated costs that are less than \$1,000 per year are rounded to the nearest \$100. Estimated costs that are greater than \$1,000 are rounded to the nearest \$1,000.

The ISOR Table IX-B-6 shows that the costs to each industry are comparably far higher than the projected impacts to individual manufacturers. The highest projected impact, shown in Table IX-B-1 is projected to be \$310,000 to vehicle manufacturers (NAICS 3361). This amount is 0.02 percent of the average yearly costs to that industry. All figures in Table IX-B-6 are shown in Millions of U.S. Dollars.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the

proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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. Since the proposed amendments only increase certification fees that are paid upfront by manufacturers, there will be no ongoing costs associated with the proposed regulation. It is assumed in this analysis that for all product categories, except for aftermarket parts and marine watercraft, manufacturers will pass along 100 percent of the certification fee increases to purchasers of the products. Manufacturers of aftermarket parts and marine watercraft have indicated to CARB that they do not plan to increase the price of their products to recoup any new certification fees.

The cost impacts to a typical business under the proposed regulation would depend primarily on how many new vehicles or other products the business purchases per year and the purchase year. For each category, CARB estimated the total fees expected to be collected under the proposed regulation and then apportioned the total fees expected to be passed through each year between business, individuals, local government entities, and state government entities that purchase each product. The total cost to all California businesses is projected to be \$79.4 million and assumes that purchases are financed at a five percent financing rate.

The direct costs to individuals are assumed to be only initial purchase costs that are due to increased costs of vehicles and equipment purchased by individuals. A five percent financing cost over an average loan period of five years is applied to purchasing costs by individuals. There are no ongoing costs to individuals.

The most important factor for assessing the impact on individuals is the increased cost per vehicle or piece of equipment due to the proposed regulation. The direct cost to individuals is calculated by multiplying the Total Fee for a category by the percentage of the vehicle/equipment or use of the product affected by the fee that is purchased or used by individuals. An additional five percent financing cost is then applied to all purchases by individuals.⁵ The Cost per Household is calculated by dividing the Total Cost by 12,965,400 California households. As the total impact throughout the lifetime of the Proposed Regulation is \$12.29 with a yearly average of \$1.23, and there is an even impact of costs and policies throughout the Californian economy (to businesses and households alike). The Proposed Regulation does not appear to produce any disparate impacts. See Chapter IX in the ISOR for a detailed analysis.

⁵ 2020 World Population Review. California Population 2020. Available at: <https://worldpopulationreview.com/states/california-population>. Accessed: 10/28/20.

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 would affect small businesses. It is assumed in this analysis that for all product categories except for aftermarket parts and marine watercraft, manufacturers will pass along 100 percent of the certification fee increases to purchasers of the products. Since the proposed fees will cover certification of all new mobile sources, staff assumes that all California businesses will bear some of the costs of the proposed regulation and the direct costs on California small businesses will be proportional to the percentage of California businesses that are small businesses. Staff used data compiled by the California Employment Development Department⁶, which indicates that in 2019, approximate 98 percent of California businesses had fewer than 100 employees, to estimate the direct cost of this proposed regulation on California small businesses.⁷ For the At-Berth Alternative Emission Control Technology category, the cost to California small businesses is expected to be zero, because use of this technology is limited to major shipping companies and local governments. An average loan period of five years and a five percent interest rate were applied, as the vast majority of all items affected by the proposed regulation are financed.

For aftermarket parts and marine watercraft, the direct cost on California small businesses was estimated based on the percentage of manufacturers for each of these categories that are California small businesses. Using the Dunn and Bradstreet database⁸, staff estimated that 12 percent of manufacturers that certify and sell aftermarket parts in California are California small businesses and seven percent of manufacturers that receive EOs for spark ignition marine watercraft (including those that certify engines, evaporative emission control systems, and evaporative emission control components) are California small businesses.

There are only initial costs and no ongoing costs to the proposed regulation, because certification fees are paid upfront by manufacturers. The total costs to California small business purchasers are projected to be \$73.8 million and the total costs to California small business manufacturers are projected to be \$1.1 million. This leads to the total costs of \$74.9 million to all California small businesses under the Proposed Regulation. See Chapter IX in the ISOR for a 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

⁶ California Employment Development Department. 2020, Quarter 1.

https://www.labormarketinfo.edd.ca.gov/file/indsize/Chart_SOB2020_1.pdf

⁷ https://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html

⁸ Dunn and Bradstreet. Data accessed during November 2019. www.dnbi.com

cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Alternatives to the proposed rulemaking that were considered are described in the ISOR.

Environmental Analysis

CARB's determination is that the proposed amendments are exempt from the requirements of the California Environmental Quality Act (CEQA). CARB's regulatory program, which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the State's ambient air quality, has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of CEQA (14 CCR 15251(d)). Public agencies with certified regulatory programs are exempt from certain CEQA requirements, including but not limited to, preparing environmental impact reports, negative declarations, and initial studies. CARB, as a lead agency, prepares a substitute environmental document (referred to as an "Environmental Analysis" or "EA") as part of the Staff Report prepared for a proposed action to comply with CEQA (17 CCR 60000-60008). If the regulation is finalized, a Notice of Exemption will be filed with the Office of the Secretary for the Natural Resources Agency for public inspection.

CARB has determined that the proposed amendments are exempt from CEQA under the "general rule" or "common sense" exemption (14 CCR 15061(b)(3)). The common sense exemption states a project is exempt from CEQA if "the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed amendments will increase fees for the processing of Executive Orders, which are required for manufacturers to sell affected products in the State of California. The setting, collection, and administration of these fees under the proposed amendments have no potential to adversely affect air quality or any other environmental resource area. 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.

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 alterno 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 Kathleen Mead, Air Pollution Specialist, Heavy Duty In-Use Compliance Section, at (916) 324-9550 or (designated back-up contact) Jackie Lourenco, Chief, New Vehicle and Engine Programs Branch, 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: "Public Hearing to Consider the Proposed Mobile Source Certification and Compliance Fees - Staff Report: Initial Statement of Reasons"

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below on March 2, 2021. Please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices has 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 nonsubstantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. 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 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, 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/2021/mobilesourcefee2021>

California Air Resources Board



Richard W. Corey
Executive Officer

Date: February 16, 2021

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).