

## UPDATED INFORMATIVE DIGEST

### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED CALIFORNIA EVALUATION PROCEDURE FOR NEW AFTERMARKET DIESEL PARTICULATE FILTERS INTENDED AS MODIFIED PARTS FOR 2007 THROUGH 2009 MODEL YEAR ON-ROAD HEAVY-DUTY DIESEL ENGINES**

**Sections Affected:** Proposed amendment to California Code of Regulations, title 13, section 2222 and proposed document incorporated by reference: California Evaluation Procedure for New Aftermarket Diesel Particulate Filters Intended as Modified Parts for 2007 Through 2009 Model Year On-Road Heavy-Duty Diesel Engines.

**Background and Effect of the Proposed Rulemaking:** California Vehicle Code section 27156 generally prohibits the sale, offer for sale, advertisement, or installation of any devices that alter the design or performance of any required motor vehicle pollution control device or system. ARB has the statutory authority to exempt non-original equipment components from this prohibition if it determines that such components will not reduce the effectiveness of any required pollution control device or would not cause vehicle emissions to exceed applicable standards. Under this authority, ARB has adopted regulations applicable to aftermarket parts and has adopted provisions specifically applicable to aftermarket catalytic converters for passenger cars and light-and medium-duty vehicles, and to aftermarket critical emission control parts for on-highway motorcycles. Emission control devices (e.g., diesel particulate filters (DPF)) to control emissions from on-road heavy-duty diesel engines and vehicles have not been previously addressed. Consequently, ARB's existing aftermarket parts provisions are not directly applicable to non-original equipment manufacturer (OEM) aftermarket emission control devices for on-road heavy-duty diesel engines, like diesel oxidation catalysts, DPFs, and selective catalytic reduction.

**Description of Regulatory Action:** At the Board's April 22, 2016 public hearing for the proposed regulation, the Board adopted the amended regulation, summarized below, as it was noticed on March 4, 2016 in the California Notice Register and as set forth in the Staff Report: Initial Statement of Reasons released on March 3, 2016.

In this rulemaking action, ARB staff proposes the Board approve for adoption an evaluation procedure that establishes the criteria for assessing whether aftermarket DPFs for 2007 through 2009 model year on-road heavy-duty diesel engines meet the criteria to be exempted from the anti-tampering prohibitions of Vehicle Code section 27156. Because of the unique characteristics of DPFs, the proposed procedure not only considers the basic concepts of modified parts (i.e., no reduction to engine/vehicle effectiveness and does not cause emissions to exceed applicable standards), but also includes: provisions to ensure aftermarket DPFs are effective emission control devices, including but not limited to, safety considerations; a detailed submission, review, and approval process; and protections for the end user, which include warranty, audit, and recall with required recordkeeping. The proposed regulatory amendment requires that the product be warranted to be free from defects for two years from the date of installation.

Additionally, installers would be required to provide an installation warranty for two years from the date of installation.

The proposed procedure will provide manufacturers that elect to manufacture aftermarket DPFs a legal pathway to market and sell such devices and will provide consumers a lower cost option than purchasing new OEM DPFs. Although participation in this program would be voluntary, in that no manufacturers would have to manufacture aftermarket DPFs, several companies have already expressed interest in the proposal.

The proposed evaluation procedure is solely applicable to aftermarket DPFs, and is not designed to address the unique considerations applicable to other emission controls used on heavy-duty diesel engines, such as diesel oxidation catalysts or selective catalytic reduction systems.

The most significant benefit to this procedure is to the end users, which include those regulated by ARB fleet rules. The proposed regulatory amendment would introduce flexibility to the marketplace, allowing end users more choice in obtaining a replacement for their OEM DPF. Due to marketplace competition, aftermarket DPFs are expected to sell for a lower price than OEM DPFs, thus providing a cost savings to the end user. The availability of a lower cost DPFs may cause more timely replacement of failed DPFs, ensuring continued emission benefits.

**Comparable Federal Regulations:**

The United States Environmental Protection Agency (U.S. EPA) has adopted regulations applicable to aftermarket parts in the Code of Federal Regulations, title 40, part 85. However, these regulations establish only a voluntary self-certification program. In contrast, ARB's aftermarket parts regulations require aftermarket part manufacturers to receive and obtain an exemption before they can sell parts in California.

Any aftermarket emission control device is covered under U.S. EPA's 1974 "Interim Tampering Enforcement Policy" (Memo 1A). Aftermarket catalytic converters are legal for sale federally under an enforcement policy established by U.S. EPA in 1986, but the policy does not constitute a regulation. This policy addressed issues regarding aftermarket converters for light-duty vehicles and light-duty trucks, but not aftermarket emission control devices for diesel engines such as diesel particulate filters.