

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC MEETING TO CONSIDER REGULATIONS
FOR AN ENHANCED FLEET MODERNIZATION PROGRAM (CAR SCRAP)

Public Hearing Date: June 26, 2009
Public Availability Date: December 9, 2009
Deadline for Public Comment: December 28, 2009

At its June 26, 2009, public hearing, the Air Resources Board (Board or ARB) approved the adoption of new chapter 8.1, sections 2620 through 2630, title 13, California Code of regulations. The purpose of this proposed 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).

At the hearing, the Board adopted Resolution 09-44, with additional modifications to the originally proposed regulation which was released in the Staff Report on May 8, 2009. By this notice, the modified regulatory language is being made available for public comment prior to final action by the Board's Executive officer. The proposed modifications are shown in underline to indicate additions to the original proposal and ~~strikeout~~ to indicate deletions. A description and rationale for the modifications to the regulation is set forth below.

Modifications to the Originally Proposed Text

I. Modifications to Regulatory Text of California Code of Regulations, Title 13, Sections 2620 through 2630, Being Made Available for Comment

A. Additional Eligibility Qualifications for Replacement Vehicle Vouchers to Control Green House Gas Emissions.

New subsection 2627(d)(4) has been added to ensure that replacement vehicles purchased with voucher funds support the Board's initiatives for reducing greenhouse gas (GHG) emissions. The new language requires, as a condition of voucher eligibility, that the replacement vehicle exceed the model year fleet average GHG standard for a passenger car as found in section 1961.1, title 13, California Code of Regulations. Since the California GHG emissions standards begin in model year 2009, the standard for model year 2009 would be used for all previous model years.

Because many of the vehicles potentially eligible for the replacement vehicle voucher were manufactured in model years prior to the implementation of the GHG standard and

data from GHG emissions tests are not generally available, and also to simplify the determination of replacement vehicle eligibility, the vehicle's combined fuel economy as determined by the United States Environmental Protection Agency (U.S. EPA) and published by the United States Department of Energy (DOE) would be used to efficiently determine replacement vehicle eligibility.

ARB staff has calculated, for each model year, a U.S. EPA combined fuel economy rating that is approximately equivalent to the California fleet average GHG emissions standards. These numbers have been calculated by dividing the average grams of carbon dioxide (CO₂) emissions from a gallon of gasoline by the applicable GHG standard in grams per mile, after subtracting 2 grams per mile to account for non-CO₂ GHG. The resulting fuel economy from that calculation is then multiplied by 0.744 in order to approximate the current methodology employed by U.S. EPA for the estimation of model year 2008 and newer vehicles' fuel economy estimates. The calculated minimum U.S. EPA combined fuel economy ratings for voucher eligibility are shown below.

<u>Model Year</u>	<u>Minimum U.S. EPA Combined Fuel Economy Rating</u>
2002 - 2009	20
2010	22
2011	25
2012	28
2013	29
2014	30
2015	31

The U.S. EPA combined fuel economy rating for any vehicle is currently available at <http://www.fueleconomy.gov>. The U.S. EPA combined fuel economy rating used to determine voucher eligibility shall be the rating calculated by U.S. EPA using the methodology for model year 2008 and later vehicles.

B. Restriction of Vehicle Eligibility to Registered Vehicles Only.

The originally proposed regulation allowed for limited participation of unregistered vehicles in the Enhanced Fleet Modernization Program (EFMP). Under the proposed modifications, a vehicle must be currently registered with the Department of Motor Vehicles as an operable vehicle in order to be eligible to participate in the program. This proposal avoids rewarding individuals acting in violation of the law and is intended to provide further assurance that any vehicle purchased by the state in this program was actually being used and its removal will actually provide real emissions benefits. Section 2624(b)(2)(D) was modified to require that vehicles must be registered at the time of application in order to be eligible. This section describes conditions of eligibility for vehicles that are registered, but have not been continuously registered for the last 24

months. In addition, section 2624(b)(5) has been deleted to conform to the Board's direction that only registered vehicles be allowed into the program.

C. Use of Replacement Vehicle Vouchers for Purchase of Public Transit.

The proposed modifications would allow the local air pollution control districts administering the voucher component of the program to expand the eligibility of these funds to include public transportation. This proposed change would allow local districts administering the voucher program to offer program participants a voucher for either a replacement vehicle or public transportation. The following modifications have been made to the proposed regulatory text in order to accomplish this change:

Section 2620(b) has been modified to specify that the additional payment, in the form of a voucher, may be issued for the purchase of public transportation in lieu of a voucher for the purchase of a replacement vehicle.

Section 2621(i) has been modified so that the definition of voucher includes use for public transportation as well as for a replacement vehicle.

Section 2623(d) and section 2623(e) have been modified to allow the voucher to be used towards the purchase of public transportation in lieu of purchase of a replacement vehicle.

D. Restriction of Eligibility for Participation in Federal Programs.

In order to ensure retirement of the maximum number of vehicles from independent state and federal programs, the Board approved staff's recommendation at the board hearing to restrict eligibility to a single program for any given vehicle. Section 2623(f) was added to prohibit participation in both State and federal vehicle buy-back programs simultaneously. This new section states that consumers who have received federal funds may not receive funds under this program for the same vehicle.

E. Other Minor, Non-Substantive Changes.

Section 2620(b) the word "replacement" has been substituted for "cleaner" to describe the vehicle purchased with voucher funds.

Section 2621(g) the word "means" was erroneously in bold italics.

Section 2621(l) the citation for the regulatory definition of "income eligible" has been clarified as, "pursuant to Section 3394.4 of title 16 of Division 33, Article 11 of the California Code of Regulations" instead of "according to the income eligible definition used in the BAR Consumer Assistance Program (CAP)."

Section 2621(j) the word "program" has replaced "programs."

Section 2621(k) the phrase “accepted by the Board” has been added to clarify that use of other means or methods to identify Targeted Vehicles is allowed if the methodology is acceptable to ARB staff. The word “program” has replaced “programs.”

Section 2621(l): The phrase “for the purchase of a replacement vehicle meeting emissions and/or model year requirements” has replaced “ for the replacement of a retired vehicle with a cleaner vehicle” in order to clarify the definition of a voucher.

Section 2622(b): “5%” has replaced “five (5) percent.”

Section 2623(a): “Payment of \$1,000.00” has replaced “Payment up to one thousand dollars (\$1,000).”

Section 2623(b): “Payment of \$1,500.00” has replaced “Payment up to fifteen hundred dollars (\$1,500).”

“Once the dismantler has purchased the vehicle, the consumer’s eligibility status or the amount paid to the consumer cannot change” has been inserted as section 2623(c) to expressly state that payment for a vehicle cannot be adjusted after the vehicle purchase if the consumer’s circumstances change after the transaction.

Former section 2623(c) has been renumbered 2623(d) due to the insertion mentioned above and the phrase “Payment, in the form of a voucher, of \$2,000.00” has replaced “Payment, in the form of a voucher, up to two thousand dollars (\$2,000).”

Section 2623(d) has been moved to 2623(e) due to the insertion mentioned above and the phrase, “Payment, in the form of a voucher, of \$2,500.00” has replaced, “Payment, in the form of a voucher, up to twenty five hundred dollars (\$2,500).”

Section 2624(b)(1): The phrase “under contract with BAR” has been added.

Sections 2624(b)(2)(A) and 2624(b)(2)(B) have been modified so that the number of months is no longer spelled out in addition to the stated numeral, i.e.; “60” has replaced, “sixty (60)” and “24”, has replaced “twenty four (24),” etc. In addition, the word “postmarked” has been added to clarify the date used to determine eligibility. In section 2624(b)(2)(B), “less” has been replaced with “fewer.”

Section 2624(b)(3): The word “vehicle” has replaced “vehicular” and “but not limited to” has been deleted.

Section 2624(c): “or Health and Safety Code section 43012” has been added to 2624(c)(5). The citation for the regulatory definition of the vehicle inspection requirements has been clarified as “pursuant to sections 3394.4 (8) and 3394.4(c)(9) of title 16 of Division 33, Article 11 of the California Code of Regulations” instead of “in CCR sections 3394.4(8) and 3394.4(c)(9).” The phrase “inspection requirements” has

replaced the word “requirements.” The word “deficiency(ies)” has replaced “deficiencie(s).”

Section 2624(d): “12” has replaced “twelve (12)” in two places. “Two” has replaced “two (2).”

Section 2625(a): The phrases “or salvaged” and “that has been reregistered” have been added to clarify the description of ineligible vehicles.

Section 2625(c): The phrase “public agency or” has been added to clarify the scope of ineligible fleets. “Section 44020 of the Health and Safety Code” has been corrected to “Health and Safety Code Sections 44019 and 44020.”

Section 2626(a): “The Bureau, the Districts, and the Board” has replaced “BAR.” The word “solicit” has replaced “identify.” The phrase “include: all pre-1976 model year vehicles; diesel vehicles; and additional vehicles identified by analysis of the data generated by the Smog Check programs” to define targeted vehicles has been replaced by “are defined pursuant to subdivision (j) of section 2621” to reference the definition.

Section 2626(b): “BAR will adjust solicitation based on consumer participation” has been deleted as redundant.

Section 2626(c) has been promoted to 2626(b) due to the change described above. “The Bureau” has replaced “BAR,” and “outreach” has replaced “solicitation.” The phrase “and solicit vehicles” has been inserted.

Section 2626(d) has been renumbered to 2626(c) due to the change described above. “Board, Bureau, and the” has been added to clarify the list of entities that may solicit targeted vehicles. A reference to the regulatory definition of Targeted Vehicles in section 2621(k) has been inserted in favor of the redundant listing of the definition in this section.

Section 2627(b): The phrase “or the Board” has been added as an entity able to contract with the Districts to administer the voucher portion of the program.

Section 2627(c): The language describing the duties of the District in administering the voucher program has been changed for clarification and improved readability.

Section 2627(d)(1): The word “dealers” has replaced “entities.”

Section 2627(d)(2) and (3): “for” has replaced “on” to correct grammatical errors. The phrase “or salvaged,” as well as reference to the vehicle code describing salvaged vehicles, has been added to 2627(d)(3). Staff has removed “(pursuant to section 11519 of the Vehicle Code)” from section 2627(d)(2) as an erroneous citation.

Section 2627(e): Language has been changed for clarification and improved readability.

Section 2628(a): Reference to definition of emission-related and drive train parts in section 2621 has been added for clarification.

Sections 2629(a) and (b): The word “program” has been deleted as redundant.

In addition, minor and non-substantive formatting and grammar changes have been made throughout the regulation for clarification and to improve readability.

Comments and Subsequent Action

The regulatory documents for this rulemaking, including Resolution 09-44, are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2009/carscrap09/carscrap09.htm>

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt new sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630, title 13, California Code of Regulations, after making the modified text available to the public for a period of at least 15 days. The Board further directed that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments will only be accepted on the modifications approved by the Board and may be submitted by postal mail or electronic mail as follows:

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>

Please note that under the California Public Records Act (Govt. Code § 6250 et seq.), your written and oral 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. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on 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.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact the Clerk of the Board at (916) 322-5594 as soon as possible.

Attachments

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 ARB's website at www.arb.ca.gov.