

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF CERTIFICATION PROCEDURES FOR ALL AFTERMARKET PART AND CONVERSION SYSTEMS FOR OFF-ROAD VEHICLES, ENGINES, AND EQUIPMENT

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider the adoption of regulations of certification procedures for all new aftermarket part and conversion systems for off-road vehicles, engines, and equipment.

DATE: November 19, 1998

TIME: 9:30 a.m.

PLACE: Air Resources Board
Hearing Room, Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., November 19, 1998, and may continue at 8:30 a.m., November 20, 1998. This item may not be considered until November 20, 1998. Please consult the agenda for the meeting, which will be available at least 10 days before November 19, 1998, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the Clerk of the Board at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, by November 5, 1998.

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: The proposed adoption of new certification procedures for aftermarket parts for off-road vehicles, engines, and equipment--new chapter and sections: Article 7, sections 2470-2476, title 13, California Code of Regulations (CCR).

Amendment of the following chapter and sections of title 13, CCR, and the documents incorporated by reference therein: Chapter 9, Off-Road Vehicles and Engines Pollution Control Devices; Article 1, Small Off-Road Engines, section 2405; Article 4, Heavy-Duty Off-Road Diesel Cycle Engines, section 2425.

The California Clean Air Act as codified in the Health and Safety Code sections 43013 and 43018 grants the ARB authority to regulate off-road mobile sources categories. Included are marine vessels, utility engines, off-road motorcycles, and off-highway vehicles.

Currently, off-road regulations adopted by the Board prohibit the use of add-on or modified parts. In addition, Vehicle Code (VC) sections 27156 and 38391 prohibit the advertisement, sale, or installation of such parts on most off-road mobile sources. VC sections 27156 and 38391 authorize the ARB to exempt add-on or modified parts from the VC prohibitions only if such parts:

- 1) do not reduce the effectiveness of any required emission control devices; or,
- 2) do not cause the modified vehicle/engine/equipment to exceed applicable emission standards.

In order to ensure that aftermarket part and converter kit manufacturers are not precluded from selling add-on or modified parts in the off-road categories, staff is proposing to adopt an anti-tampering provision analogous to the provisions in VC sections 27156 and 38391, but which would apply uniformly to all categories of off-road mobile sources. This would help ensure that the proposed aftermarket certification procedures are consistently and fairly applied to all categories of off-road mobile sources. Staff believes that the proposed regulations will provide appropriate guidelines for manufacturers and encourage standardization in this industry which will benefit both manufacturers and purchasers.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

Staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and/or is also contained in the staff report for this regulatory action. The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below.

To obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 322-4505, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area. Further inquiries regarding this matter should be directed to Subhadra (Su) V. Nathan, Air Pollution Specialist, (626) 575-6671 or Air Resources Board, Mobile Source Control Division, 9528 Telstar Avenue, El Monte, CA, 91731.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), 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 pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other nondiscretionary savings to local agencies.

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Finally, the Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the elimination of jobs or elimination of existing businesses within the State of California. The Executive Officer has determined that the proposed action may create jobs, may create new businesses, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Board's Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(b), that the regulations will affect small businesses.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P. O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, November 18, 1998, or received by the Clerk of the Board at the hearing.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board 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.

STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in sections 39515, 39516, 39600, 39601, 43013, 43018, 43101, 43102 and 43104 of the Health and Safety Code, and sections 38390, 38391 and 38395 of the Vehicle Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39500, 43000, 43000.5, 43013, 43017, 43018, 43101, 43102 and 43205.5 of the Health and Safety Code, and sections 38391 and 38395 of the Vehicle Code.

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt 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 that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: September 22, 1998