

**Written Comments of the
Manufacturers of Emission Controls Association on the
NY DEC's Proposed Rulemaking to Amend Part 218 of Title 6 NYCRR to Incorporate
Revisions to the Standards for New California-Certified Aftermarket Catalytic Converters**

November 13, 2019

The Manufacturers of Emission Controls Association (MECA) appreciates the opportunity to provide comments on the New York State Department of Environmental Conservation's proposed rulemaking to amend Part 218 of Title 6 NYCRR to incorporate revisions to the standards for new California-certified aftermarket catalytic converters. The proposed amendments would prohibit the sale and installation of federal aftermarket converters in the state starting on January 1, 2021.

MECA is a non-profit association of the world's leading manufacturers of emission control, combustion efficiency, and greenhouse gas reduction technologies for mobile sources. Our member companies have over 45 years of experience and a proven track record in developing and manufacturing clean vehicle technologies, and they represent the majority of aftermarket converter manufacturers who have been supplying converters under the California ARB and the U.S. EPA aftermarket converter programs since the late 1980s. Our industry has played an important role in the air quality success story associated with light-duty vehicles in North America, and we have continually supported efforts to develop innovative, technology-neutral, emission control programs to mitigate air pollution problems and minimize the impacts of climate change.

MECA has supported DEC's current aftermarket converter program for light-duty vehicles as first adopted back in 2012, which requires California ARB-certified aftermarket converters for vehicles certified to California or 50-State emission standards but allows U.S. EPA-certified aftermarket converters to be used on federal-certified vehicles. MECA, however, recognizes the enforcement challenges that have been raised by DEC staff regarding the sale and installation of federal aftermarket converters in the state.

As DEC moves to prohibit the sale of federal aftermarket converters in New York, MECA, based on the experience gained through working with CARB, EPA, and with other states that have also adopted CARB's aftermarket converter requirements, recommends that DEC take into account the following considerations:

- The proposed prohibition of federal aftermarket converters would leave federal-certified vehicles in New York without an aftermarket converter repair alternative. These vehicles are typically older, lower in value, and less likely to have access to OEM replacement parts, placing a hardship on their owners if a repair is needed.

Under the proposed amendments, aftermarket converter installers will be required to verify that the aftermarket converter being installed is approved by CARB and included on the vehicle application list for the specific make, model, model year,

engine displacement, and engine family in question. CARB has developed an online database to store and retrieve information on aftermarket converters that have been issued a California Executive Order (see: <https://ww3.arb.ca.gov/msprog/aftermktcat/aftermktcatdbase.htm>). This database does not include federally certified engine families.

For federal-certified vehicles, CARB identifies acceptable CARB converters on a case-by-case basis. However, this process can be cumbersome, especially if a state has a large number of federal vehicles, since it requires intervention by CARB staff. California has a very low population of federal vehicles due to their policy of limiting registration renewals to vehicles that comply with CARB requirements. MECA recognizes that states outside of California, including Section 177 states, have relatively larger populations of federal vehicles. These states would benefit from a market solution for finding a suitable CARB converter for a federal vehicle that does not rely on case-by-case decisions as in California.

To that end, MECA recommends that DEC incorporate provisions in their aftermarket converter requirements by which manufacturers can catalog and market CARB converters for federal applications under specific criteria similar to those used by CARB in their case-by-case considerations. Specifically, this language would say that DEC would consider test data used to obtain certification from CARB to be relevant even where the vehicle engine family was not originally included in the Executive Order, provided the vehicle application falls in an equivalent or less stringent emission tier level and has similar or less demanding physical characteristics (i.e., vehicle type [car vs. truck], equal to or lower vehicle mass, equal to or smaller engine displacement, and the same exhaust configuration) as the original California-certified vehicle. MECA can work with DEC to help further develop the criteria for this option for inclusion in DEC's aftermarket converter requirements.

Under this approach, manufacturers would use engineering judgement to determine which federal-certified vehicles would work with their CARB-approved converters based on the aforementioned criteria. Manufacturers would list these CARB converters for the applicable federal vehicles in their aftermarket converter catalogs. Engineering judgement is commonly used today to develop vehicle lists for aftermarket converters since it is not possible to locate and test all possible vehicles listed. DEC would be able to request from a manufacturer at any time the supporting test data used to identify which CARB part meets the defined criteria for use on a specified federal vehicle. The vehicle's on-board diagnostic (OBD) system would serve as a confirmation that the part is compatible with the vehicle.

This streamlined approach for finding a CARB converter for a federal vehicle is similar to the one that MECA has suggested that EPA incorporate in their proposed update to the federal enforcement policy regarding aftermarket catalytic converters. Such an approach could become a model for other states that are considering requiring CARB aftermarket converters in their programs.

- DEC had originally planned to release the proposed rulemaking at the end of 2017, with a final rulemaking projected to be issued by mid-2018. This timeline would have provided stakeholders with a lead time of approximately two-and-a-half years from the date of adoption of the final rulemaking to the date of implementation of the prohibition of federal aftermarket converters on January 1, 2021. However, the proposed rulemaking was not officially released until September 2019. Given this long delay, there is now the likelihood that the final rule will be released less than one year before the proposed requirements take effect.

MECA believes that a minimum lead time of two years is necessary to effectively transition the industry given a change of this magnitude. Manufacturers require this minimum lead time to ensure that new CARB-certified aftermarket parts are available and that federal-certified parts already in distribution are phased out of the market. In addition, sufficient lead time is needed to adequately educate consumers, distributors, and installers about the new requirements.

Specifically, prior to the implementation date of the prohibition of federal converters, manufacturers would need to:

- Quantify the vehicle fleet population and engine families in the state.
- Consider the practices of the vehicle repair industry in the state to ensure the right mix of universal fit converters or direct fit exhaust assemblies are available in distributors' warehouses prior to the implementation date.
- Manufacture additional product inventory appropriate for the region.
- Procure a storage facility for new inventory and prepare for the smooth exchange of inventory once the regulation goes into effect.
- Develop specific aftermarket converter information tailored to the vehicle mix and model years covered by California's aftermarket converter regulation.
- Communicate the regulatory changes throughout the distribution and installation network and educate the supply chain on the new requirements.

Therefore, MECA requests that DEC change the effective date of the regulation to be a minimum of two years from the date of adoption of the final rulemaking to provide aftermarket converter manufacturers, distributors, and retailers with adequate time to certify, produce, and stock sufficient quantities of compliant aftermarket converters to serve the New York market.

Once implemented, enforcement of the new aftermarket converter requirements is essential to achieve the full emission benefits of the program and to maintain a level playing field in the market. To facilitate enforcement, we urge DEC to work with the New York State Department of Motor Vehicles to incorporate a visual inspection requirement under the state's light-duty vehicle inspection and maintenance program, as is being done by California's Smog Check program, to confirm that the proper converter is installed on each vehicle.

Thank you again for the opportunity to provide comments. We believe our suggestions will help improve the effectiveness of DEC's aftermarket converter program and provide time for parts manufacturers to get the cleanest aftermarket converter technology into the market. We look forward to working with DEC on this important rulemaking.

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