

Attachment

Modifications to the Proposed Regulation Order

Shown below are proposed modifications to the originally proposed adoptions set forth in Appendix A to the Staff Report: Initial Statement of Reasons released May 8, 2009. Text proposed for amendment in the first Notice of Public Availability of Modified Text is shown in underline for additions and ~~strikeout~~ for deletions. Text proposed for amendment in the Second Notice of Public Availability of Modified Text is shown in double underline for additions and ~~double-strikeout~~ for deletions.

Regulation for AB 118 Enhanced Fleet Modernization Program

Adopt new sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630 title 13, chapter 8.1, California Code of Regulations to read as follows:

(Note: The entire text of sections 2620 through 2630 is new language.)

Chapter 8.1. 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, in the form of a voucher, to owners of targeted vehicles for the purchase of a ~~cleaner~~ replacement vehicle meeting emission and/or model year requirements, if they voluntarily retire a targeted vehicle. A district administering a voucher program may offer this additional payment in the form of a voucher for public transportation in lieu of a voucher for the purchase of a replacement vehicle.

NOTE: Authority cited: 39600, 39601, and 44125, Health and Safety Code. Reference cited: 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) **“Dismantle”** means to, crush, stamp, shred, or otherwise render permanently and irreversibly incapable of functioning as originally intended, any vehicle or vehicle part.

(d) **“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.

(e) **“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.

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

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

(h) **“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.

(i) **“Income Eligible”** means eligible for increased financial incentives ~~according~~ pursuant to Section 3394.4 of Title 16 of Division 33, Article 11 of the income-eligible definition used in the BAR Consumer Assistance Program (CAP) California Code of Regulations.

(j) **“Solicited Vehicle”** means a vehicle identified by the Bureau and the Board and solicited by the Bureau for participation in the EFMP retirement program. These vehicles are identified by probability of being a high polluting vehicle. Solicited vehicles include: all pre-1976 model year vehicles; diesel vehicles; and additional vehicles identified by analysis of the data generated by the Smog Check programs.

(k) **“Targeted Vehicle”** means a vehicle identified by the Bureau, the Board, or the district to be eligible for a voucher and retirement under the EFMP. These vehicles are identified by probability of being a high polluting vehicle. Targeted vehicles include: all pre-1976 model year vehicles; diesel vehicles; and additional vehicles identified by analysis of the data generated by the Smog Check programs or vehicles identified by other means accepted by the Board, such as remote sensing. Targeted vehicles identified by analysis of emissions data will have a higher probability of high emissions than solicited vehicles; targeted vehicles are a subset of solicited vehicles.

(l) **“Voucher”** means a document with a specified redemption value issued by the district, and redeemed at a vehicle dealer for the purchase of a replacement of a retired

vehicle with a cleaner vehicle meeting emissions and/or model year requirements or redeemed at a public transit agency for the purchase of transportation.

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

§ 2622. Program Administration

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

(b) The Bureau may contract annually with local air pollution control districts to administer the voucher portion of the EFMP. Districts may use up to ~~five (5) percent~~ 5% of program funds to recover administrative costs incurred.

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

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

§ 2623. Program Limits

An applicant determined to be eligible under the Enhanced Fleet Modernization Program may receive the following assistance:

(a) Payment ~~up to one thousand dollars (of \$1,000.00)~~ for each vehicle retired from operation at a dismantler operating under contract with the Bureau of Automotive Repair; or

~~(b) For income eligible participants, payment up to fifteen hundred dollars (of \$1,500.00) for each vehicle retired from operation at a dismantler operating under contract with BAR.~~

(b) (e) Once the dismantler has purchased the vehicle, the consumer's eligibility status or the amount paid to the consumer cannot change.

Targeted Vehicles may also qualify for:

(c) (d) Payment, in the form of a voucher, up to two thousand dollars (of \$2,000.00) toward the purchase of a replacement vehicle four years old or newer, or up to \$2,000.00 toward the purchase of transportation by a public transit agency; or

(d) (e) For income eligible participants, payment, in the form of a voucher, up to twenty-five hundred dollars (of \$2,500.00) toward the purchase of a replacement vehicle eight years old or newer, or up to \$2,500.00 toward the purchase of transportation by a public transit agency.

(e) ~~(f)~~ Consumers who have received federal funds for a vehicle may not receive funds under EFMP for the same vehicle.

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

§ 2624. Eligibility Requirements

(a) In order to apply for participation in the EFMP, an individual must submit a completed application as specified at Section 3394.6 of Title 16 of Division 33, Article 11 of the California Code of Regulations, to BAR with original signature(s).

(b) In order to participate in the EFMP, an individual must be the registered owner of the vehicle with vehicle title issued in their name, and the a vehicle must meet the following requirements, as applicable:

(1) It shall be voluntarily sold to a Dismantler under contract with BAR;

(2) It shall be currently registered with the DMV as an operable vehicle and shall have been so registered continuously for at least 24 months prior to the postmarked date of application to an address or addresses within the state, or

(A) A vehicle may also be eligible if the owner of the vehicle placed the vehicle in planned non-operational status per Vehicle Code section 4604, et seq., for a total of ~~sixty (60)~~ or fewer days during the continuous ~~twenty-four (24)~~ months registration period and occurring at least ~~ninety (90)~~ days prior to the postmarked date of application, or

(B) A vehicle may also be eligible if the registration has lapsed for ~~less~~ fewer than 121 days during the previous ~~twenty-four (24)~~ months, pursuant to Health and Safety Code 44094, and all appropriate registration fees and late penalties have been paid to the DMV, provided that the vehicle is registered for at least ~~ninety (90)~~ days immediately prior to the postmarked date of application;

(C) Determination of an individual vehicle's registration history shall be based on:

1. Registration data for that vehicle obtained from DMV records; and

2. If (C)1 provides inconclusive results for an individual vehicle, then copies of the applicable vehicle registration certificates may be used;

(D) ~~An unregistered~~ vehicle 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, provided

that the vehicle must be registered as an operable vehicle at the postmarked date of application. Documentation of operation in California includes the following.

1. Proof of insurance for the last two years; or
2. Invoice(s) (showing the vehicle identification number) for vehicle repairs and/or maintenance during the previous two years and proof of owner's residence in the state during the same period.

(3) It shall be a vehicle with up to 10,000 pounds gross ~~vehicular~~ vehicle weight rating: including ~~but not limited to~~ a passenger vehicle, truck, sports utility vehicle (SUV), or van;

(4) It may be operating under a Smog Check repair cost waiver or economic hardship extension issued pursuant to Health and Safety Code section 44017 or 44017.1;

~~(5) It may be currently operating under a Temporary Operating Permit issued by the Department of Motor Vehicles.~~

~~(6)~~(5) Vehicles that are tampered, pursuant to Section 3340.41.5 of ~~T~~title 16, Division 33, Article 5.5 of the California Code of Regulations or Health and Safety Code section 43012, shall be eligible for acceptance into the EFMP program.

(c) Each vehicle shall 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 ~~in CCR pursuant to S~~sections 3394.4(8) and 3394.4(c)(9) of title 16 of Division 33, Article 11 of the California Code of Regulations. Vehicles failing the inspection requirements ~~pursuant to Section 2624~~ 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 ~~deficiencie(s)~~ deficiency(ies).

(d) An applicant shall not have retired another vehicle through the EFMP or the BAR Consumer Assistance Program within the preceding ~~twelve (12)~~-month period; and a vehicle owner who is a joint owner of a vehicle shall not have retired more than two ~~(2)~~ vehicles through the EFMP or BAR Consumer Assistance Program within a ~~twelve (12)~~-month period.

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

§ 2625. Ineligible Vehicles

(a) A dismantled or salvaged vehicle that has 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 ~~Section 44020~~ of the Health and Safety Code sections 44019 and 44020.

(d) A vehicle being initially registered in California.

~~(e) A vehicle undergoing a transfer of ownership.~~

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

§ 2626. Targeted Vehicles and Vehicle Solicitation

(a) ~~The Bureau, the Districts, and the Board~~ BAR will solicit ~~identify~~ vehicles with the greatest potential for having the highest emissions for participation in the EFMP. BAR shall use existing vehicle emissions data to identify and solicit program participation beginning with vehicles with the highest emissions potential first. “Solicited vehicles” include: all pre-1976 model year vehicles; diesel vehicles; and additional vehicles identified by analysis of the data generated by the Smog Check programs is defined pursuant to subdivision (j) of section 2621.

~~(b) BAR will adjust solicitation based on consumer participation.~~

~~(c)~~ (b) The Bureau BAR shall primarily focus outreach ~~solicitation~~ efforts and solicit vehicles in the South Coast and San Joaquin Valley air basins.

~~(d)~~ (c) The Board, the Bureau, and the Districts may solicit Targeted Vehicles as defined pursuant to subdivision (k) of section 2621 as appropriate for participation in the voucher portion of the EFMP. ~~Targeted vehicles shall be those with the greatest potential for having the highest emissions. Targeted vehicles shall be pre-1976 vehicles, diesel vehicles, or other vehicles as identified using the BAR High Emitter Profile model, or by other means as approved by the Board.~~

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

§ 2627. Vouchers

(a) Vouchers will initially be offered in the South Coast and San Joaquin Valley air basins with inclusion of other air districts as determined by the Board. The Bureau shall

consult with the Board annually regarding the status and expansion of the voucher program.

(b) BAR or the Board shall contract with the districts to administer the voucher program.

(c) The district administering the voucher program shall submit applications pursuant to subdivision (a) of section 2624 for EFMP retirement to the Bureau BAR for approval. The Bureau shall provide the District with its and determination of an applicant's income eligibility for the purpose of a voucher. If approved, the Bureau BAR shall issue a Letter of Eligibility (LOE), which the district will give to the applicant.

(d) The district administering the voucher program shall contract with participating vehicle dealers or public transit agencies for redemption of the vouchers.

(1) All vehicle dealers entities under contract to redeem vouchers must be licensed as dealers; private-party vehicle transactions are not eligible for voucher redemption.

(2) The voucher may not be redeemed ~~on~~ for the purchase of a dismantled or salvaged vehicle. ~~(pursuant to Section 11519 of the Vehicle Code).~~

(3) The voucher may not be redeemed ~~on~~ for the purchase of a vehicle with a salvaged title (as described in Vehicle Code section 544).

(4) The voucher may only be redeemed for replacement vehicles that meet or exceed the following minimum EPA combined fuel economy ratings:

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

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>

(e) ~~No person may~~ A vehicle owner or joint vehicle owner may not receive more than one voucher from under the EFMP program.

(f) Vehicles shall not be eligible for a voucher unless they meet the registration requirements of section 2624 at an address in the district where the voucher is issued.

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

§ 2628. Parts Recycling and Resale.

Dismantlers, and their agents, contractors and employees shall not remove any parts from an EFMP-purchased vehicle for resale or reuse unless specifically exempted by BAR through 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: 39600, 39601, and 44125, Health and Safety Code. Reference cited: 39600, 39601, and 44125, Health and Safety Code.

§ 2629. Records and Auditing

(a) Records shall be securely maintained by the dismantler for each vehicle purchase and transaction in the EFMP ~~program~~.

(b) Records shall be maintained by the district for each voucher redemption and transaction in the EFMP ~~program~~.

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