

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO ADOPT PROPOSED AB 118 ENHANCED FLEET MODERNIZATION PROGRAM REGULATION (CAR SCRAP)

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adoption of the proposed AB 118 Enhanced Fleet Modernization Program Regulation (Car Scrap).

DATE: June 25-26, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 25, 2009, and may continue at 8:30 a.m., on June 26, 2009. This item may not be considered until June 26, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before June 25, 2009, to determine the day on which this item will be considered.

If you require special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by fax at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected:

Proposed adoption of California Code of Regulations, title 13, new sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630.

Background:

In October 2007, Governor Schwarzenegger signed Assembly Bill 118 (AB 118 [Nunez, Statutes 2007, chapter 750), into law. This legislation provides approximately \$200 million annually for new programs to improve air quality through the development and use of advanced technologies as well as alternative and renewable fuels. The legislation includes \$30 million annually for an Enhanced Fleet Modernization Program (EFMP).

The EFMP will augment the State’s existing State voluntary accelerated vehicle retirement program, referred to as the Consumer Assistance Program.

The focus of the EFMP is to augment existing retirement programs and provide funding to retire the highest polluting vehicles in the areas with the greatest air quality problems. The legislation also directs that the program consider flexible compensation related to the replacement of the vehicles being retired, and requires ARB to consider cost-effectiveness and impacts on disadvantaged and low-income populations.

Proposed Regulation:

There are two main features to the proposed rulemaking. First, the proposal would remove existing State requirements that vehicles must be subject to and fail Smog Check in order to participate. These modifications greatly expand the vehicle population that can be retired in any given year and are projected to result in the retirement of up to 15,000 vehicles annually when fully funded. Incentives for vehicle retirement would be available statewide at \$1,000 per vehicle or \$1,500 for low-income participants.

Second, staff is proposing a pilot voucher program that would target the highest-emitting vehicles and ensure their replacement with newer, cleaner vehicles. Solicited consumers would retire their vehicle at a dismantler and receive both immediate compensation for vehicle retirement and additional incentives in the form of a redeemable voucher to be used at participating vehicle dealerships. Staff proposes that the voucher compensation be \$2,000 to \$2,500 per vehicle depending on income level. Staff is also proposing that income-eligible participants be able to choose from a wider pool of replacement vehicles.

To start, the pilot voucher program would only be available in the South Coast and San Joaquin Valley air basins, which are areas with specific vehicle retirement commitments in the State Implementation Plan and areas with the worst air quality. A summary of the proposed incentives is provided in the table below.

Consumer	Retirement Incentive	Replacement Voucher	Total Incentives	Replacement Model Years (rolling)
All	\$1,000	\$2,000	\$3,000	Newest 4 Model Years
Income-Eligible	\$1,500	\$2,500	\$4,000	Newest 8 Model Years

Total emission benefits for the program are estimated to be approximately 1.6 tons of hydrocarbons and oxides of nitrogen each day when fully funded.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the proposed regulation. The proposed regulation defines the EFMP structure and establishes administrative and implementation requirements. Participation by individuals and businesses in the EFMP is strictly voluntary.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking – Proposed Regulations for an Enhanced Fleet Modernization Program (Car Scrap)."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on June 25, 2009.

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 ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Mr. Tom Evashenk, Air Resources Engineering Associate, at (916) 445-8811 or Mr. John Ellis, Air Resources Engineer, at (626) 350-6516.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. 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 FSOR, when completed, are available on ARB's website for this rulemaking at:
www.arb.ca.gov/regact/2009/carscrap09/carscrap09.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 and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create slight costs to ARB in the implementation of the EFMP. Funding for these positions has been included in the California State Budget. Except for these costs, the proposed regulatory action would not create costs or savings to any other 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 Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, 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 EFMP is purely voluntary. Businesses, individuals, and public agencies will not participate unless it is economically beneficial for them to do so.

The Executive Officer has made an initial determination that the proposed regulatory action would 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—which sets implementation requirements for the EFMP—would have a slight positive impact on the creation of jobs within the State of California. The types of businesses that will benefit include licensed dismantlers and new or used car dealerships. For dismantlers, this program will increase the number of vehicles scrapped and for car dealerships stimulate vehicle sales, thus increasing revenues to both entities. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Although participation in the EFMP is strictly voluntary with and there are no mandated requirements, small businesses that choose to participate in the EFMP would be affected by enforcement of the regulation.

The proposed regulation will not impose reporting requirements on private persons or businesses.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable 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

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by email before the meeting. To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon, Pacific Standard Time, June 24, 2009**, 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

Please note that under the California Public Records Act (Gov. 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.

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 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board 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, 39601, and 44125. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39600, 39601, and 44125.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

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 and that the regulatory language as modified could result from the proposed regulatory action; in such event, 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, and the public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: April 28, 2009

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 our website at www.arb.ca.gov.