



California New Car Dealers Association

December 28, 2009

Mr. James Goldstene
Executive Director
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Proposed Enhanced Fleet Modernization Program

Dear Mr. Goldstene,

The California New Car Dealers Association (CNCDA) is a statewide trade association which represents the interests of over 1,100 franchised new car and truck dealer members. CNCDA members are primarily engaged in the retail sale of new and used motor vehicles, but also engage in automotive service, repair, and parts sales. We were heavily involved in drafting and advocating for the passage of Assembly Bill 118 (Nunez), which created the Enhanced Fleet Modernization Program (EFMP), and have worked closely with CARB staff to assist in developing the EFMP regulations. While we strongly support the overall program, we feel that some of the recent amendments will adversely affect the effectiveness of EFMP.

Greenhouse Gas Criteria

GHG Emission Reduction Was Not a Purpose of EFMP Statute:

While we understand and support CARB's goal of reducing greenhouse gas (GHG) emissions from mobile sources, EFMP is not the proper means of doing so. First, AB 118 was intended as a clean air program, and the operational provision (Health and Safety Code Section 44125) makes absolutely no mention of GHG emission reductions—in short, GHG emission reduction was simply not one of the intended goals of the legislature when drafting the statutory basis for the proposed regulation. The goal of the EFMP, as outlined in the Initial Statement of Reasons, and as described in the 2007 State Implementation Plan (SIP) is to clean the air by reducing criteria pollutants—any provisions that reduce the effectiveness of accomplishing this task to achieve another goal directly contravenes the intent of the legislature.

Fuel Economy Requirement Reduces Program Effectiveness:

Targeting high-polluting vehicles for scrappage and incentivizing replacement with newer vehicles, as was the original design behind EFMP, can effectively reduce criteria pollutants. By

introducing a fuel economy standard to eligibility requirements for a vehicle replacement voucher, however, the amended regulatory proposal detracts from the criteria pollutant reduction goal by effectively eliminating several classes of vehicles from vehicle replacement eligibility. While older full size trucks and SUVs with primitive emission control systems contribute disproportionately large emissions of the very criteria pollutants CARB seeks to reduce under the SIP, consumers looking to replace such vehicles with newer models under the program will be barred from doing so under the proposed amendments, which mandates a minimum of 20 miles per gallon combined fuel economy rating.

The proposed amendments fail to take into account that small, fuel efficient vehicles are not suitable for all purposes. Older pickups or utility vehicles used for work or to haul large families are among the dirtiest vehicles on the road due to the fact that their emissions requirements were not particularly strict until they fell under the federal Tier 2 standards in 2004. Consumers that need such vehicles should be among the highest priority targets for EFMP, but the strict 20 miles per gallon mandate for replacement vehicle voucher eligibility likely eliminates such consumers from EFMP.

A 1974 Chevrolet Suburban used by an income eligible family of eight, for instance, must only meet the following standards per mile: 3.1 grams of NO_x, 39 grams of carbon monoxide, and 3.4 grams of total hydrocarbons, with no controls whatsoever over non-methane organic compounds, particulate matter, or formaldehyde.¹ Further, the vehicle is not even subject to California's smog test requirements—meaning that the actual emissions may be much greater than these mandates. This family should be targeted by under EFMP for retirement of their vehicle. Under the amended proposal, they would be eligible for \$1,500 retirement payment, but would be required to purchase a vehicle with a combined fuel economy rating of at least 20 miles per gallon to be eligible for the \$2,500 voucher toward a newer replacement vehicle. The proposed GHG emission eligibility standard effectively eliminates the ability of the family to replace the vehicle with a cleaner vehicle, since eight-passenger vehicles meeting the fuel economy requirements are rare—and finding one at an affordable price is even more rare. If the family elected to participate in the program, they would only be eligible for a \$1,500 payment—hampering both their ability and any economic incentive to purchase a cleaner vehicle.

Prohibition on “Stacking” with Federal Funding

Anti-Stacking Provision Reduces Emission Reduction Effectiveness:

The state's primary goal with EFMP is in having consumers with the dirtiest vehicles on the road purchase the cleanest available vehicles at the most efficient use of the state's funds. If a federal program were created to pay additional funds to assist the consumer to buy such vehicles without

¹ By comparison, a *not-particularly*-clean 2006 Chevrolet Suburban replacement vehicle would at least meet the following Tier 2 Bin 8 standards per mile: 0.20 grams of NO_x (a 15.5-fold improvement), 0.156 grams of non-methane organic compounds, 4.2 grams of carbon monoxide (a 9.3-fold improvement), 0.02 grams of particulate matter, and 0.018 grams of formaldehyde—the improvement over the 1974 vehicle is remarkable.

additional state expenditures, the state should encourage participation in such a program. Doing so would create a larger pool of willing program participants who would be given the ability to buy newer vehicles with more advanced emission control equipment. Strangely, the proposed amendment would bar such coordination by prohibiting the combination of federal and state fleet modernization funding, or “incentive stacking.”

The Notice of Public Availability of Modified Text that summarizes the proposed amendments states that the “anti-stacking” provision is designed “in order to ensure retirement of the maximum number of vehicles from independent state and federal programs.” CARB staff apparently assumes that increasing the pool of eligible consumers will create a proportionally larger number of participating consumers. This ignores the reality that the vast majority of consumers will simply choose to participate in the program that provides the largest incentive payment. With incentive stacking prohibited, participating consumers will have a smaller budget with which to replace their vehicle—meaning a greater likelihood of purchasing a less expensive vehicle, which will generally be older and dirtier. Were incentive stacking allowed, a larger number of consumers would be attracted by the larger incentive payment, and this group would be more likely to purchase newer, cleaner vehicles.

This is best demonstrated through a realistic example: were the federal CARS program (which specifically allowed for incentive stacking) offered at the same time as the proposed EFMP, and incentive stacking allowed, California consumers could potentially scrap their vehicles for up to \$8,500 toward the purchase of today’s newest and cleanest vehicles. Further, CARB would be in receipt of data as to exactly which vehicles were scrapped and which vehicles replaced the scrapped vehicles—allowing for a more-accurate calculation of emission reductions. Incentives of such large amounts could put lower-income consumers in vehicles with great fuel economy and long-term emission warranties. Were the programs offered simultaneously, but stacking disallowed, the same consumers would be faced with a choice of participating in a program offering up to \$4,500 (regardless of income), or a program offering a maximum of between \$3,000 and \$4,000 (depending upon income). A rational consumer would opt to participate in the federal program, and CARB would not be in receipt of the transactional data with which to calculate potential SIP credits.

Anti-Stacking Provision Disadvantages California Consumers and Businesses:

CARB should also take note of the fact that these federal funds will be spent elsewhere if not in California, and that other states with fleet modernization programs do not prohibit incentive stacking. By encouraging customer participation through incentive stacking, CARB can ensure that a larger share of the federal program will be spent in California, rather than in other states. Consumers and dealerships in states without incentive stacking prohibitions will be given an unfair advantage when compared to those in California. We urge CARB to withdraw proposed Section 2623(f).

Drafting Error:

The amended regulation also appears to contain a drafting error. While the Notice of Public Availability of Modified Text summarizing the proposed amendments states that Section 2623(f) was

Mr. James Goldstene

December 28, 2009

Page 4 of 4

added to “prohibit participation in both State and federal vehicle buy-back programs,” the language of the regulation reads as follows:

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

This language is both overly broad and ambiguous. First, the language does not refer to buy-back programs at all, instead referring to “federal funds for a vehicle.” This would appear to exclude vehicles subject to sales or income tax credits or deductions, many of which specifically incentivize the purchase of the very hybrid and plug-in hybrid vehicles that CARB encourages consumers to drive. Second, the amendment raises questions as to whether it refers to the vehicle being scrapped or the vehicle being purchased. If this refers to the vehicle being scrapped, why would CARB have any interest in whether the vehicle was purchased pursuant to a federal incentive program? As suggested above, the proposed amendment should be withdrawn to eliminate any industry and consumer confusion.

Solicited Vehicles

The amended regulation appears to contain an inconsistency between Section 2621(j), which states that the certain vehicles will be identified by BAR and ARB, and solicited by BAR, and 2626(a), which states that CARB, BAR, and the AQMDs will solicit vehicles. The proposed amendments should clarify which agencies will identify and solicit vehicles under EFMP.

Conclusion

To improve the effectiveness of the regulatory proposal, we urge CARB to adopt the changes suggested above.

Thank you for this opportunity to comment on the proposed regulation. We look forward to working with ARB to address our concerns in the near future. If you have any questions or comments concerning this letter or tire inflation issues in general, please feel free to contact me at (916) 441-2599, or at jmorrison@cncda.org.

Sincerely,



Jonathan Morrison
Staff Counsel