

JAMES MATTESICH
(916) 442-1111
mattesichj@gtlaw.com

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Tom Cackette
Acting Executive Director
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments in Opposition to Proposed Amendments to Regulations Regarding Used Catalytic Converters (Title 13, CCR section 2222(i))

Dear Mr. Cackette:

As you know, we represent DEC Tested Products, a Van Nuys, California small business. DEC provides tested, recycled catalytic converters to repair shops in California, who in turn provide them to California car owners. DEC respectfully asks that the Board not adopt the proposed amendments to Title 13, CCR section 2222(i), which would end the tested, recycled catalytic converters market in California.

DEC has operated, under an Executive Officer exemption order pursuant to existing CARB regulations for many years. DEC and other similar businesses, exist for 2 reasons:

1. Tens of thousands of California automobile owners cannot afford to replace defective catalytic converters with new OEM converters or aftermarket converters, even if those products are available.
2. There are no OEM or approved aftermarket converters available for thousands of drivers of 1996 to 2007 OBD II models of cars, foreign and domestic, currently on California highways.

The fiscal impact of these proposed regulations will disproportionately impact low income communities and drivers, those who can least afford to purchase new parts from dealers.

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The total California OBD II catalytic converter replacement market is approximately 230,000 converters per year. Of this, approximately 50,000 are tested, recycled OEM converters. Almost 95% are replaced on vehicles which do not have a California legal aftermarket product available to them.

DEC's 77 top OBD II recycled OEM converters are attached hereto as Exhibit A. The tested, recycled under-car converters most sold by DEC are for 1996-2005 Honda Civics. There are no aftermarket legal under-car converters for these vehicles in California. Moreover, there are 11,667 total OBD II catalytic converter models or "applications". There are only 2,226 currently CARB approved OBD II aftermarket applications, or 19%. In other words, 81% of the OBD II California marketplace does not have a CARB certified aftermarket catalytic converter available to consumers. A copy of that list of 8,866 models is attached hereto as Exhibit B. Owners of these cars will no longer have a tested, recycled OEM catalytic converter option available under these proposed amendments. Many of these owners cannot afford to pay the price for a new OEM converter from a dealer.

The adoption of this proposal, given the lack of OEM and approved aftermarket parts, will adversely impact air quality.

Tens of thousands of California drivers who currently replace defective, polluting catalytic converters "because the light came on", with recycled OEM converters, will instead drive their cars without a properly functioning converter until their next smog check requires a different decision. That period of time for adverse air quality impact may be several months to even years.

To our knowledge, the Board has not evaluated the environmental impact this proposal will thus have on air quality under the requirements of the California Environmental Quality Act (CEQA), Public Resources Code §§ 21000 et. seq. For that reason alone, this proposal should not be adopted.

The proposal fails to meet the "necessity" requirements of the California Administrative Procedures Act.

The staff report for this proposal states (at pages 7 and 9):

"Staff believes that continued availability of used OEM catalytic converter would only be appropriate if they are individually tested to demonstrate that their emission performance is comparable to the proposed requirements for new aftermarket catalyts. However, staff is not aware of any economically feasible screening test that can reliably demonstrate that a current technology vehicle will operate within its emission standards for 50,000 miles of vehicle operation

when a used converter is installed. Further discussion of the considerations behind staff's proposal for used converters is presented in detail below."...

"Raising the screening requirements to test used converters for comparable levels of performance regardless of costs is a regulatory possibility; however, staff believes the used converter provisions would be economically infeasible. Moreover, merely having such requirements might mislead the public that a used OEM converter business is viable in California."

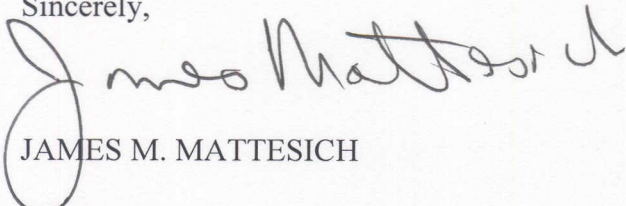
Staff "believes" without factual support in the record of this proceeding is merely speculation and does not meet the requirements of Government Code sections 11349 and 11349.1 wherein the "necessity" for this proposal must be demonstrated by facts.

The Board should allow a regulatory pathway for the continued sale of recycled OEM converters where companies like DEC can demonstrate, by verifiable testing, that their emission performance is reasonably comparable to the proposed requirements for new aftermarket catalysts.

This Board has traditionally told regulated entities that they must strive to be innovative and creative, and meet technological challenges. It is ironic that this proposal would now end an opportunity for DEC and others to do just that, by prohibiting them from attempting to meet the challenge of creating a testing procedure for recycled OBD II catalytic converters which is reasonably "comparable" to aftermarket products. The Board should not close the door to testing technology because staff "believes" such used converter provisions would be economically infeasible.

We respectfully request that the Board amend this proposal to allow companies who can create a verifiable testing protocol, with reasonable comparability to aftermarket converters, to continue their businesses under an appropriate Executive Officer issued exemption.

Sincerely,



JAMES M. MATTESICH

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