

Notice of Public Availability of Modified Text

Proposed Mobile Source Certification and Compliance Fees

Public Hearing Date: April 22, 2021
Public Availability Date: May 24, 2021
Deadline for Public Comment: June 8, 2021

At its April 22, 2021, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed chapter 16, articles 1 through 7, sections 2900 through 2914, title 13, California Code of Regulations, which establish mobile source certification and compliance fees, and the proposed repeal of chapter 1, article 2.5, sections 1990, 1991, 1992, 1993, and 1994, title 13, California Code of Regulations.

At the hearing, staff presented modified regulatory language developed in response to comments received since the Initial Statement of Reasons was released to the public on March 2, 2021. These modifications include (1) allowing an applicant to receive a refund rather than a credit if an application is withdrawn or if overpayment of fees occurs (2) clarifying modifications to definitions, and (3) establishment of additional reduced-fee application categories. Staff also communicated its intention to provide the Board with a report on the impact of the regulations on the process and timeliness associated with aftermarket part reviews once fully implemented, and to include expected timelines for the entirety of the executive order exemption process in the application guidance provided to aftermarket parts manufacturers.

The Board directed the Executive Officer to make the modified regulatory language, and any additional conforming modifications, available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to 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, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

The resolution and all other regulatory documents for this rulemaking are available online at the following [CARB website](https://ww2.arb.ca.gov/rulemaking/2021/mobilesourcefee2021):
<https://ww2.arb.ca.gov/rulemaking/2021/mobilesourcefee2021>

The text of the modified regulatory language is shown in Attachment A. The originally proposed new regulatory language is shown without underline for easier reading just as it was posted during the initial 45-day comment period. The suggested modifications to the proposed regulation that are made public with this notice are shown in ~~double strikethrough~~ and double underline format, respectively.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment A.

Summary of Proposed Modifications

The following is a summary of the modifications staff is proposing in this 15-day notice to respond to comments received during the 45-day comment period and at the board hearing, correct erroneous regulatory language, and add four new fee categories in section 2904.

1. In section 2901, staff proposes to modify the definitions of “carry-over” and “partial carry-over” to specify that the portions of an application that pertain to compliance with on-board diagnostic requirements, as set forth in sections 1968.2 and 1971.1, are allowable changes within the definitions of “carry-over” or “partial carry-over.” This proposed change is needed to clarify the portions of an application that will be considered when determining eligibility for these types of reduced-cost application fees. The proposed change is in response to 45-day comments asking for additional clarity on the originally proposed definitions. The change would make clear that manufacturers would be able to submit carry-over or partial carry-over applications even if the on-board diagnostic (OBD) portion of the application is not identical to previous year applications. This change is reflective of existing practice where manufacturers submit the OBD portion of the application as a separate document and in recognition that year-to-year changes to this portion of the application are very common. Not allowing changes to the OBD portion of the application would prevent the use of these fee types for a significant percentage of applications that would otherwise satisfy the requirements.
2. In section 2901, staff proposes to delete the definition of a “fee credit” to align with proposed changes to section 2902 that would replace “fee credit” with “fee refund.” It is not necessary to define “fee credit” because that term is no longer used in the modified regulatory language.
3. In section 2901, staff proposes to modify the definition for “receipt of payment” to align with proposed changes in section 2902 that would replace “fee credit” with “fee refund.” Therefore, applicants that satisfy the eligibility criteria for receiving a fee credit, in accordance with section 2902 as originally proposed, would instead be eligible to receive a fee refund under the proposed

changes. This change is necessary because of the term “fee credit” is no longer used in the modified regulatory language.

4. In section 2902, staff proposes to modify the fee credit provisions to instead provide a refund of application fees submitted by an applicant. This proposed change is in response to 45-day comments that request applicants be allowed to receive a refund as an alternative to a fee credit. In evaluating the feasibility of this proposal, staff determined that implementing both a fee credit and a fee refund process would be inefficient and unreasonably complex for both applicants and staff to implement. Therefore, the modified regulatory language replaces the fee credit process with a fee refund process. All eligibility criteria are identical to the original proposed regulation, except that a refund will also be available upon request in the case of an overpayment. The proposed 15-day language change also fixes an incorrect subdivision citation in the fee refund table. It was shown in the originally-proposed regulation as “subdivision (4),” but is now correctly shown as “subdivision (a)(4).”
5. In section 2903, staff proposes to modify the definition of a “Low California production for sale engine family.” Under the revised definition, manufacturers that historically produce 2,500 or fewer on-road motorcycles for sale in California may submit up to six low California production for sale engine family applications per model year. This change is in response to 45-day comments from the motorcycle industry. Industry’s concern is that some on-road motorcycle manufacturers produce a number of low volume models that are typically targeted to the entry level motorcyclists. For these types of motorcycles, the originally proposed certification and compliance fee would have an impact on product pricing that is much too great for commercial viability. In this case, staff is proposing 15-day changes to expand our proposal to include reduced fee amounts for three additional low production engine families for lower production manufacturers. The production limit and the number of engine families eligible for the reduced fee provides a reasonable balance between the commercial viability of these product lines and purpose of the proposed regulation.
6. Staff is also proposing to add four new definitions to section 2903 that cover specially constructed vehicles and engine packages. These changes are necessary in order to establish additional reduced-fee application types that were not included in the originally proposed regulation. Under the original proposal, manufacturers of these types of vehicles would be required to pay the same application fees as other on-road vehicles. However, CARB staff recognized that a different fee structure was needed for the approval of applications for these types of vehicles to more accurately reflect the different level of staff work required to review these applications compared to regular on-road vehicle applications. The new definitions are necessary to clearly define the categories subject to the proposed fees by referencing existing certification regulations and certification procedures.
7. In section 2904, staff proposes to modify the tables in subsections (a)(1), (a)(2), and (a)(3) to add the fees that would apply to the four special construction

categories newly defined in section 2903. As stated above, these categories of applications require fewer staff resources to review, approximately 50 percent, and the proposed fees are reflective of this. These fees will be phased-in for model years 2023 and 2024 to match the other on-road fee categories to reduce the initial cost burden to manufacturers, except for the carry-over and zero-emission fee types, which are already discounted to 25 percent of the base fee. The "SPCNS certified engine package extension" and "SPMV manufacturer" fees require substantially less staff time to review and therefore a fee of \$1,000 is proposed with no additional low cost fee types or phase-in period.

8. In section 2905, the definition for a "zero-emission golf cart" has been corrected. The originally proposed language erroneously referenced a definition of "zero emission off road vehicle" in section 2411. This has been corrected to reference the definition of "golf cart" in that section and to add a reference to "zero emission" as defined in section 2902. This is necessary because the definition of "zero emission off road vehicle" in section 2411 specifically excludes golf carts. Staff is also proposing to correct "standards" to "certification requirements" to more accurately reflect the certification requirements for golf carts contained in Title 13, Division 3, Chapter 9, Article 3.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Kathleen Mead, Air Pollution Specialist, Heavy Duty In-Use Compliance Section, at (916) 324-9550 or (designated back-up contact) Jackie Lourenco, Chief, New Vehicle and Engine Programs Branch, at (626) 450-6152.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

[Electronic submittal:](https://www.arb.ca.gov/lispub/comm/bclist.php) <https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only

comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

California Air Resources Board



Richard W. Corey
Executive Officer

Date: May 24, 2021

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).