

## FINAL REGULATION ORDER

### Regulation for AB 118 Enhanced Fleet Modernization Program

Amend title 13, California Code of Regulations, sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, and 2629 to read as follows:

#### Article 2. AB 118 Enhanced Fleet Modernization Program

##### § 2620. Purpose.

The purpose of this regulation is to improve California air quality through the voluntary early retirement of vehicles as directed by the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (Assembly Bill 118, Statutes of 2007, Chapter 750; Health and Safety Code sections 44125-44126) section 44125(a). Vehicle owners who meet certain eligibility requirements are offered the following:

- (a) Payment for the voluntary retirement from operation of a motor vehicle and/or;
- (b) Additional payment for the purchase of a replacement vehicle meeting emission and/or model year requirements, to a vehicle owner who voluntarily retires a vehicle. A district administering a Retire and Replace program may offer alternative transportation mobility options such as public transportation and/or car sharing in lieu of a replacement vehicle.

NOTE: Authority cited: 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

##### § 2621. Definitions.

- (a) **"ARB" or "Board"** means the California Air Resources Board.
- (b) **"BAR" or "Bureau"** means the Bureau of Automotive Repair in the Department of Consumer Affairs.
- (c) **"Consumer Protections"** means any method, provision, or requirement designed to ensure that EFMP participants accrue the full benefit of the incentives offered through the program.
- (d) **"Dismantle"** means to, crush, stamp, shred, or otherwise render permanently and irreversibly incapable of functioning as originally intended, any vehicle or vehicle part.

(e) **“Dismantler”** means the person or business, defined and licensed according to the requirements of California Vehicle Code sections 220,221,11500, et seq., and other business codes and the regulations of the Department of Motor Vehicles (DMV), who under contract with BAR dismantles or otherwise removes from service those vehicles obtained in the Enhanced Fleet Modernization Program.

(f) **“District”** means a local air quality management district or air pollution control district, as defined by California Health and Safety Code, Part 3, Section 40000 et seq., which has responsibility for administering air pollution control programs.

(g) **“Drive Train Parts”** means all parts associated with the drive train such as engine, drive mechanism, transmission, differential, axles, and brakes.

(h) **“EFMP”** means the Enhanced Fleet Modernization Program.

(i) **“Emissions-Related Part”** means any vehicle part which affects any regulated emissions from a vehicle that is subject to California or federal emissions standards and includes, but is not limited to, those parts specified in the “Emissions-Related Parts List,” adopted by the State Board on November 4, 1977, as last amended June 1, 1990.

(j) **“Federal Poverty Level”** or **“FPL”** means the income level published in the poverty guidelines which are updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).” The guidelines are a simplification of the poverty thresholds for use for administrative purposes — for instance, determining financial eligibility for certain federal programs.

(k) **“Functionality Test”** means a method for determining that a vehicle has sufficient functionality to be driven on road.

(l) **“Hybrid Vehicle”** means a vehicle with two or more distinct power sources on the drive train.

(m) **“Alternative Transportation Mobility Option”** means additional methods of transportation including but not limited to: public transportation passes, car sharing memberships, or a combination thereof.

(n) **“Plug-In Hybrid Vehicle”** means a vehicle that can be driven solely by an electric motor without consuming any gasoline, and with batteries that can be recharged by plugging it into a wall outlet.

(o) **“Zero-Emission Vehicle”** means a vehicle which produces no emissions from the on-board source of power.

NOTE: Authority cited: 39600, 39601 and 44125, Health and Safety Code.

Reference: Sections 39600, 39601, 44062.1 and 44125, Health and Safety Code

## **§ 2622. Program Administration.**

(a) The Enhanced Fleet Modernization Program retirement-only program shall be administered by the Bureau through contracts with dismantlers and other appropriate entities as necessary.

(b) The Enhanced Fleet Modernization Program Retire and Replace program shall be administered by the San Joaquin Valley Air Pollution Control District and the South Coast Air Quality Management District. The Districts may contract with dismantlers, dealerships, financial institutions, and other appropriate entities as necessary.

(c) The Bureau shall coordinate with the Board to determine the appropriate budget for the Retire and Replace program, given past performance.

(d) The Districts shall submit quarterly reports to ARB detailing program participation and performance. At a minimum the District reports shall include items (1) through (6) below:

(1) Program participation rates

(2) Retired vehicle information, including make, model, model year, VIN, license number, mileage at retirement and registration status at retirement

(3) Replacement Vehicle Information, including make, model, model year, VIN, license number, and mileage at time of purchase

(4) A summary of the incentives delivered, by demographic categories established in section 2627 (l)

(5) A summary of feedback received from participants, including those participants that ultimately did not receive any incentive, if available.

(6) Copies of any reports from District contractors or partner agencies concerning the performance of the program, if appropriate.

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601, and 44125, Health and Safety Code.

## **§ 2623. Program Limits.**

(a) Consumers who have received EFMP incentives for a replacement vehicle may receive additional incentives toward the purchase of the same vehicle, subject to the requirements of the other incentive program(s).

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601, 44062.1 and 44125, Health and Safety Code.

## § 2624. Retired Vehicle Minimum Eligibility Requirements.

(a) In order to participate in the EFMP, an individual must be the registered owner of the vehicle with vehicle title issued in their name.

(b) Vehicles that hold a salvage title are eligible for participation if registered at the time of application.

(c) The vehicle must meet one of the following requirements:

(1) It shall meet the DMV requirements as specified in sections 3394.4 (b)(6)(C) and 3394.4 (b)(6)(D) of Title 16 of Division 33, Article 11 of the California Code of Regulations

(2) An unregistered vehicle, or a currently registered vehicle not meeting (c)(1) above, may also be eligible if proven to have been driven primarily in California for the last two years and not to have been registered in any other state or country in the last two years. Documentation of operation in California includes the following:

(A) Proof of continuous insurance coverage in California for the two consecutive years preceding application to the EFMP, without lapses in insurance coverage totaling more than 120 days; or

(B) At least two invoices from an Automotive Repair Dealer registered at the time of the repair with the Bureau pursuant to section 9884.6 of the Business and Professions Code showing the following:

1. The Automotive Repair Dealer's valid registration number, as issued by the Bureau
2. The name and address of the Automotive Repair Dealer, as shown on the Bureau's records
3. Description of a repair or maintenance operation performed to the vehicle
4. The vehicle year, make, model, and vehicle identification or license plate number matching the vehicle to be retired
5. The date of the repair or maintenance visit

(C) Invoices submitted for the purpose of satisfying the requirements of section (B) shall be from two separate calendar years. The oldest invoice may not be older than twenty-four months prior to the date of application receipt.

(d) Vehicles shall be voluntarily dismantled at a Dismantler under contract with BAR;

(e) Vehicles shall be up to 10,000 pounds gross vehicle weight rating: including a passenger vehicle, truck, sports utility vehicle (SUV), or van;

(f) Vehicles must complete a functionality test to ensure that the vehicle is capable of being driven on the road. Examples of acceptable functionality tests include but are not limited to: smog check tests as defined in section 2626(f), or another demonstration of functionality such as the inspection requirements listed in section 2626(b).

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

### **§ 2625. Ineligible Vehicles.**

- (a) A dismantled or salvaged vehicle that has not been reregistered pursuant to section 11519 of the Vehicle Code.
- (b) A vehicle registered to a non-profit organization or a business.
- (c) A vehicle operated by a public agency or fleet licensed and registered pursuant to Health and Safety Code sections 44019 and 44020.
- (d) A vehicle being initially registered in California.

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

### **§ 2626. Retirement-only Program.**

- (a) Each vehicle must pass the visual and operational inspection required by the Consumer Assistance Program, performed by the dismantler or BAR representative, and conducted on-site at the dismantler location. The inspection requirements for the Consumer Assistance Program are defined pursuant to sections 3394.4(b)(7) and 3394.4(b)(8) of title 16 of Division 33, Article 11 of the California Code of Regulations. Vehicles failing the inspection requirements may be re-inspected by the dismantler for compliance with these requirements at any time after modifications have been made to the vehicle to correct the deficiency(ies).
- (b) In order to participate in the EFMP retirement-only program, an individual must have household income less than or equal to 225% of FPL.
- (c) An applicant determined to be eligible under the retirement-only program of the EFMP shall voluntarily sell the vehicle to the dismantler and shall receive payment of no less than \$1,500.00 for each vehicle retired from operation at a dismantler operating under contract with the Bureau.
- (d) Once the dismantler has purchased the vehicle, the consumer's eligibility status or the amount paid to the consumer cannot change.

(e) Model year 1976 and newer vehicles must have successfully completed a Smog Check inspection (pass or fail) within 180 days of the date of application to the EFMP. A Smog Check inspection shall not include aborted, manual mode, or training mode tests. Vehicles exempt from the Smog Check program as defined in title 16 of the California Code of Regulations section 3340.5 do not require a Smog Check inspection to qualify for the EFMP.

(f) An applicant shall not have retired another vehicle through the EFMP or the BAR Consumer Assistance Program within the preceding 12-month period; and a vehicle owner who is a joint owner of the vehicle being retired shall not have retired more than two vehicles through the EFMP or BAR Consumer Assistance Program within a 12-month period.

Note: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

### **§ 2627. Pilot Retire and Replace Program.**

(a) The Retire and Replace program will be offered in the South Coast and San Joaquin Valley air basins.

(b) The Board shall contract with the districts to administer the pilot Retire and Replace program.

(c) The districts shall use not more than 10% of grant funds received to cover the cost of program administration.

(d) The districts may use an additional 5% of grant funds received to contract with third party entities to address issues associated with participation of lower-income consumers.

(e) The districts must submit a pilot Retire and Replace program implementation proposal to the Board prior to receiving initial grant disbursements.

(f) The pilot Retire and Replace program must include the following elements:

(1) Targeted outreach in low-income and disadvantaged communities. The program must target outreach and restrict program eligibility to motorists with household incomes of 400 % of the federal poverty level or less. This does not prohibit outreach being conducted in conjunction with one or more other programs that are targeted at other populations.

(2) Methods for ensuring that retired vehicles have sufficient remaining useful life. The program must include a mechanism to ensure vehicles with sufficient functionality to be currently driven. This could include, but is not limited to, the completion of a smog check test.

- (3) Methods to target high-emitting vehicles. The program must include a mechanism for targeting high-emitting vehicles to be retired. This could include, but is not limited to, emissions testing, remote sensing, determination of a model year limitation or other mechanisms.
- (4) Methods for providing significant assistance to program participants to complete Retire and Replace transactions. This assistance could take the form of financial education, access to low cost loans, or other ways to address the challenges to vehicle ownership faced by low-income participants. ARB staff will work with the Districts to enable coordination with light-duty low- carbon transportation funding to maximize participation opportunities for low- income participants.
- (5) Consumer protections during the purchase and financing of the vehicle to ensure that the benefits of the incentives accrue to the final consumer. These could include, but are not limited to the following:
  - (A) Require or encourage/educate program participants to borrow from reputable lending institutions and/or join credit unions to establish credit prior to purchase
  - (B) Prohibit vehicle loans by selling dealership
  - (C) Leverage financial counseling offered by most credit unions by directing participants to those resources
  - (D) Suggest/require program participants be pre-approved before visiting dealership
  - (E) Administer program in collaboration with consumer advocacy groups that provide financial counseling
  - (F) Direct program participants to California's low-cost auto insurance program
  - (G) Require an estimate for total cost of car ownership with the truth-in- lending statement (now required by law)
  - (H) Establish pre-approved pricing for used vehicles
  - (I) Require vehicle inspection and disclosure by an independent auto mechanic
  - (J) Require vehicle history be provided and attached to paperwork
  - (K) Require vehicle warranty for specified timeframe
- (6) Regular review of contractors and partners to ensure that the requirements of the plan and of these regulations are being met.
- (7) Provisions to require contractor and partners to provide information to be used in the quarterly reporting to ARB as required by Section 2622.

(8) Retired vehicles shall be dismantled at a dismantler operating under contract with the Bureau. Air districts shall develop and enter into a separate contract or agreement with the dismantler.

(g) A district administering the pilot Retire and Replace program shall contract with participating vehicle dealers, financial institutions, public transit agencies, and other entities as necessary for redemption of the Retire and Replace incentives.

(1) The Retire and Replace incentive may not be redeemed for the purchase of a dismantled vehicle or a vehicle with a salvaged title (as described in Vehicle Code section 544).

(2) The Retire and Replace incentive may only be redeemed for replacement vehicles that meet or exceed one of the following minimum criteria:

(A) A replacement vehicle 8 years old or newer with an EPA combined fuel economy rating:

Model Year	Minimum U.S. EPA Combined Fuel Economy Rating	Minivans Minimum U.S. EPA Combined Fuel Economy Rating
2006 - 2009	20	19
2010	22	19
2011	25	21
2012	28	21
2013	29	21
2014	30	21
2015	31	21

(B) A replacement vehicle that meets or exceeds 35 miles per gallon EPA combined fuel economy rating

The EPA combined fuel economy rating used to determine voucher eligibility shall be the rating calculated by the EPA using the methodology for model year 2008 and later vehicles. The EPA combined fuel economy rating may be found on the "EPA Fuel Economy Estimates" window sticker of any new vehicle, and the ratings for all vehicles are currently available at <http://www.fueleconomy.gov>

(C) A plug-in hybrid replacement vehicle

(D) A zero-emission replacement vehicle

(h) A vehicle owner or joint vehicle owner may not receive more than one Retire and Replace incentive under the EFMP.



(i) Vehicles shall not be eligible for a Retire and Replace incentive unless they meet the requirements of section 2624(c) at an address in the district where the Retire and Replace incentive is issued.

(j) In order to participate in the EFMP pilot Retire and Replace incentive program, an individual must have a household income less than or equal to 400% of FPL.

(k) Vehicles shall not be eligible for a Retire and Replace incentive unless they pass a functionality test.

(l) An applicant determined to be eligible under the EFMP pilot Retire and Replace incentive program may receive one of the following minimum incentives depending on income eligibility:

### Retire and Replace Program Incentives

Income Eligibility	8 year old or newer	35+ MPG	Plug-In Hybrid or Zero-Emission Vehicle	Alternative Transportation Mobility Options
Low Income <225% Federal Poverty Level	\$4,000	\$4,500	\$4,500	\$4,500 Face Value
Moderate Income <300% Federal Poverty Level	Not Available	\$3,500	\$3,500	\$3,500 Face Value
Above Moderate Income <400% Federal Poverty Level	Not Available	Not Available	\$2,500	\$2,500 Face Value

(1) For eligible participants with household income less than or equal to 225% of FPL, payment of \$4,000.00 toward the purchase of a replacement vehicle 8 years old or newer.

(2) For eligible participants with household income less than or equal to 225% of FPL, payment of \$4,500.00 toward the purchase of a replacement vehicle with a minimum 35 mpg fuel economy.

(3) For eligible participants with household income less than or equal to 225% of FPL, payment of \$4,500.00 toward the purchase of a hybrid, plug-in hybrid, or zero-emission replacement vehicle.

(4) For eligible participants with household income less than or equal to 225% of FPL, payment of \$4,500.00 toward the purchase of alternative transportation mobility options.

(5) For eligible participants with household income greater than 225% of FPL and less than or equal to 300% of the FPL, payment of \$3,500.00 toward the purchase of a replacement vehicle with a minimum 35 mpg fuel economy.

(6) For eligible participants with household income greater than 225% of FPL and less than or equal to 300% of the FPL, payment of \$3,500.00 toward the purchase of a hybrid, plug-in hybrid, or zero-emission replacement vehicle.

(7) For eligible participants with household income greater than 225% of FPL and less than or equal to 300% of the FPL, payment of \$3,500.00 toward the purchase of alternative transportation mobility options.

(8) For eligible participants with household income less than or equal to 400% of the federal poverty level, payment of \$2,500.00 toward the purchase of a hybrid, plug-in hybrid, or zero-emission replacement vehicle.

(9) For eligible participants with household income less than or equal to 400% of the federal poverty level, payment of \$2,500.00 toward the purchase of alternative transportation mobility options.

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

### **§ 2628. Parts Recycling and Resale.**

Dismantlers and any other contractor accepting vehicles for retirement under EFMP, and their agents, contractors and employees shall not remove any parts from an EFMP purchased vehicle for resale or reuse unless specifically exempted per BAR contract.

(a) No compensation with public funds from the EFMP shall be granted for any vehicle from which emission-related or drive train parts, as defined in section 2621, have been sold.

(b) All activities associated with retiring vehicles, including but not limited to the disposal of vehicle fluids and vehicle components, shall comply with:

(1) Local water conservation regulations;

(2) State, county, and city energy and hazardous materials response regulations; and

(3) Local water agency soil, surface, and ground water contamination regulations.

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.

**§ 2629. Records and Auditing.**

(a) Records shall be securely maintained by the dismantlers and all contractors accepting vehicles for retirement under EFMP for each vehicle purchase and transaction in the EFMP. The records shall be kept for a minimum of three years following the date of vehicle retirement.

(b) Records shall be maintained by the district for each Retire and Replace transaction in the EFMP. The records shall be kept for a minimum of three years following the date of replacement vehicle purchase.

NOTE: Authority cited: 39600, 39601, and 44125, Health and Safety Code. Reference: 39600, 39601, and 44125, Health and Safety Code.

**§ 2630. Severability.**

Each part of this article shall be deemed severable, and in the event that any provision of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39600, 39601 and 44125, Health and Safety Code. Reference: Sections 39600, 39601 and 44125, Health and Safety Code.