

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO CALIFORNIA EVALUATION PROCEDURES FOR NEW AFTERMARKET CATALYTIC CONVERTERS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to "California Evaluation Procedures for New Aftermarket Catalytic Converters."

DATE: September 28, 2017

TIME: 9:00 A.M.

LOCATION: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 28, 2017, and may continue at 8:30 a.m., on September 29, 2017. This item is scheduled to be heard on the Board's Consent Calendar. All agenda items on the Consent Calendar – unless removed upon the request of a Board member or if someone in the audience submits a request to speak card on that item – will be voted on by the Board at the beginning of the public meeting.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on August 11, 2017. Written comments not physically submitted at the hearing must be submitted on or after August 11, 2017, and received **no later than 5:00 p.m. on September 25, 2017**. ARB requests that, when possible, written and email statements be filed at least ten days before the hearing to give ARB 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: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g.,

your address, phone, 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 sections 27156, 38391 and 38395, California Vehicle Code. This action is proposed to implement, interpret, and make specific California Health and Safety Code, sections 39002, 39003, 39500, 43000, 43000.5, 43009.5, 43011, 43013, 43018, 43107, 43204, 43205, 43205.5; and sections 27156, 38391 and 38395, California Vehicle Code.

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

Section Affected: Proposed amendment to California Code of Regulations, title 13, section 2222 and to the "California Evaluation Procedures for New Aftermarket Catalytic Converters," as adopted October 25, 2007, incorporated by reference therein.

Background and Effect of the Proposed Regulatory Action:

State law generally prohibits the installation, sale, offer for sale, or advertisement of emission-related parts for motor vehicles that are not functionally identical to those installed by the original equipment manufacturer (OEM). However, California regulations allow new aftermarket catalytic converters to be used on older vehicles operating within California provided that they comply with established performance requirements. These performance requirements balance the continued need for controlling emissions from motor vehicles as they age against the cost of replacing catalytic converters on vehicles that often have a limited remaining lifetime and relatively low marketplace value.

In 2007, when California's current aftermarket catalytic converter regulations were adopted, light- and medium-duty vehicles sold in this state were required to certify to the Low-Emission Vehicle (LEV) II emission standards. However, in 2012, ARB adopted the next generation LEV III regulations. The LEV III regulations vehicles reduce emissions beyond those achieved by LEV II by establishing more stringent vehicle emission standards, which are phased-in beginning with the 2015 model year (LEV III also provided an option for early certification to these standards in model year 2014.).

Accordingly, staff is proposing amendments to the procedures it uses to evaluate and approve aftermarket catalytic converters designed for use on California passenger cars and trucks. These amendments would incorporate LEV III standards and test procedures to allow for anti-tampering exemption of aftermarket catalytic converters for sale and installation on LEV III vehicles.

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

Objectives and Benefits of the Proposed Regulatory Action:

The objective of this rulemaking is to provide manufacturers of aftermarket catalytic converters with a procedure for demonstrating that LEV III vehicles are capable of complying with the emission standards to which the vehicles were certified while equipped with a qualifying catalytic converter. Manufacturers who are able to demonstrate the capability of their aftermarket catalytic converters to preserve the benefits of California's emissions control standards would then be allowed to sell and install certified aftermarket catalytic converters on LEV III vehicles in California.

The LEV III regulations phase-in for new passenger cars and trucks up to 14,000 pounds gross vehicle weight. Starting in 2020, no new vehicles of these types will be allowed to be sold in California unless they meet LEV III emission standards. Since the current aftermarket catalytic converter evaluation procedures do not apply to LEV III vehicles, businesses that produce and sell aftermarket catalytic converters will lose an increasing portion of market share as the vehicle fleet transitions to LEV III vehicles without the proposed amendments to these procedures. Eventually, many of these companies are likely to be adversely impacted unless they are able to replace this lost income with other sources of income. These amendments will enable affected businesses to produce and sell aftermarket catalytic converters for use on LEV III vehicles if they find it to be economically advantageous. The required production quality control and warranty reporting procedures for these businesses will not be affected by these amendments.

In terms of California consumers, this regulatory action will give consumers that need to replace a catalytic converter on their vehicles the option of purchasing an aftermarket catalytic converter rather than an OEM catalytic converter. Since the price of an OEM catalytic converter is often \$500 to \$1,000 higher than an aftermarket catalytic converter, the proposed regulatory action will save consumers money, while preserving emission benefits.

To support development of this proposal, ARB staff held a public Webinar Workshop on August 24, 2016, to obtain input from industry and other stakeholders on the proposed changes to the "California Evaluation Procedures for New Aftermarket Catalytic Converters." The notice for this workshop also provided contact information for stakeholders who were interested in scheduling individual meetings to discuss these proposed changes. No comments or questions were received on the proposed changes, and no stakeholders requested to meet with staff individually. Therefore, no further workshops or meetings were conducted.

Comparable Federal Regulations:

There are no comparable federal regulations, although the United States Environmental Protection Agency (U.S. EPA) has addressed the subject of aftermarket catalytic converters by issuing an interim enforcement policy in 1986. The policy permits the sale of aftermarket converters provided they meet conversion efficiencies of at least 70

percent for hydrocarbons and carbon monoxide, and 30 percent for oxides of nitrogen. Some procedural differences currently exist; for example, ARB's regulation requires converter manufacturers to demonstrate compliance with its requirements before an approval is issued, whereas the federal requirements permit manufacturers to self-determine compliance. Since issuing its enforcement policy, U.S. EPA has thus far decided not to issue regulations specific to aftermarket catalytic converters, and has not announced any plans to do so in the near future.

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, ARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations. The purpose of this rulemaking is to incorporate aftermarket catalytic converters for LEV III vehicles into California's existing regulatory framework.

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

This regulation is not mandated by federal law or regulations.

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 not create costs or savings to any State agency or in federal funding to the State, 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.

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.

Statement of the Results of the Economic Impact Analysis/Assessment (Gov. Code, §11346.5, subd. (a)(10)):

Effect on Jobs/Businesses:

The Executive Officer has determined that a few jobs may be created by manufacturers and marketers of aftermarket catalytic converters within the State of California due to the proposed regulatory action. It would not affect 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 Staff Report: Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to give consumers that need to replace a catalytic converter on their vehicles the option of purchasing an aftermarket catalytic converter rather than an OEM catalytic converter.

A summary of these benefits is provided, please refer to "Objectives and Benefits," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion beginning on page 3.

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

In accordance with Government Code sections 11346.5, subdivision (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, for the reasons set forth in the Objectives and Benefits section above.

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

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. No manufacturer is forced to participate and only those which determine it is in the best financial interest of the company are expected to do so. If no manufacturers participate, these amendments have no cost; if all seven manufacturers choose to participate, then incurred costs will averaged approximately \$1.4 million annually. Staff estimates that approximately 110,000 LEV III aftermarket catalytic converters will be sold to the consumer during the 5-year life of the regulation at an average additional price of \$75 per catalytic converter when compared to the average price of a LEV III aftermarket catalytic converter. This would result in the total statewide costs of \$8.25 million over the 5-year life of the regulation, of which \$6.9 million will be the production cost and \$1.4 million will be manufacturers' profit. The affected manufacturers are expected to be able to recover their cost along with a 20 percent mark-up because their product prices will still be significantly below the OEM's product prices.

The price of an OEM catalytic converter is often \$500 to \$1,000 higher than an aftermarket catalytic converter. Therefore, based on staff's estimate that approximately 22,000 LEV III converters will be sold annually, the avoided cost (savings) for California customers to replace defective catalytic converters would be between \$55 million to \$110 million, or \$83 million on average, during the 5-year life of the regulation.

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. However, the Board has not identified any alternatives that would lessen any adverse impact on small business. This is the best alternative for small businesses, because the proposed amendments are voluntary and only impose minimal costs on these businesses if they choose to participate. Alternatively, the proposed amendments benefit small businesses by enabling them to continue selling aftermarket catalytic converters as alternatives to OEM catalytic converters as the vehicle fleet transitions from LEV II vehicles to LEV III vehicles. These small businesses are expected to pass on the costs to the consumer at a 20 percent mark-up because their product prices will still be significantly below the OEMs' product prices.

Alternatives Statement (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.

ENVIRONMENTAL ANALYSIS

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

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 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 (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Mr. Tony Martino, Manager, Aftermarket Parts Section, at (626) 575-6848 or (designated back-up contact) Mr. Richard Carranza, Air Resources Engineer, Aftermarket Parts Section, at (626) 450-6111.

AVAILABILITY OF DOCUMENTS

ARB 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 California Evaluation Procedures for New Aftermarket Catalytic Converters."

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 ARB's website listed below or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on August 8, 2017.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Mr. Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Board may also approve for adoption 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 ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

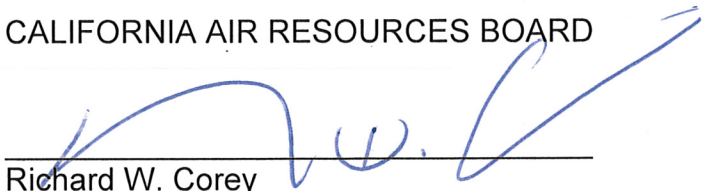
FINAL STATEMENT OF REASONS AVAILABILITY

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 ARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2017/amcat2017/amcat2017.htm>

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: July 25, 2017

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.