PROPOSED

State of California
AIR RESOURCES BOARD

PROCEDURES FOR EXEMPTION OF ADD-ON AND MODIFIED PART(S) FOR ON-ROAD VEHICLES/ENGINES

Resolution 20-21

July 23, 2020

Agenda Item No.: 20-7-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB 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 found and declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and, in sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically addressing the serious air pollution problem caused by motor vehicles;

WHEREAS, in section 43000.5 of the Health and Safety Code, the Legislature has further found and declared that the attainment and maintenance of air quality standards will necessitate the achievement of substantial improvements in the durability of vehicle emissions systems;

WHEREAS, California Vehicle Code section 27156 prohibits a person to install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle or engine pollution control device or system that alters or modifies the original design or performance of the motor vehicle or engine pollution control device or system;

WHEREAS, CARB may exempt add-on or modified part(s) from the prohibitions of California Vehicle Code section 27156, when it determines the parts do not reduce the effectiveness of the emissions control system and will not result in emissions that exceed the applicable model-year emission standards or comparative baseline levels for applicable vehicles or engines;

WHEREAS, an add-on or modified part is any component or device used on a vehicle or engine that may impact emissions or emission controls and that was not part of that vehicle or engine when it was originally certified by CARB for sale in California;

WHEREAS, the existing “Procedures for Exemption of Add-On and Modified Parts” adopted November 4, 1977, amended May 19, 1981, and last amended June 1, 1990, provided the process for aftermarket parts manufacturers to submit an application for exemption and for CARB to review and issue an exemption from the prohibitions of California Vehicle Code section 27156;

WHEREAS, staff is proposing to amend California Code of Regulations, title 13, sections 2222 and 2224 to incorporate the proposed new Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines, as set forth in Appendix A and Appendix B, respectively, to the Initial Statement of Reasons (ISOR) released to the public on June 2, 2020;

WHEREAS, the proposed new procedures continue to provide a pathway for the industry to demonstrate that their products do not reduce the effectiveness of any required emission control device and will not result in emissions that exceed the applicable model-year emission standards or comparative baseline levels for applicable vehicles or engines, or negatively impact On-Board Diagnostic systems of California certified vehicles and engines;

WHEREAS, the proposed new procedures are expected to provide clarity and efficiencies that will specify information manufacturers must submit in applications and minimum testing requirements that aftermarket parts manufacturers would perform to demonstrate compliance with the California Vehicle Code section 27156 exemption process;

WHEREAS, staff expects that the proposed new procedures would result in faster turnaround for the review and processing of submitted applications and a pathway for manufacturers to bring product to market faster;

WHEREAS, the proposed new procedures would update CARB’s California Vehicle Code section 27156 exemption process to be more relevant to today’s vehicle and engine technologies, providing CARB staff better information to accurately and efficiently process applications;

WHEREAS, CARB’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 CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60008);

WHEREAS, staff has determined that the proposed amendments and new Procedures for the Exemption of Add-On and Modified Part(s) for On Road Vehicles/Engines is 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 VII 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; and

WHEREAS, the Board finds that:

> The proposed new procedures were developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;
>
> No reasonable alternatives to the proposed new procedures considered to date, or that have otherwise been identified and brought to the attention of CARB, 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;
>
> The proposed new procedures are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income; and
>
> 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 amendments to sections 2222 and 2224 and incorporated procedures, Article 2, Chapter 4, Division 3, Title 13, California Code of Regulations.

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 CARB's regulations at California Code of Regulations, title 17, sections 60000-60008, and prepare written responses to any comments received 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 directs the Executive Officer to determine if additional conforming modifications to the proposed new procedures are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to amend the regulations, and incorporate the new Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines. 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 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.

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Identification of Attachments to the Board Resolution

Attachment A*: Proposed Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines sections 2222 and 2224, Title 13 California Code of Regulations, Article 2, Chapter 4, Division 3, as set forth in Appendix A and B to the Initial Statement of Reasons, released June 2, 2020**.**