

PROPOSED

State of California
AIR RESOURCES BOARD

**AMENDMENTS TO CALIFORNIA EVALUATION PROCEDURES FOR NEW
AFTERMARKET CATALYTIC CONVERTERS**

Resolution 17-26

September 28, 2017

Agenda Item No.: 17-9-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (ARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, in section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the State, and sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility of air pollution control from motor vehicles;

WHEREAS, section 43011 of the Health and Safety Code authorizes the Board to establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices;

WHEREAS, sections 27156, 38391, and 38395 of the California Vehicle Code prohibit the installation, sale, offer for sale, or advertisement of any device, apparatus, or mechanism intended for use with or as part of any required motor vehicle pollution control device or system that alters or modifies the original design or performance of any such motor vehicle pollution control device or system unless the Board finds that the device, apparatus, or mechanism either does not reduce the effectiveness of any required motor vehicle pollution control device or does not result in emissions from a modified vehicle that exceed the applicable emission standards for the vehicle;

WHEREAS, California's current regulations governing aftermarket catalytic converters, adopted in 2007, require a manufacturer of aftermarket catalytic converters to demonstrate, through emission testing, that the test vehicles are capable of complying with the emission standards to which the vehicles were originally certified when equipped with an aftermarket catalytic converter;

WHEREAS, the Low-Emission Vehicle II (LEV II) emission standards phased-in for new light- and medium-duty vehicles beginning with the 2004 model year;

WHEREAS, in 2007 all new light- and medium-duty vehicles sold in California were required to certify to the LEV II emission standards;

WHEREAS, California's current regulations governing aftermarket catalytic converters can only be used to demonstrate compliance with LEV II or less stringent emission standards;

WHEREAS, in 2012, ARB adopted the next generation LEV III regulations, which reduce vehicle emissions beyond those achieved by LEV II;

WHEREAS, there currently are no procedures for evaluating new aftermarket catalytic converters for LEV III vehicles, and therefore the only option for replacing a LEV III vehicle catalytic converter is to purchase a new original equipment manufacturer catalytic converter;

WHEREAS, staff has proposed amendments to section 2222, Title 13, California Code of Regulations, and to the "California Evaluation Procedures for New Aftermarket Catalytic Converters," as set forth in Appendix A and Appendix B, respectively, to the Staff Report released to the public on August 8, 2017;

WHEREAS, the proposed amendments will allow these procedures to be used for evaluating new aftermarket catalytic converters for LEV III vehicles, thereby expanding the catalytic converter replacement options available to LEV III vehicle owners by allowing the purchase of new aftermarket catalytic converters;

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter V of the Staff Report;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board finds that:

The proposed amendments will benefit California businesses and consumers by allowing aftermarket catalytic converters for LEV III vehicles to be sold in this state;

There are no air quality impacts of the proposed amendments, because these changes set forth requirements for demonstrating that a replacement aftermarket catalytic converter will enable a vehicle to meet the emission standards to which it was originally certified;

The proposed amendments meet the statutory requirement to establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices identified in section 43011 of the Health and Safety Code;

The proposed amendments were developed in an open public process, in consultation with affected parties, through one public workshop, individual meetings, and other outreach efforts, and these efforts are expected to continue;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of ARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation; and

The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the proposed amendments to section 2222, Title 13, California Code of Regulations, as set forth in Attachment A, and the proposed amendments to the "California Evaluation Procedures for New Aftermarket Catalytic Converters," as set forth in Attachment B.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present

the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15-day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by ARB's regulations at California Code of Regulations, title 17, sections 60000-60007, and prepare written responses to any comments received regarding such environmental analysis raising significant environmental issues as necessary, to present to the Board for approval along with the final regulation.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that the Executive Officer shall, to the extent necessary, upon adoption, forward the regulations to the Environmental Protection Agency with a request for a waiver or confirmation that the regulations are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the Clean Air Act, as appropriate.

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Identification of Attachments to the Board Resolution

Attachment A*: Proposed modifications to the regulation “Add-on Parts and Modified Parts,” section 2222, Title 13, California Code of Regulations, as set forth in Appendix A to the Staff Report: Initial Statement of Reasons, released August 8, 2017.

Attachment B: Proposed modifications to the “California Evaluation Procedures for New Aftermarket Catalytic Converters,” as set forth in Appendix B to the Staff Report: Initial Statement of Reasons, released August 8, 2017.