

## **TITLE 13. CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO THE AIR RESOURCES BOARD'S VOLUNTARY ACCELERATED VEHICLE RETIREMENT REGULATION**

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the existing Voluntary Accelerated Vehicle Retirement (VAVR) regulation. The proposed amendments include using remote sensing devices as an additional means of identifying higher emitting vehicles as possible candidates for voluntary retirement, providing appropriate credit for identified high-emitting vehicles, and clarifying existing regulatory language. These regulatory amendments are proposed to be considered in conjunction with proposed non-regulatory revisions to the Carl Moyer Program Guidelines: Light-Duty Vehicle Chapter, which are scheduled for consideration at the same public hearing and are subject to a separate notice.

DATE: December 7, 2006

TIME: 9:00 a.m.

PLACE: Kern County Board of Supervisors  
1115 Truxtun Avenue  
Board Chambers, 1st Floor  
Bakersfield, CA 93301

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2006, and may continue at 8:30 a.m., December 8, 2006. This item may not be considered until December 8, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before December 7, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendments to title 13, California Code of Regulations, sections 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, Appendix A, Appendix B, Appendix C and Appendix D. Proposed repeal of section 2611.

**Background:** Vehicle scrapping or Voluntary Accelerated Vehicle Retirement (VAVR) programs were first introduced in California in the early 1990s. The goal of such programs is to retire older, more polluting vehicles earlier in their expected lifetimes, thereby eliminating the emissions associated with their operation. Real emission reductions are achieved by ensuring that qualified vehicles are still fully operational and have useful lives remaining at the time they are scrapped. A vehicle accepted into the program is retired by crushing it so that it and its parts are rendered unusable.

VAVR programs are strictly voluntary programs overseen by ARB and administered by local air districts. Typically, private enterprise operators work under contract with a district and are responsible for evaluating, approving, and disposing of qualified light-duty vehicles. To qualify for a VAVR program, a vehicle must meet registration, functionality, and equipment eligibility criteria. To accommodate car collectors and others with interest in vehicles offered for retirement, VAVR programs provide the public with an opportunity to purchase vehicles in whole or in part before the vehicles are retired.

California Health and Safety Code sections 44100-44122 established the framework for VAVR programs and required ARB to adopt a regulation governing VAVR that included provisions for market-based, privately-operated VAVR enterprises and the generation of emission reduction credits. The Board adopted VAVR regulations in 1998 and later amended these regulations in 2002. These regulations appear at title 13 California Code of Regulations (CCR) sections 2600-2611.

Legislative changes enacted with the signing of Assembly Bill 923 (Firebaugh, 2004) provided for additional funding of VAVR projects through the Carl Moyer Program. In response to those changes, the Board first adopted project criteria for light-duty vehicle programs, including VAVR programs, in the 2005 revision to the Carl Moyer Program Guidelines. At that time, the Board approved guidelines for conventional VAVR programs operated in accordance with ARB's existing regulations for VAVR.

There is growing interest in using remote sensing devices to identify higher emitting vehicles for potential participation in VAVR programs. A number of studies have shown that remote sensing devices can be effective tools for this purpose. Remote sensing devices typically use infrared and/or ultraviolet spectroscopy to measure the concentrations of air pollutants in the exhaust of passing vehicles as they are driven. As a first step toward incorporating this tool into the Carl Moyer Program, the 2005 Guidelines authorized a remote sensing pilot program, the "High-Emitting Vehicle Identification, Repair, and Scrapping Program" to be run by the South Coast Air Quality Management District.

**Description of the Proposed Regulatory Action:** The proposed amendments to the 2002 VAVR regulation would authorize the optional use of remote sensing devices and other technologies to identify high emitting vehicles as possible candidates for voluntary retirement. These regulatory amendments are proposed to be considered in conjunction with closely related non-regulatory amendments to the Carl Moyer Program

Guidelines. Other changes to the regulation are proposed to improve clarity, correct errors, and to delete obsolete provisions.

The effect of these changes would be to expand opportunities for implementing high emitter VAVR programs. In such programs, the highest emitting vehicles in the fleet would be identified via remote sensing devices or other methods and the owners of these vehicles would be contacted and offered an opportunity to voluntarily retire their vehicles. The proposed changes to the VAVR regulation specify the framework for running a high emitter VAVR program and allow for calculating emission reductions that reflect the high-emitting nature of qualified vehicles. The proposed changes will leave in place existing provisions for conventional VAVR programs. This allows Districts the flexibility to continue to operate the current simpler program while providing opportunities to expand if so desired.

Specific proposed changes to the VAVR regulation are as follows:

- Section 2608 is proposed to be revised to allow for the generation of additional emission reduction credits for the voluntary retirement of high emitting vehicles.
- Section 2610 is proposed to be revised to authorize the optional use of remote sensing devices and other ARB-approved methods to identify high emitting vehicles. The proposed language would replace original section 2610, which referenced a pilot program that has been completed.
- Section 2611 is proposed for deletion because the provisions of that section depended on funding for Measure M1 of the 1994 State Implementation Plan that will not be forthcoming.
- Other provisions are proposed for revision to improve clarity, correct grammatical and organizational errors, and to increase consistency within the regulation.

### **COMPARABLE FEDERAL REGULATIONS**

U.S. EPA has published a document, "Guidance for the Implementation of Accelerated Retirement of Vehicles Programs," but has not promulgated formal regulations for this program.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Amendments to the Voluntary Accelerated Vehicle Retirement Regulation (Staff Report) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal. The ISOR is entitled "Staff Report: Initial Statement of Reasons for Rulemaking-Proposed Amendments to the Air Resources Board's Regulations for Voluntary Accelerated Light-Duty Vehicle Retirement."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 7, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons; John Kato, Manager of the Innovative Strategies Section, at (916) 322-2891 or by e-mail at [jkato@arb.ca.gov](mailto:jkato@arb.ca.gov), Andrew Panson, Staff Air Pollution Specialist, at (916) 323-2881 or by e-mail at [apanson@arb.ca.gov](mailto:apanson@arb.ca.gov), or Tom Roemer, Air Pollution Specialist, at (916) 322-1520 or by e-mail at [troemer@arb.ca.gov](mailto:troemer@arb.ca.gov).

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed is Alexa Malik, Regulations Coordinator, (916) 322-4011, or Lori Andreoni, Clerk of the Board, at 322-5594. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on the ARB Internet site for this rulemaking at [www.arb.ca.gov/regact/vavr06/vavr06.htm](http://www.arb.ca.gov/regact/vavr06/vavr06.htm)

#### **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 by public agencies, private persons, and businesses in reasonable compliance with the proposed regulations are presented below.

The ARB Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(5) and 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 non discretionary savings to local agencies.

Participation in the VAVR regulations is purely voluntary. Businesses, individuals and districts will not participate in VAVR programs unless it is economically beneficial for them to do so. By purchasing credits generated under VAVR programs, businesses may delay having to install more expensive air pollution control equipment or

implementing more costly process modifications. Accordingly, the economic impacts of the proposed regulatory action are expected to be positive. In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

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

The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because this is a change to a regulation that is voluntary with respect to small businesses and there are no mandated requirements and no associated impacts.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board 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 at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, December 6, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB 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 REFERENCES**

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600 and 39601, 44101 and 44102. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 42400, 42400.1, 42400.2, 42400.3, 42400.4, 42400.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.5, 42403, 43000, 43013, 43016, 44101, 44102, 44103, 44105, 44106, 44107, 44109, 44120, and 44121.

### **HEARING PROCEDURES**

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 non substantial 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 the event that such modifications are made, 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 ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon  
Executive Officer

Date: October 10, 2006