



AIR QUALITY CONTROL ADVISORY COUNCIL

AGENDA

June 8, 2015
8:15 a.m.

Montgomery Park
Aeris Conference Room, 1st Floor
1800 Washington Boulevard
Baltimore, Maryland 21230

8:15 a.m. Welcome and Introductions John Quinn, Advisory Council Chair
Tad Aburn, Air Director

8:20 a.m. Approval of Meeting Minutes John Quinn

Action Items for Discussion/Approval:

8:30 a.m. Procedures for Obtaining Permits to Construct
Certain Significant Sources Karen Irons
COMAR 26.11.02.11

9:00 a.m. After-Market Catalyst Karl Munder
COMAR 26.11.20.07

Briefing:

9:30 a.m. Control of NO_x Emissions from Coal-Fired
Electric Generating Units Tad Aburn
COMAR 26.11.38

10:00 a.m. Distributed Generation Reporting Rule Tad Aburn
COMAR 26.11.36

10:30 a.m. Adjourn

Next Meeting Dates

September 21, 2015
December 7, 2015



Facts About...

Amendments to COMAR 26.11.02.11- Procedures for Obtaining Permits to Construct Certain Significant Sources

Purpose of Amendments

The primary purpose of these amendments is to implement the new statutory requirements of Senate Bill 1065 which were effective on January 1, 2010. The amendments also incorporate requirements of House Bill 554 and House Bill 95, both of which were effective October 1, 2013.

Background

Senate Bill 1065 expanded standing for challenges to most of the Department's major permits and substituted direct judicial review for the previous contested case process for those same permits. The most significant impact on the Department's permitting process was the elimination of the Office of Administrative Hearings' (OAH) adjudicatory hearing process. Instead, permits issue and are effective upon a final determination and citizens contesting the issuance of a permit must appeal directly to circuit court. While the Department continues to follow many of the previous procedures governing issuance of permits, the new law required some regulatory and procedural changes.

House Bill 554 requires the Department to notify elected officials of permit proceedings within a one mile radius of a source subject to the expanded public participation requirements. Elected officials include mayors, county officials and state legislators.

House Bill 95 established an alternate public participation process for sources subject to expanded public participation solely because they trigger EPA New Source Performance Standards (NSPS). NSPS sources, which are also listed State permit to operate sources, are not affected by House Bill 95; these sources continue to be subject to expanded public participation requirements. Examples of NSPS only sources include small combined heat and power facilities and medium size boilers.

Sources Affected and Location

These amendments affect the entire State of Maryland.

Requirements

These amendments implement the requirements of Senate Bill 1065, House Bill 554, and House Bill 95 as discussed above.

Expected Emissions Reductions

These amendments solely affect the administrative permit issuance process. These amendments do not change any applicable requirements as they relate to air emissions; therefore, there are no expected emissions reductions.

Economic Impact on Affected Sources and the Department

The purpose of these amendments is to ensure that Code of Maryland Regulations (COMAR) are consistent with State statutes that are currently in effect and have been in effect since January 1, 2010 and October 1, 2013. The changes to the State Statute eliminated the public's opportunity to request a contested case hearing on a proposed air quality permit to construct. Instead, the public may seek judicial review. In addition, the Department has been implementing the requirements of House Bill 95 and House Bill 554 since October 1, 2013.

Economic Impact on Small Businesses

The impact to small businesses will be the same as on all affected sources. Any impact will be minimal since it is even less likely that air quality permits to construct for small business will be subject to judicial review. The requirements of House Bill 554 are implemented by the Department. The requirements of House Bill 95 would have a positive impact on small business since if a small business is impacted it would now be subject to a more streamlined permit process.

Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

Is there an Equivalent Federal Standard to this Proposed Regulatory Action?

- No

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 02 Permits, Approvals, and Registration

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, and 2-401—2-404, Annotated Code of Maryland

.07 Procedures for Denying, Revoking, or Reopening and Revising a Permit or Approval.

A. [Notification of Denial; Hearings. A denial of a permit to construct, an approval, a State permit to operate, or the State-only enforceable provisions of a Part 70 permit shall be served as summonses are served or by certified mail upon the applicant, and is final unless the applicant requests a hearing before the Department within 15 days after service. When a hearing is requested by the applicant, it shall be held pursuant to the contested case provisions of State Government Article, Title 10, Subtitle 2, and Environment Article, §2-605, Annotated Code of Maryland.] *Denial of Approvals, State Permits to Operate or State-Only Enforceable Provisions of a Part 70 Permit.*

(1) *Denial is final unless the applicant requests a hearing before the Department within 15 days after service.*

(2) *When a hearing is requested by the applicant, it shall be held pursuant to the contested case provisions of State Government Article, Title 10, Subtitle 2.*

(3) *Denials shall be served as summonses are served, or by certified mail upon the applicant.*

B. Denial of Permits to Construct.

(1) *A denial of a permit to construct a source, except for a permit to construct a source subject to Regulation .12 of this chapter, is a final determination subject to judicial review in accordance with Regulation .11M of this chapter.*

(2) *Notice of the denial of a permit to construct shall be given in accordance with the notice of final determination provisions in Regulation .11L of this chapter.*

[B.]C. **Revoking or Reopening a Permit.** Except as protected by a permit shield provided in accordance with COMAR 26.11.03.23, the Department may issue an order revoking or reopening a State permit to operate, or the State-only enforceable provisions of a Part 70 permit, for violation of a provision of the permit or this subtitle. An order revoking or reopening a permit shall be served as summonses are served or by certified mail upon the permittee, and is final unless the permittee requests a *contested case* hearing [before the Department] within 15 days after service. When a hearing is requested by the permittee, it shall be held pursuant to the contested case provisions of State Government Article, Title 10, Subtitle 2[, and Environment Article, §2-605, Annotated Code of Maryland].

.11 Procedures for Obtaining Permits to Construct Certain Significant Sources.

A. Applicability.

(1) The owner or operator of a source shall comply with the procedures in this regulation when applying for a permit to construct for any of the activities listed in §A(2) of this regulation at any source:

(a) (text unchanged)

(b) Subject to federal new source performance standards at 40 CFR 60, national emission standards for hazardous air pollutants at 40 CFR 61, or prevention of significant deterioration requirements at 40 CFR §52.21;

(c)-(d) (text unchanged)

(2) (text unchanged)

(3) *Before issuing a permit to construct for any of the activities listed in §A(2) of this regulation, at a source that is subject to federal new source performance standards under 40 CFR 60, the Department shall either comply with the provisions of sections E – N of this regulation, or with the following procedures:*

(a) *Electronically post a notice of an application for the permit on the Department's web site in accordance with § 1-602(B)(2) of the Environment Article of the Annotated Code of Maryland;*

(b) *Give notice to the Chief Executive of any County or Municipal Corporation in which any portion of the source is located or is proposed to be located; and*

(c) *Receive comments from the public on the permit application.*

B. Exception for an Approval and for Certain Control Equipment. Notwithstanding the requirements of §A, this regulation does not apply to:

(1) (text unchanged)

(2) [A source that constitutes] *The construction or installation of air pollution control equipment for which a permit to construct is required, as provided in Regulation .09 of this chapter, and that will control an existing source.*

C. — D. (text unchanged)

E. Notice of Application; Informational Meeting.

(1) *The Department shall require the applicant to send to a newspaper for publication a notice regarding the application that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland. As determined by the Department, the notice shall provide for an informational meeting or an opportunity for the public to request an informational meeting within 10 days of publication of the notice. If the Department decides to hold an informational meeting because of requests for a meeting, the Department shall publish or require the applicant to publish a notice regarding the informational meeting that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland. Unless the Department determines otherwise, notice of an informational meeting shall be published not later than 10 days before the meeting is held.*

(2) *In addition to the requirements under paragraph (1) of this section, on receipt of an application for a permit to construct subject to this regulation, the Department shall give notice immediately or require the applicant to give notice immediately of the application, by certified mail, to:*

(a) The governing body of each county or municipal corporation in which any portion of the source is located or is proposed to be located;

(b) The governing body of each county or municipal corporation within one mile of the property line of the source or the proposed location of the source;

(c) Each member of the General Assembly representing any part of a county in which any portion of the source is located or proposed to be located; and

(d) Each member of the General Assembly representing any part of each county within one mile of the property line of the source or the proposed location of the source.

F. -- G. (text unchanged)

H. Tentative Determination.

(1) *The Department shall prepare a tentative determination regarding the application. The content of the tentative determination shall include:*

[(1)] (a) — [(4)] (d) (text unchanged)

[(5)] (e) If the tentative determination is to issue the permit, a draft permit, which [will] shall be available to the public for inspection and copying.

(2) *In addition to the content of the tentative determination, the following documents shall be made available to the public for inspection and copying no later than the date of issuance of the tentative determination:*

(a) The permit application and all supporting documents submitted with the application;

(b) All non-privileged documents the Department relied upon in making the tentative determination; and

(c) A privilege log that identifies all withheld documents and states the reasons for withholding each document.

I. Notice of Tentative Determination; Public Comment; Public Hearing. The Department shall publish or require the applicant to publish a notice regarding the tentative determination that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland. [As determined by the Department, the] The notice shall provide the opportunity for written public comment [within] for a period of 30 days [and], which may be extended no more than once by an additional 60 days, upon written request received by the Department within the original comment period. As determined by the Department, the notice shall provide either that a public, nonadjudicatory hearing will be held regarding the tentative determination or that the public may request in writing within 20 days that a public hearing be held. If the Department decides to hold a public hearing because of requests for a hearing from the general public filed in writing within the 20-day request period, or from the applicant, the Department shall publish or require the applicant to publish a notice regarding the hearing that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland.

J. Public Comments. If a public hearing is held regarding the tentative determination, the applicant shall attend the hearing and present information concerning the application. Written public comments will be accepted if they are received by the Department at the public hearing or within 5 days after the public hearing or before the close of the public comment period. Oral public comments may be made at the public hearing. The Department shall consider all public comments that raise issues of law or material fact regarding an application for a permit or a tentative determination, but only if the issues are pertinent to requirements of the Clean Air Act or State air pollution control law applicable to the proposed permit to construct. Comments raising issues that relate to the location or nature of a proposed source may be considered only if the commenter first demonstrates to the satisfaction of the Department that the Department is required by law to consider the issues.

K. Final Determination.

(1) *The Department shall prepare a final determination if:*

[(1)] (a) — [(2)] (b) (text unchanged)

[(3)] (c) The final determination is substantively different from the tentative determination.

(2) *The final determination shall constitute the Department's final decision.*

L. Notice of Final Determination.

(1) *If the Department is required to prepare a final determination, as provided in §K of this regulation, the Department shall:*

(a) *subject to the requirements of §L(1)(b)(i)-(iii) of this regulation*, publish or require the applicant to publish a [n]Notice of [the] Final [d]Determination that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland:

(b) *if the final determination differs substantively from the tentative determination, then prior to publishing a Notice of Final Determination pursuant to §L(1)(a) of this regulation the Department may:*

(i) *publish a Notice of Intent to Issue a Final Determination that includes a proposed final determination, and provides the opportunity for written public comment for a period of 30 days on the portion of the proposed final determination that differs substantively from the tentative determination;*

(ii) *consider all public comments submitted on the portion of the proposed final determination that differs substantively from the tentative determination, subject to the criteria set forth in COMAR 26.11.02.11J; and*

(iii) *prepare written responses to public comments submitted on the proposed final determination; and*

(2) If the Department is not required to prepare a final determination under §K of this regulation, the Department shall issue or deny the permit and the tentative determination becomes the final determination *and shall constitute the Department's final decision.*

(3) *The Department shall electronically post notice that the tentative determination has become the final determination on the Department's website.*

M. [Contested Case Hearing.

(1) Not later than 15 days after publication of the notice required by §L of this regulation, a person may request a contested case hearing to appeal a final determination to issue or deny a permit subject to this regulation by submitting a written request for adjudication to the Department if the submission contains factual allegations with sufficient particularity to demonstrate that:

(a) The person is aggrieved by the final determination; and

(b) The final determination is legally inconsistent with any provisions of law applicable to the final determination being challenged or based upon an incorrect determination of a relevant and material fact.

(2) In deciding whether a contested case hearing should be conducted, the Department may consider whether the allegations that are the basis for the request were raised with particularity at the public hearing or during the public comment period on the tentative determination.

(3) Procedures for referral of requests for contested case hearings and for conducting these hearings are set forth in State Government Article, Title 10, Subtitle 2, and Environment Article, §1-601 et seq., Annotated Code of Maryland, and COMAR 28.02.01 and 26.01.02. COMAR 26.01.02 applies only to the extent that it contains procedures relating to matters that are not addressed at COMAR 28.02.01.

(4) As provided in Environment Article, §1-605(d), Annotated Code of Maryland, matters related to zoning and land use may not be raised in a contested case hearing except as expressly provided in Environment Article, §1-605(d), Annotated Code of Maryland.]

Judicial Review.

(1) *In accordance with § 1-601(c) of the Environment Article, Annotated Code of Maryland, a final determination by the Department to issue or deny a permit to construct subject to § 2-404 of the Environment Article, Annotated Code of Maryland, shall be subject to judicial review at the request of any person who:*

(a) *Meets the threshold standing requirements under Federal law; and*

(b) *Is the applicant or participated in a public participation process through the submission of written or oral comments, unless an opportunity for public participation was not provided.*

(2) *Judicial review shall be on the administrative record before the Department and limited to objections raised during the public comment period, unless the petitioner demonstrates that:*

(a) *The objections were not reasonably ascertainable during the comment period; or*

(b) *Ground for objections arose after the comment period.*

(3) *Unless otherwise required by statute, a petition for judicial review shall be filed with the Circuit Court for the County where the application for the permit states that the proposed activity will occur.*

(4) *A person submitting a petition for judicial review shall file the petition within 30 days after publication of a Notice of Final Determination.*

(5) *Except as expressly provided in § 1-605(d) of the Environment Article of the Annotated Code of Maryland, a party to the judicial review action may not challenge a facility's compliance with zoning and land use requirements.*

(6) *Judicial review under this regulation shall be limited to a record compiled by the Department consisting of:*

(a) *Any permit application and any data submitted to the Department in support of the application;*

(b) *Any draft permit issued by the Department;*

(c) *Any notice of intent from the Department to deny the application or to terminate the permit;*

(d) *A statement or fact sheet explaining the basis for the determination by the Department;*

(e) *All documents referenced in the statement or fact sheet explaining the basis for the determination by the Department;*

(f) *All documents, except documents for which disclosure is precluded by law or that are subject to privilege, contained in the supporting file for any draft permit;*

(g) *All comments submitted to the Department during the public comment period, including comments made on the draft application;*

- (h) Any tape or transcript of any public hearings held on the application; and
- (i) Any response to any comments submitted to the Department.

N. For the purposes of this regulation, a notice that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland, is a notice that is published at least once a week for 2 consecutive weeks in a daily newspaper of general circulation in the geographic area in which the [proposed] source is, *or will* [to] be, located. The Department may also require the applicant to mail notice to any other person who has requested the notice, or to the person's authorized representative, and may require the applicant to post the notice in the vicinity of the proposed source or at public facilities in the geographic area of the proposed source. The applicant shall bear all costs related to providing the notice.

.12 Procedures for Obtaining Approvals of PSD Sources and NSR Sources, *Certain Permits to Construct, and* [,] [Permit to Construct] Case-by-Case MACT Determinations in Accordance with 40 CFR Part 63, Subpart B[, and Certain [100-Ton] Sources].

A. Applicability. The owner or operator of a source shall comply with the procedures in this regulation when applying for the following:

(1) (text unchanged)

(2) [Except as required in] *Unless it is subject to* Regulation .11 of this chapter:

(a) A permit to construct a source that, after the source is in compliance with all other applicable requirements of the State air pollution control law, has the potential to discharge to the atmosphere 100 tons per year (91,000 kilograms) or more of any pollutant except for greenhouse gases;

(b) A permit to construct a source that, after the source is in compliance with all other applicable requirements of the State air pollution control law, is a GHG source to which 40 CFR 52.21(b)(49)(iv) or (v) applies;

(3) A permit to construct a lead source that will discharge 5 tons per year of more of lead or lead compounds measured as elemental lead; or

(4) A [permit to construct a] *case-by-case* MACT determination [on a case-by-case basis] *for a source*, in accordance with 40 CFR Part 63, Subpart B.

B. [Alternative Procedures. The owner or operator of a PSD source or an NSR source may elect to use the procedures of Regulation .11 of this chapter to obtain the approval of the source. In this event, an application for an approval and for a permit to construct shall be submitted concurrently and will be processed simultaneously. The time limits in Regulation .11 of this chapter may be extended by the Department for sources electing to have applications processed simultaneously under that regulation. An approval issued under Regulation .11 of this chapter is not subject to a request for a contested case hearing under Regulation .11M of this chapter.]

Procedures. The owner or operator of a source subject to this regulation shall comply with the procedures in Sections C. —L. of this regulation:

C. — L. (text unchanged)



Facts About...

Aftermarket Catalytic Converter Regulations

May 15, 2015

Purpose of Regulation

This regulation requires the use of vehicle aftermarket catalytic converters (AMCC) approved by the California Air Resources Board (CARB), beginning in January 2018.

Submission to EPA as Revision to Maryland's SIP

The regulation will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Maryland's State Implementation Plan (SIP).

Background

In Maryland, transportation-related sources account for approximately one-third of ozone precursor pollutant emissions, including oxides of nitrogen, or NO_x. Requiring the use of higher-efficiency replacement catalytic converters can significantly reduce NO_x emissions from the mobile sources sector.

An AMCC is needed when a catalytic converter must be replaced due to failure or damage, and the original equipment manufacturer (OEM) part is either not available or too costly for the application. AMCCs are an important category of emissions control devices, because they can save motorists money over OEM replacements, especially in cases of older, higher mileage vehicles that are near the end of their useful life. There are two AMCC standards in place; federal and CARB. The federal standard has been unchanged since establishment in 1986, and has not kept up with advances in vehicle technology and emissions standards. The CARB standard is more robust and yields a higher efficiency catalytic converter that provides greater NO_x reduction than the federal standard. Also, the CARB converter emissions performance warranty period is longer, resulting in a higher quality device that provides more enduring emissions reductions.

In order to address the persistent ozone problem the State experiences, Maryland is compelled to adopt the CARB standard due to the lack of EPA action to update the federal AMCC standard to require a more efficient and longer lasting emissions control device for vehicles. Such federal action would help states achieve emissions reductions necessary to improve air quality and meet federal health-based ozone standards.

Sources Affected and Location

The regulation applies to a person that installs, sells, supplies, or offers for sale an AMCC for use in the State.

Requirements

The regulation requires the use of CARB-approved AMCCs on 2000 and newer model year vehicles starting on January 1, 2018. CARB provides a comprehensive on-line reference tool at <http://www.arb.ca.gov/msprog/aftermktcat/aftermktcatdbase.htm> to assist in properly identifying an appropriate CARB AMCC. Exceptions are available for unusual cases. The regulation also prohibits the sale or installation of any used, recycled, or salvaged converter.

Expected Emissions Reductions

The federal standard requires the AMCC to reduce engine-out emissions by 30% to 70% depending on the pollutant, yet catalytic converter technology has progressed to providing reductions in the range of 98% and greater. The CARB standard requires exhaust emissions reductions corresponding to the technology level at which the vehicle was manufactured; accordingly, the AMCC must perform as well as the OEM catalytic converter. The AMCC warranty period is shorter than the original catalytic converter warranty, however, which reduces the cost of the AMCC materials and subsequent cost to the consumer, relative to an OEM replacement.

The regulation is expected to result in NO_x emissions reductions of 3 tons per day by 2020.

Economic Impact on Affected Sources, the Department, other State Agencies, and Local Government

Moderate additional cost for aftermarket part distributors, retailers, and installers is expected as a result of the regulation. Aftermarket part distributors will incur costs of increased inventory of CARB AMCCs in addition to the federal AMCCs they carry. Additionally, they are concerned that the additional inventory will be an unnecessary expense because their customers will not buy the CARB AMCCs, but will instead go to neighboring states or online vendors for less expensive federal AMCCs. Accordingly, aftermarket part retailers and installers are expected to lose business as well. These stakeholders support a revised federal AMCC policy rather than individual State action.

CARB AMCCs will have already begun to be needed around the 2018 timeframe, however, to accommodate the California-emissions vehicles that have been required under the Maryland Clean Cars Program starting with model year 2011. These California-emissions vehicles will need CARB AMCCs as they age past the manufacturer warranty period, in order for the State to continue to experience the full air quality benefits of the Clean Cars Program.

There are no manufacturers of vehicle catalytic converters in Maryland.

The regulation will have an economic impact on the Department. A position will be needed to enforce the regulation and issue waivers to allow federal AMCCs to be installed if a CARB AMCC is not available.

The regulation will have no economic impact on other State agencies, or local governments.

Economic Impact on the Public

It is estimated that a CARB AMCC costs \$300 – 500 more than a federal AMCC, depending on the vehicle make and model. However, the CARB AMCC provides greater NOx emissions reductions compared to the federal AMCC and includes a longer

warranty, resulting in sustained air quality improvements for Maryland citizens through reduced ozone formation. Ozone air pollution can harm human health.

Economic Impact on Small Businesses

Aftermarket parts retailers and installers that are small businesses will experience an economic impact of lost business as their customers seek less expensive federal AMCC in neighboring states and online.

Is there an Equivalent Federal Standard to this Proposed Regulatory Action?

Federal anti-tampering provisions require the continued use of a catalytic converter on a vehicle that is manufactured with one, and for a converter to be replaced when it fails or is damaged. The federal AMCC policy was adopted to protect consumers by allowing lower cost converters in lieu of OEM converters. When the policy was issued in 1986, the performance requirements were appropriate for existing vehicle technology. However, major advances in emissions control technology have occurred in the interim, largely in response to stricter federal and California emissions standards for newly manufactured vehicles. EPA has not updated its AMCC policy to keep up with contemporary vehicle emissions control technology, and has not responded to requests of states and other stakeholders to do so. Maryland must act to adopt the CARB AMCC program due to the inaction of the federal government, to ensure that the significant progress that has been made in vehicle emissions control is not undermined by permitting the use of outdated, less effective aftermarket equipment.

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 20 Mobile Sources

Authority: Environment Article, §§ 1-101, 1-404, 2-101—2-103, and 2-301—2-303, Annotated Code of Maryland

.07 Vehicle Catalytic Converter Replacements

A. Applicability. This regulation applies to a person that, on or after January 1, 2018, installs, sells, supplies, advertises, or offers for sale an aftermarket catalytic converter in the State for use on a motor vehicle as defined in Transportation Article, §11-135, Annotated Code of Maryland.

B. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) “Aftermarket catalytic converter” means a replacement catalytic converter that is not supplied by the vehicle manufacturer.

(b) “CARB” means the California Air Resources Board.

(c) “CARB aftermarket catalytic converter” means an aftermarket catalytic converter for which a CARB Executive Order has been issued.

(d) “CARB Executive Order” means a numbered Executive Order issued by CARB that provides an exemption from the prohibitions of California Vehicle Code sections 27156 and 38391 to allow specific aftermarket catalytic converter(s) to be legally installed, sold, supplied, advertised, or offered for sale in the state of California.

(e) “Catalytic converter” means a vehicle emissions control device or system designed to increase the rate of a chemical reaction to reduce gaseous engine exhaust emissions, which includes one or more substrates, surrounding materials, and an exterior shell.

C. Aftermarket Catalytic Converters.

(1) Prohibitions. On and after January 1, 2018, a person may not install, sell, supply, advertise, or offer for sale:

(a) For use on a motor vehicle of model year 2000 and newer, an aftermarket catalytic converter unless it is a CARB aftermarket catalytic converter, as defined herein; or

(b) A used, recycled, reconditioned, or salvaged catalytic converter.

(2) Exception. If there is no CARB aftermarket catalytic converter that meets vehicle requirements, a person may apply to the Department for a waiver to install, sell, supply, advertise, or offer for sale an aftermarket catalytic converter that meets the U.S. Environmental Protection Agency’s current interim aftermarket converter enforcement policy, entitled “Sale and Use of Aftermarket Catalytic Converters” (51 Fed. Reg. 28114), which went into effect on August 5, 1986.

(3) Requirement for installers. A person installing an aftermarket catalytic converter under § C (1) (a) of this regulation shall ensure that the CARB executive order identification number is visible from the underside of the vehicle.

D. Sunset provision. This regulation will remain in effect until the United States Environmental Protection Agency adopts a regulation or enforcement policy that provides for the sale, supply, advertisement, or installation of an aftermarket catalytic converter that is able to reduce motor vehicle emissions at the same or greater level as any CARB aftermarket catalytic converter.