State of California
AIR RESOURCES BOARD

Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Response

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

Public Hearing Date: **June 26, 2009**
Agenda Item No.: 09-6-7

I. GENERAL

Introduction and Background

In this rulemaking, the Air Resources Board (the Board or ARB) is adopting a new regulation to follow legislative direction and expand the State's existing vehicle retirement program to improve California's air quality through the voluntary early retirement of vehicles, specifically in areas with the worst air quality. This regulation fulfills the requirements of Health and Safety Code section 44125 of 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).

The rulemaking was initiated on May 8, 2009, through the publication of the Notice of Public Hearing for the June 26, 2009, public hearing to consider the proposed regulation for the Enhanced Fleet Modernization Program. Concurrently, a Staff Report: Initial Statement of Reason for Rulemaking (ISOR), entitled Public Meeting to Consider Regulations for an Enhanced Fleet Modernization Program (Car Scrap) was made available for public review and comment beginning May 8, 2009. The ISOR, which is incorporated by reference herein, describes the purpose and necessity for the proposed regulation. The text of the proposed regulation, which would add new sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630 in title 13, California Code of Regulations (CCR) was included in the ISOR as Appendix A. These documents were also posted on the ARB internet site for the rulemaking at: http://www.arb.ca.gov/regact/2009/carscrap09/carscrap09.htm

Description of the Board Action

On June 26, 2009, the Board conducted a public hearing to consider the Enhanced Fleet Modernization Program (Car Scrap) regulation. At the conclusion of the hearing, the Board adopted Resolution 09-44, in which it approved the proposed regulation with amendments to sections 2620 through 2630 in title 13, CCR. Resolution 09-44 directed the Executive Officer to incorporate ARB staff's suggested modifications, along with such other conforming modifications as might be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days.

The regulatory text and modifications were made available for a supplemental comment

period starting December 9, 2009, for a 20 day comment period ending December 28, 2009 by issuance of a Notice of Public Availability of Modified Text (15-day Notice or Notice) and supporting documents. Ten written comments were received. After considering the comments submitted during the 15-day comment period, the Executive Officer determined that additional modifications to the proposed new regulation were appropriate. A Second Notice of Public Availability of Modified Text and supporting documents were made available on March 18, 2010, for a 16-day comment period ending April 2, 2010. One additional comment was received.

In accordance with Government Code section 11346.9(a)(1), this Final Statement of Reasons (FSOR) updates the ISOR by identifying and explaining the modifications that were made to the original proposal as a result of public comment. The FSOR also summarizes the written and oral comments received during the 45-day public comment period prior to the hearing and the testimony received on June 26, 2009; and comments received during subsequent 15-day comment periods.

Economic and Fiscal Impacts

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. 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. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

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. The proposed regulation also would not impose costs or mandates to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

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 may stimulate vehicle sales, thus increasing revenues to both entities.

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.

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 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 may impose reporting requirements as necessary on participating dismantlers for the purpose of maintaining an audit trail.

Consideration of Alternatives

No alternatives to the regulation were considered because the legislation requires adoption of regulations in order to carry out the purposes of the regulation. For this reason, ARB could not, strictly speaking, consider alternatives to regulation. ARB did consider a number of options along the continuum of regulatory actions. For example, ARB could have chosen different incentive levels than the ones ultimately settled upon. Or ARB could have chosen not to differentiate between incentives awarded for scrapping a vehicle (but not replacing it) as opposed to scrapping a vehicle and replacing it. Ultimately, ARB chose the combination of measures which it believed would achieve the greatest emission reductions.

The Board has determined that no other alternatives considered by the agency or that have otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

II. SUMMARY OF MODIFICATIONS TO THE ORIGINALLY PROPOSED TEXT

Summary of Modifications – First 15-Day Comment Period

Various modifications to the original proposal were made in order to address comments received during the 45-day public comment period, and to clarify the regulatory language. The Modifications to Regulatory Text of CCR, Title 13, made available for comment Sections 2620 through 2630. A description and rationale for the modifications as released on December 9, 2009 to the regulation is set forth below.

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 meet 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 (CO_2) 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-CO_2 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.

Model Year	Minimum U.S. EPA Combined Fuel Economy Rating
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 is actually being used and that 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.

Summary of Modifications – Second 15-day Comment Period

The following sections summarize the substantive modifications and the rationale for making such modifications as released on March 18, 2010 for public comment.

A. Change in Program Limits.

As established in the proposed regulation and specified by statute, the Enhanced Fleet Modernization Program (EFMP) will be administered by the Bureau of Automotive Repair (BAR) in addition to the existing Consumer Assistance Program (CAP). The proposed EFMP regulation originally included dollar amounts for vehicle retirement that reflected expected changes in the CAP program in order to harmonize the programs. However, due to current financial considerations the expected changes in the CAP program will not occur. Therefore, Section 2623 (b) has been eliminated to maintain alignment between the CAP and EFMP programs.

B. Change in Eligibility Requirements.

Staff is also proposing additional changes in eligibility to further harmonize and align with the CAP vehicle retirement program. Section 2624 (b) has been modified to include a requirement that an applicant must be the registered owner of the vehicle in order to be eligible for participation. Section 2625 (e) has also been deleted to maintain consistency with the existing CAP program.

III. SUMMARY OF COMMENTS AND AGENCY RESPONSES

45-day Comment Submittals
The following individuals, environmental organizations, industry groups, and others submitted written comments during the 45-day comment period. Organizations identified with an asterisk (*) presented oral testimony at the hearing on June 26, 2009.

1. Ledbetter, Danny	LEDBETTER
2. Smathers, Frank	SMATHERS
3. Jensen, Andrew	JENSEN
4. Vieira, Luis	VIEIRA
5. Foster, Walter	FOSTER
6. Hickey, Nicole	HICKEY
7. Hall, Andwele	HALL

8. Hovey, Stephen	HOVEY
9. Voermann, Ian	VOERMANN
10. Bithell, Doug	BITHELL
11. Albright, Stacie	SPECIALTY EQUIPMENT MARKET ASSOCIATION
12. Cowan, Candi	COWAN
13. Voermann, Ian	VOERMANN
14. Norvas, William Jr.	NORVAS
15. Lynch, Joseph	LYNCH
16. Stafford, Galen	SPECIALTY EQUIPMENT MARKET ASSOCIATION
17. Mowery, Dale	NORCAL CORVETTES
18. Woodson, Mark	WOODSON
19. Sanguinetti, David	SANGUINETTI
20. Scherer, Ron	SCHERER
21. Christoffels, Alan	CHRISTOFFELS
22. Marks, Oliver	MARKS
23. Hunter,Gary	HUNTER
24. Perry, David	PERRY
25. Cudworth, John	CUDWORTH
26. Feigel, Keith	FEIGEL
27. Clark, Mark	CLARK
28. Ochoa, Richard	OCHOA
29. Marquez, Robert	MARQUEZ
30. Hawke, Pierce	HAWKE
31. Walker, Douglas	CONTEMPORARY HISTORIC VEHICLE ASSOCIATION

32. Settle, Doug	SETTLE
33. Dilling, Patrick	DILLING
34. Schoof, Angela	SCHOOF
35. Henchey III, Joseph	HENCHEY III
36. Tebbett, Gary	TEBBETT
37. McDermott, Karen	MCDERMOTT
38. Warren, Grant	WARREN
39. McKinley, Sean	MCKINLEY
40. Hibler, Douglas	SPECIALTY EQUIPMENT MARKET ASSOCIATION
41. Frantzen, Larry	FRANTZEN
42. Law, Clifford	LAW
43. Brogdin, Larry	BROGDIN
44. Gilbertson, Richard	GILBERTSON
45. Black, Michael	BLACK
46. Polchenko, Carol	POLCHENKO
47. Rose, John	ROSE
48. Quilter, John	QUILTER
49. Hauser, Edward	HAUSER
50. Clark, Randy	CLARK
51. Mike D.	MIKE D.
52. Peterson, T. Alan	PETERSON
53. Straughn, Gary & Diane	STRAUGHN
54. Horn, Chris	HORN
55. Morton, Mark	MORTON

56. Jansen, Martin	JANSEN
57. Lee, Dale	ASSOCIATION OF CALIFORNIA CAR CLUBS
58. Ryce, Stuart E.	RYCE
59. Nielson, Carl	NIELSON
60. Zimmerman, Kurt	ZIMMERMAN
61. Neumann, G.W.	NEUMANN
62. Wheeler, David	WHEELER
63. Champie, Bruce	CHAMPIE
64. Andrews, Robert	ANDREWS
65. Gully, Clifton	GULLY
66. Stearns, Robert	ASSOCIATION OF CALIFORNIA CAR CLUBS
67. Lindsay, Jack	LINDSAY
*68. Mohajer, Sean	AQMS AUTOMOTIVE
69. Evenson, Fred	ACCC
70. Hileman, Frank	HILERMAN
71. Lieberg, Lee	ASSOCIATION OF CALIFORNIA CAR CLUBS
72. Barrett, Will	AMERICAN LUNG ASSOCIATION OF CALIFORNIA
73. Trimlett, Leonard	TRIMLETT
74. Blum, Randy	BLUM
75. McDonald, Stephen	SPECIALTY EQUIPMENT MARKET ASSOCIATION
*76. Peters, Charlie	CLEAN AIR PERFORMANCE PROFESSIONALS
*77. Plotkin, Norman	CA. AUTOMOTIVE WHOLESALERS ASSOCIATION
*78. Morrison, Jonathon	CA NEW CAR DEALER ASSOCIATION
*79. Holmes-Gen, Bonnie	AMERICAN LUNG ASSOCIATION OF CALIFORNIA

*80. Magavern, Bill SIERRA CLUB OF CA

*81. Mabutol, Andy MITSUBISHI MOTORS

15-day Comment Submittals

The following organizations submitted written comments during the first 15-day comment period.

82. Douglas, Steve ALLIANCE OF AUTOMOBILE MANUFACTURERS

83. Morrison, Jonathan CALIFORNIA NEW CAR DEALERS ASSOCIATION

Comments and Testimony Presented Prior to, or at the June 26, 2009 Board Hearing

The ARB received both written and oral comments in connection with the June 26, 2009 hearing and subsequent 15-day comment period. Set forth below is a summary of each objection or recommendation specifically directed at the proposed regulation or to the procedures followed by the ARB in proposing or adopting the regulation, together with an agency response. The comments have been grouped by topic whenever possible.

The comments below were received during the 45-day notice period or presented as oral testimony at the Board hearing on June 26, 2009.

A. Collector Car Issues

Concerns over Availability of Parts

1.Comment: It is essential that parts from older model-year vehicles be available for either restoring or rebuilding classic cars. This hobby is a way to help preserve America's automobile history, as well as to help the economy. Do not target classic cars and pre-1976 vehicles. (1, 10, 11, 12, 16, 17, 19, 21, 22, 31, 35, 38, 39, 49, 50, 54, 55, 58, 66, 67, 69, 74).

Response: The intent of the program is to reduce emissions by retiring vehicles with the highest emissions. While pre-1976 vehicles as a group are among the highest emitting in the entire fleet, these vehicles are not eligible for the existing Consumer Assistance Program since they do not have to take an emissions test for registration. With that said, the EFMP is strictly voluntary; any vehicle owner who meets program requirements may voluntarily retire their vehicle for an incentive. In addition, vehicles targeted by BAR as being highest emitters could receive a further incentive for replacement with a newer, cleaner vehicle.

If the vehicle contains high value parts, the dismantler does have the option to purchase the vehicle from the participant and resell the vehicle whole or in part.

Economic Effect on Industry

2.Comment: California has a thriving customization industry and no new car manufacturing. California is spending $30 million to eradicate all of the custom shops. This will therefore reduce California's tax base further, and increase its fiscal problems (13).

Response: The EFMP is strictly a voluntary program whose objective is to reduce fleet emissions by accelerating the turnover of the existing fleet and consequent replacement with newer, cleaner vehicles. Each year, more than one million vehicles are retired through natural attrition. This program will have a minimal impact on custom shops by increasing the natural turnover by less than two percent. Any financial impact to the state will be offset by the increased demand for new vehicles.

3.Comment: Eliminating the pre-1976 vehicles will have a substantial impact on businesses and industry that sell and supply aftermarket parts for classic cars. The loss of sales of aftermarket parts will drain a large part of the state revenue by reducing the amount of taxes that could be accrued. (14, 18, 34, 50, 55, 56, 69).

Response: See response to Comments 1 and 2.

Environmental Impacts

4.Comment: The program will have minimal, if any effect on air quality. The emission reductions achieved through this program is so small, they cannot be measured. Stop wasting taxpayers' dollars on a program that won't help air quality (2, 4, 5, 8, 33, 45, 66, 71).

Response: The overall program is expected to reduce smog forming emissions by 1.6 tons per day through 2015. The majority of the emission benefits for the program will be obtained from the retirement of older vehicles. The proposed EFMP is expected to result in the retirement of up to 15,000 vehicles annually and it is anticipated that the voucher program will provide incentives for about 3,500 participants.

The 2007 State Implementation Plan (SIP) includes a commitment to expand the State's existing program to achieve reductions equivalent to the early retirement of 50,000 and 10,000 vehicles per year in the South Coast and San Joaquin Valley air basins, respectively. The funds allocated under AB 118 represent a "down-payment" on the SIP commitment by providing enough funding to retire roughly one-fourth of the total needed to meet the emission reductions identified for vehicle retirement in the SIP.

5.Comment: There are a very small percentage of pre-1976 cars on the road, most of which are vintage and are generally maintained as hobby cars. Most pre-1976 cars are seldom driven and the impact from these vehicles on the

environment is small as compared to a brand new model year car that is driven many more miles. Many pre-1976 cars are not even driven on the road, therefore not having an effect on air pollution (1, 2, 14, 16, 19, 23, 24, 29, 30, 31, 32, 41, 44, 47, 49, 50, 51, 54, 57, 59, 60, 62, 63, 64, 65, 73, 74).

Response: It is extremely unlikely that any vintage or hobby car will be retired under this program. These vehicles are worth far more than the program incentives will provide. It is more likely that the older vehicles brought in will have little remaining value and be poorly maintained, and thus be extremely high emitting. The emissions contribution from older vehicles is not trivial. In terms of their overall contribution, vehicles 30 years and older account for about 2 percent of the fleet, but are still responsible for more than 23 percent of reactive organic gas and 11 percent of oxides of nitrogen emissions from light-duty vehicles.

6.Comment: I have a cement plant/aggregate plant on Highway 18, 30 miles up the road from Victorville, California that spews out more lead than all the classic cars in California combined, how about taking a look at that and advise me of your findings and recommendations from your prompt investigation of this plant's lead output (32).

Response: This comment is not within the scope of the regulation.

7.Comment: Repairing an older vehicle and recycling parts instead of building a new vehicle is environmentally more "green." Fewer resources are being used to keep an older vehicle in running condition (34, 58, 64).

Response: ARB agrees that there are optimal intervals for vehicle replacement that minimize life-cycle economic and emissions burdens. Research shows that an ownership period of approximately 18 years provides minimum life cycle CO2 emissions and energy use. And when damage cost factors are used to estimate the external costs of pollution to society, shorter replacement intervals of 10 to 14 years are favored. The EFMP is similar to existing retirement programs in which the vast majority of all vehicles being retired exceed 18 years in age and which thus provide a net benefit to the environment.

SMOG Credits

8.Comment: When these vehicles are scrapped they must be totally crushed. Then an "Emission Reduction credit" is issued that only industry can buy (not the individual). These Emission Reduction credits are tradable in the commodities market. Only industry can buy these credits which then transfers the "right to pollute" from the "vehicle owner" to industry. I find this to be pure hypocrisy (73).

Response: Commenter is mistaken; the EFMP does not issue emission reduction credits. The EFMP is not an emission reduction credit trading program but a clean air strategy. All emission reductions from this program will be used to help California meet the commitments made in the 2007 SIP.

9.Comment: I am opposed to smog credits. Let the companies that are polluting clean up their own act at their expense (41).

Response: See response to Comment 8.

EFMP Intent Clarified

10.Comment: Using the CARB Proposed Regulation Statements, the program would affect 15,000 vehicles per year at a cost of possibly $2,000 per vehicle. This is an approximation of $30,000,000 per year. At a time when for example the BAR CAP Program is going broke because so many people have taken advantage of the Consumer Assistance Program as a result of the economy. To help consumers that want to keep their car running would make far more sense than scrapping cars and transferring "the right to pollute" to industry. $30 million would go a long way to keep the CAP program operating. This regulation is also duplication in that the function in question is already covered by the CAP (73).

Response: The Legislature specifically identified vehicle retirement as an effective means of reducing emissions through early retirement of the highest emitting vehicles. ARB does not have the discretion to use the funds allocated for EFMP for other purposes such as vehicle repair. Contrary to the comment, the new program is not a duplication of CAP, but rather a program to retire, in many cases, vehicles not eligible under CAP. As noted in the response to Comment 8, the program does not transfer the right to pollute, but will instead be used to clean the air.

Supporting Data

11.Comment: Is there any data that will support the fact that this proposal will actually have a positive effect (14)?

Response: Accelerated vehicle retirement programs offer owners of older vehicles incentives to scrap those vehicles earlier than might otherwise occur. To estimate the emissions reduction benefits of the program, ARB used vehicle modeling on a fleet basis and empirical evidence. At the anticipated funding level of $30 million annually, the proposal is expected to result in the early retirement of up to 15,000 vehicles statewide each year, nearly doubling the existing State program. In addition, the proposal provides the framework and budget for a voucher program designed to fund up to 3,500 participants per year. Based on these projections, the total emission benefits of the program are estimated to be up to 1.6 tons of hydrocarbons and oxides of nitrogen each day when fully funded. A detailed discussion of the emission benefits of EFMP is in Appendix C of the ISOR.

Miscellaneous

12.Comment: This program is a backdoor attempt at eliminating classic cars

which are a billion dollar a year industry for California (8).

Response: It is extremely unlikely that any vintage or classic car will be retired under this program. Please see response to Comment 2.

13.Comment: The fact that the proposal does not require that vehicles be subject to and fail a SMOG check in order to qualify represents an attempt to lure into the retirement program the pre-1976 collector cars that help drive the restoration market and passions of many in the automotive hobbyist community (71).

Response: This is a voluntary program to encourage vehicle owners with high-polluting vehicles to voluntarily retire their vehicle. It is extremely unlikely that any vintage or classic car will be retired under this program as these vehicles are worth far more than the program incentives will provide. It is more likely that the pre-1976 vehicles brought in will have little remaining value and be poorly maintained, and thus be extremely high emitting.

14.Comment: We have a state agency that has an extra 96 million dollars to buy collector cars that spend most of their time in storage. While, police and firemen are getting laid off and cutting back, and parks are being closed and the Air Resources Board has billions to throw away? There is something wrong that needs to be fixed. This is government waste and lack of responsibility on the Air Resources Board (49).

Response: ARB disagrees with all aspects of this comment. The Legislature has allocated the funds for this program. This money cannot be spent on other programs. AB 118 directs that ARB develop the regulations for BAR to administer. The program will cost-effectively reduce emissions from the light-duty fleet.

15.Comment: This program could result in requiring additional emission testing requirements (Smog Check) for pre-1976 cars, which are currently, exempt from the program (53, 56, 60, 65).

Response: This comment misconstrues the proposed regulation. The proposed regulation does not change SMOG check requirements. ARB has followed the Legislature's direction to design a voluntary vehicle retirement program by targeting the highest-polluting vehicles in the areas with the worst air quality.

B. Budget Cost

State Financial Status

16.Comment: We are concerned that with the current economic state of California and large deficit, the incentive from the EFMP would be better utilized to fund other state public services rather than spent on retiring vehicles that would be junked even without taxpayer dollars. We do not need to be wasting our taxpayers' money on such a program that simply costs the state more money (2, 5, 6, 7, 8, 9, 25, 26, 33, 34, 36, 40, 48, 56, 61, 62, 66, 71, 73).

Response: The incentive funds for this program were allocated and established through statute, signed into law in October 2007 by Governor Schwarzenegger. The legislation directs the collection of roughly $30 million annually through 2015 for the program. By law, these funds cannot be used for other programs.

17. Comment: With the state's economic downturn and its fiscal troubles we cannot afford to fund this program at this time (10, 14, 20, 23, 31, 52, 64).

Response: See response to Comment 16.

18. Comment: In this time of severe state funding shortage, I have several questions that I would like to pose: What percentage of the existing state automobile population are the targeted vehicles? How many of these cars do you expect to remove from the road? What percent of the emissions do you expect this ruling to remove? What will this ruling cost in terms of each vehicle removed (37)?

Response: The targeted probable high-emitter population consists of an estimated 300,000 pre-1976 vehicles, and an additional large population of the highest-emitting vehicles of the High Emitter Profile (HEP) database, as identified by BAR. This total represents roughly two percent of the overall fleet. The EFMP has funding for the early retirement of 15,000 vehicles per year through 2015. Total emission benefits of the program are estimated to be up to 1.6 tons of hydrocarbons and oxides of nitrogen each day. In terms of the cost to remove vehicles from the road, it may vary from year to year, but roughly the cost will be $2,000 per vehicle over the six year span of the program.

Cost Effectiveness

19.Comment: The cost-benefit ratio is too high and program is not cost-effective (3, 5, 14, 55, 73).

Response: AB 118 directs that cost-effectiveness be considered, but does not specify a cost-effectiveness limit. The overall cost-effectiveness of the EFMP is to be estimated at $13,400 per ton of hydrocarbon, oxides of nitrogen and particulate matter reduced. By way of comparison, this total is within the limit for the State Carl Moyer Program Incentives program. The most costly element of the program is providing greater incentives for income-eligible participants. However, offering greater incentives for income-eligible participants is justified by their need for additional support to purchase newer vehicles, and the legislative direction.

20.Comment: The cost of administration is far too high even if the benefits are tangible (43).

Response: The cost of administration is capped at no more than five percent of the overall program. This limit is consistent with other incentive programs administered by ARB and local districts.

Whether Consumer Incentive is Enough

21. Comment: Incentive funds outlined for the program are not enough to purchase a newer car, especially for a person on a fixed income. In addition, people may not be able to afford a new vehicle (14, 15, 18, 27, 39, 43, 51, 64, 73).

Response: This program is strictly voluntary, and the proposal is structured to provide greater funding and flexibility to low-income participants to allow them to get into a newer vehicle at a manageable cost. ARB proposes that the general incentive for retiring a vehicle under the EFMP be $1,000 per vehicle. In addition, the voucher portion compensates a vehicle owner $2,000 per vehicle and $2,500 per vehicle for low-income consumers. Vehicle owners have the option of selecting the newest 4 model years as a replacement. And if consumers meet low income eligibility requirements, they are able to select vehicles from the newest 8 model years. The replacement model years are "rolling." This means that if one retires and replaces the vehicle in 2010, one can select a vehicle as old as a 2003 model year as the replacement vehicle.

22. Comment: Some pre-1976 vehicles appraise more than the incentive. Money being provided for replacement vehicle is not enough compensation to retire the vehicle (17, 23, 24, 41, 46, 62, 74).

Response: This program is strictly voluntary, and the choice to retire the vehicle is up to the vehicle owner. The vehicle owner will have to evaluate and determine if the incentive funds offered are worth the value of retiring their older vehicle. The program allows participants to purchase used vehicles to help alleviate the overall cost.

Tax Increase on Vehicles

23.Comment: An alternative way to eradicate gas guzzlers and thus contribute to improving California finances is to raise gas prices. This would affect the overall driving and purchasing habits for the entire population and would have a much larger impact. The $30 million earmarked for retiring vehicles could be applied towards reducing taxes on low-income Californians, who might otherwise be unfairly harmed by the gas tax increases (9, 13)

Response: ARB does not have the authority to raise or lower taxes on gasoline, or to use the funds for purposes other than vehicle retirement.

C. Suggestions for Alternatives

24.Comment: ARB should use these public funds to create a quality audit to add to Smog Check that could reduce fleet emissions in California (76).

Response: Assembly Bill 118 directs that the funds be used for the early retirement of light-duty vehicles. ARB does not have the discretion to use the funds for other purposes, including an audit of Smog Check.

25.Comment: I propose to pay a fee to allow smog exemption from certain model year vehicles and the example is as follows: pick a model year (1979 for example-a 30 year ago milestone) and all vehicles from that model year back to 1974 (a 5 year spread of vehicles) and allow them smog exemption for $50 per year (due to many gross polluters in that 5 year window). 1974 through 1969 drops to $40 per year for exemption. 1969 through 1965 to $30 per year. This fee would be in addition to the standard license fees. Pre-1965 vehicles will remain exempt and qualify for "special" plates (that could have an added fee attached) to keep the collectors content (43).

Response: This comment is outside the scope of the proposed regulation. Assembly Bill 118 directs that the funds be used to fund the early retirement of light-duty vehicles. ARB does not have the authority to establish fees in lieu of Smog Check. Also, the Department of Motor Vehicles has primary authority over vehicle licensing.

26.Comment: I recommend the state end the vehicle non-use, low fee license provision, except for cars that are actually being restored. This will encourage people with old cars to scrap them on their own at no cost to taxpayers (61).

Response: This comment is outside the scope of the proposed regulation. Assembly Bill 118 directs that the funds be used to fund the early retirement of light-duty vehicles. Also, the Department of Motor Vehicles has primary authority over vehicle licensing.

27.Comment: I recommend that instead of retiring vintage vehicles, the State should support the replacement of engines with newer, environmentally friendly engines (28).

Response: The Legislature directed ARB to develop a voluntary vehicle retirement program that targets the highest-emitting vehicles and requires their replacement with newer, cleaner vehicles. The legislation does not provide funding for engine replacement.

28.Comment: I propose that all pre-1976 cars have a catalytic converter installed that has a medium light to medium constriction. To verify that the catalytic converter is working properly, run two tests, one before installation and the

second after installation. These tests should be performed biannually as done 1976 and newer cars (42).

Response: The suggested change is outside the scope of proposed regulation.

D. Special Interest Groups

29.Comment: I generally support the program with one exception. The proposal prohibits the combination of EFMP with the Federal Cash for Clunkers program. I request that ARB consider opening up the program to allow a combination of the state and federal programs (78, 81).

Response: The program is intended to provide funding to retire the greatest number of vehicles possible and to thus have the greatest emission benefit. Combining the program with the federal Cash for Clunkers program would have significantly reduced the number of vehicles retired early. Regardless, the comment is no longer applicable as the federal program ended in August 2009. Even if the federal program were revived, its criteria for scrapping and replacing vehicles differed significantly from the proposed regulation.

30.Comment: I would like ARB to consider two amendments to the regulation. One would be to include vouchers to be used for public transit or a replacement vehicle. The second amendment would include efficiency criteria that would add at least 35 mpg for cars and 27 mpg for larger vehicles (trucks, vans and SUVs) mpg standard for newer model vehicles purchased with the vouchers to promote purchase of both cleaner and more efficient vehicles that assist with greenhouse gas emission reduction goals (72, 79, 80, 81).

Response: The Board has proposed replacement vehicle vouchers be allowed to be used for public transit, and has also directed the Executive Officer to modify the regulatory language to specifically require, as a condition of voucher eligibility, that the replacement vehicle meet 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 Board has proposed that the standard for model year 2009 be used for all previous model years.

31.Comment: I support the retirement aspect of program but believe that the proposal is missing the sustainability of automotive repair and that recycling of parts is an important segment since it helps to displace heavy manufacturing and reduces commensurate greenhouse gas emissions (77).

Response: See response to Comment 7.

32.Comment: The currently proposed EFMP language will undermine the current VAVR programs by removing the 24-month registration requirement thus eliminating a means to verify that the participating vehicle is being driven. If the

vehicle is not registered, the vehicle cannot be driven legally (68).

Response: While the regulation as originally proposed allowed that unregistered vehicles with proof of ownership and proof of use in California be eligible, the Board directed that the regulation be amended to require that only registered vehicles be allowed into the program. Vehicles with gaps in registration would need both proof of use (insurance or repair receipts tied to an address in California for a period of not less than two years) and current registration.

33.Comment: The currently proposed EFMP language will undermine the current VAVR programs by removing the smog check requirement which eradicates the quantifiable means of evaluating the physical condition and remaining useful life of the participating vehicle. And by targeting pre-976 vehicles, the program would accept vehicles that have been previously rejected in the Old Vehicle Scrapping Program due to not meeting registration and SMOG requirements. By removing these two components, the program will expand the number of vehicles but flood the EFMP with unwanted vehicles (68).

Response: A Smog Check is not necessary for vehicles to provide cost-effective emissions reductions. In fact, existing district programs only accept vehicles that have passed their most recent test. These older vehicles produce much higher emissions than today's vehicles even when well maintained. BAR's Consumer Assistance Program does not exclude pre 1976 vehicles based on emissions. The CAP is not about air quality, but rather designed to give consumers assistance in circumstances where the cost of repair exceeds the value of the vehicle. Including pre-1976 vehicles will expand the number of vehicles that are higher-emitting and cost-effective to retire.

34.Comment: To improve EFMP, ARB should allow the flexibility permitted by AB118 to adjust funding based on emission reduction which will encourage the participant to increase the amount of their voucher by simply choosing a newer, smaller, and more fuel efficient vehicle. Cost efficiency can be justified by taking the difference between the retired vehicle and the replacement vehicle using EMFAC. (68)

Response: It is not practical for the funding amount to be based on model year or vehicle size. The analysis and associated costs to do so would greatly outweigh the incremental benefits.

35.Comment: ARB should keep the retirement incentive at $1,000. This would not conflict with the existing and local programs (68).

Response: The retirement incentive is $1,000 for all participants.

36.Comment: The EFMP qualified low income participants could be eligible to receive a total of $1,000 toward the purchase of a newer fuel efficient vehicle (68).

Response: The incentive for low-income participants purchasing a newer, fuel-efficient vehicle is $2,500. The higher amount is necessary to provide adequate financial assistance towards the purchase of a replacement vehicle.

37.Comment: ARB should consider allowing the contracted auto dismantlers participating in the program to fully salvage and recycle the vehicle as oppose to only recycling the ferrous and non-ferrous metals (70).

Response: The regulatory language is consistent with BAR's existing process under their Consumer Assistance Program. Consistency is necessary for audit and enforcement purposes.

38.Comment: I propose that California consider adopting a model similar to the one currently set forth in federal Cash for Clunkers program which requires that the engine block be destroyed and shredded or crushed, but allows the recycling of its surrounding components. The Cash for Clunkers model also requires the drivetrain to be destroyed, unless the transmission, drive shaft, or rear ends are sold as separate parts (70).

Response: See response to Comment 37.

39.Comment: I recommend to remove the language "….or vehicle part" from the definition of dismantle in Section 2621 of the regulation order to allow vehicle parts to be properly recycled (70).

Response: See response to Comment 37.

40.Comment: The current language in section 2628 prohibits a dismantler from removing any parts from an EFMP purchased vehicle for resale or reuse unless specifically exempted by BAR through contract. We recommend that language in Section 2628 be developed for incorporation into the BAR contracts with qualified Dismantlers which would require the complete recycling of the vehicle and its parts under strict guidelines that ensure that no complete vehicles are created and placed back on the road from these parts. Also, the definition of Drive Train Parts should remain the same provided the changes to Section 2628 are incorporated in the regulation (70).

Response: Proscribing that level of specificity in BAR's contracts with dismantlers is not appropriate for this rulemaking. However, BAR will ensure that the requirements of section 2628 are met in all contracts with dismantlers.

41.Comment: Section 2628(a), which prohibits the emission-related or drive train parts from being sold could be amended to incorporate language that would allow for the proper recycling of appropriate parts and not complete systems, which is the presumed goal of the Program. Section (a) could be amended to read: No compensation with public funds from the EFMP shall be granted for any vehicle from which emission-related or drive train parts have been sold, except for vehicles processed by a Dismantler as defined in Section 2621, that has a

valid and approved contract with BAR exempting the vehicles received by that Dismantler from the prohibition of removing any parts from an EFMP purchased vehicle for resale or reuse in accordance with the terms and conditions of that BAR contract (70).

Response: See response to Comment 40.

42.Comment: SEMA is concerned over Section 2628 and requests that all parts should be allowed to be recycled and/or sold to help better maintain the majority of vehicles which will not be program participants. This will not only reduce the hardship placed on those with low/fixed incomes but it will also help prevent the loss of rare, irreplaceable parts needed by car collectors and businesses. The mandated destruction of needed parts incentivizes persons needing inexpensive basic transportation to break the law by avoiding the Smog Check and/or registration process, it destroys valuable parts desired by car collectors and it results in a negative benefit since the increased emissions from the larger number of more poorly maintained vehicles that will remain on the road will surely exceed the nonexistent emission contribution from many program vehicles which were not even contributing to the emission inventory for the reasons previously stated. Eliminating the mandatory destruction of parts will not only preserve rare parts for collectors and businesses but will help ensure a sufficient supply of affordable repair parts for those who need them. This will result in better maintenance and lower emissions than would otherwise be the case for those vehicles which are going to be driven anyway due to economic reality (75).

Response: ARB disagrees with this comment; recycling and resale of all parts from vehicles accepted for scrapping is not consistent with the intent of the statute. Health and Safety Code section 44100 states the Legislature's intent in this area. Sections 44100(b) and (c) state that emissions can be reduced by accelerating turnover of the onroad vehicle fleet by retiring high-emitting vehicles and bringing more low-emission vehicles on the road earlier. Also, see the response to Comment 37.

43.Comment: SEMA is concerned over Section 2620 and believes that it is more cost effective and productive to emphasize proper repair of vehicles instead of retiring a vehicle for the following reasons: (1) Emission reductions from repairs are real and are also objectively verified. (2) Repairs can be enhanced through the use of proven methods (newer technology catalytic converters and other emission control devices, for example) which upgrade the vehicle to emit at lower levels than was originally designed without requiring a change in consumer behavior or the retirement of the vehicle. Such upgrades would provide real surplus emission reductions with a durability matching or exceeding the three year life of the emission benefits claimed through retirement. (3) By not generating the emissions associated with the manufacture of a replacement vehicle, additional emission benefits will be realized (75).

Response: Staff agrees that vehicle repair programs can be cost effective. However, the legislative direction for the EFMP does not allow for the substitution

of another vehicle emission reduction program in place of vehicle retirement, even if the proposed alternative is ostensibly more cost effective. The mandate is to adopt a program that allows for voluntary vehicle retirement.

Concerning the three specific points raised regarding the superior cost effectiveness of vehicle repair programs, we note: (1) While the emission reductions resulting from repairs can be objectively verified by testing the emissions before and after repair, it can also be said that the emission reductions from vehicle retirement can be objectively verified by testing the retired vehicle and the replacement vehicle. But both analyses are an oversimplification; there are additional assumptions about vehicle usage in both cases that are very problematic. The longevity of repair benefits is also difficult to determine, whereas a retired vehicle will not pollute again. (2) Repairs cannot be generally enhanced with upgraded emission controls because legal and verified solutions do not generally exist for light duty vehicles. It is technologically possible, but not cost effective to upgrade the emission controls; it is typically only cost effective to repair the existing system. (3) Avoiding the emissions generated by production of a new vehicle does have benefits which are problematic to quantify; we also note that there is currently no large-scale vehicle manufacturing in California.

44.Comment: SEMA has long supported the idea of granting vouchers instead of providing vehicle owners with immediate compensation when a vehicle is retired to reduce the possibility of fraud. However, SEMA has several concerns with this specific proposal. The items included in section 2627 are primarily procedural in nature and concern SEMA mainly to the extent we believe that existing staff and processes should be used as much as possible to reduce program cost and complexity. SEMA supports the provisions of this section aimed at reducing the potential for program fraud and again request that our previous requests in this regard also be considered (75).

Response: The program will build on existing programs at both the state and local levels. Dismantlers used by BAR's Consumer Assistance Program will be used to retire vehicles under this program. The first air districts (Kern County APCD and South Coast AQMD) which will participate in EFMP have already developed programs to target high emitters and encourage their retirement through greater incentives and vouchers for newer vehicles.

45.Comment: SEMA continues to believe that the increased incentive amounts will not be high enough to allow the majority of those owning vehicles eligible for a retirement program to part with them since the overall cost of changing to another vehicle remains too high (75).

Response: The program attempts to address this concern by expanding the list of replacement vehicles to include the newest four model years. Doing so allows for much lower cost to the consumer while still resulting in the purchase of vehicles meeting the ARB’s Low Emission Vehicle II standards. The program funding is limited. Increasing the incentive amount will result in fewer newer cars and less emission benefits.

Even greater funding and flexibility is provided to low-income participants to allow them to get into a newer vehicle at a manageable cost. Low-income participants are given an additional $500 and provided with an even greater range of replacement options; they may purchase vehicles produced within the last eight model years.

46.Comment: With regard to vouchers, SEMA believes their use does provide some benefit in terms of ensuring a greater likelihood that there actually will be a replacement vehicle, unlike previous programs where there was no such assurance. Normally, this would help ensure a vehicle being retired was actually being driven and thus was contributing to the emission inventory. However, SEMA contends that the proposed relaxation of the eligibility requirements is such that it would offset this to the extent it could be counterproductive. Since the issuance of a voucher would be incremental to the incentive for initially scrapping the vehicle, there would be a greater incentive for consumers to locate vehicles that were not being driven and make them drivable enough to be accepted into the program so they could get the now higher bounty for what was previously an essentially worthless, unused vehicle. Such a vehicle was not an emitter in any sense (even the evaporative emission sources were likely to have been long ago depleted) yet it would still command a sizable payment for the vehicle owner.

Response: This comment raises a concern that some unscrupulous persons might attempt to obtain vehicles for the express purpose of selling them to the EFMP. ARB believes that the limitations in the regulation, which include limitations on how many vehicles one person or one household may sell under the program, will prevent widespread misuse of the program. In addition, the registration requirements will also reduce the incentives for selling previously unused vehicles into the program.

47. SEMA believes it is unlikely many program vehicles will fit the scenario that is envisioned by the projections (i.e., a high emitting/targeted vehicle that is regularly being driven in the area will be retired and a significantly better/cleaner vehicle will be purchased with a voucher). The primary reasons for this are the probable lack of cash reserves for owners of vehicles with a market value less than the value of the incentives combined with the relatively high incremental costs to purchase, license/register and insure a newer vehicle. Even the maximum payment of $4,000 for income-eligible citizens, as proposed by the program, is hardly enough to offset such incremental costs that come with the purchase of a new/newer vehicle. It most cases it will make greater economic sense to keep the existing vehicle, not incur these incremental costs, and not register it if it cannot pass Smog Check. Being spared the fees for licensing, registration and insurance will clearly make the most sense for the typical owners of low market value vehicles which are actually being used as primary transportation. The notion that offering up to $4,000 will motivate large numbers of people to scrap a car that's being used for primary transportation is simply not realistic. Most people cannot be without their cars while the paperwork is being

processed and they most likely cannot buy the newer vehicle until they get full compensation, if it will even make economic sense to do so once the incremental licensing, insurance and vehicle purchase costs are considered. It is far more likely persons with unused or rarely used extra vehicles will comprise most of the program participants since they do not need these vehicles for basic transportation and they can likely afford to wait to be compensated in full. Thus, real emission reductions won't occur (75).

Response: The program does not initially envision “large numbers” of consumer using the voucher program. The voucher incentive is being introduced as a small scale pilot program partly because of the unknown factors mentioned in this comment. ARB disagrees that $4,000 is not adequate to motivate participation for two reasons; 1) the voucher may be redeemed for the purchase of a replacement vehicle up to eight years old and the average advertised price of an eight-year- old vehicle is not significantly higher than $4,000, and 2) the recent Federal Cash for Clunkers program proved to be very popular with about a $4,000 incentive. The design of the voucher program includes efforts to make the program as simple as possible; a participant may sell his old vehicle to the dismantler for cash on the same day he redeems his voucher at a participating dealership.

48. Comment: SEMA believes that pre-1976 vehicles contribute minimally to the emissions inventory, in fact they constitute a small portion of the overall vehicle population and are generally well-maintained and infrequently driven (75).

Response: There are an estimated 300,000 pre-1976 vehicles in California (about 1% of registered vehicles). Vehicles 30 years and older emit more than 23 percent of reactive organic gas and 11 percent of oxides of nitrogen emissions from light-duty vehicles due to their inherently higher emissions. Providing monetary incentives can provide the necessary and cost-effective “push” for retiring many of these older, higher-emitting vehicles.

49. Comment: SEMA disagrees with the definition of "Dismantle” and “Targeted Vehicles” in Section 2621 of the regulatory language. First, it disagrees with Dismantle, in that the traditional definition is to "take apart" rather than permanently destroy as is offered in the proposal. Clearly, this revised definition is intended solely to facilitate the unnecessary and counterproductive elimination of vehicles and their parts. SEMA also notes that "Targeted Vehicles" simply have a "higher *probability* (emphasis added) of high emissions than solicited vehicle" and that there is no assurance that any given target vehicle will, in fact, be a higher emitter than a given solicited vehicle. Even when considered as a group, there is no assurance that the group of targeted vehicles will emit more than the group of solicited vehicles. Thus, significantly higher cash incentives may be paid for vehicles which may not be emitting any higher. SEMA agrees it is beneficial to pay a higher incentive when a greater emission reduction is realized. However, SEMA believes such reductions should again be real and verified (75).

Response: In the context of both an automotive wrecker and this regulation, “dismantle” refers to the end-of-life process for a vehicle; this can include both the traditional definition of the word dismantle as, “take apart” and also the final destruction or recycling of the remainder of the vehicle. The definition is included in the regulation to eliminate ambiguity.

ARB believes that targeted vehicles will have higher emissions on average than solicited vehicles because the probability of higher emissions is determined by the Bureau of Automotive Repair’s High Emitter Profile model which is used in administration of the Smog Check program and has been validated through scientific investigation and the public process. The probabilities are real and the vehicles will, on average, have higher emissions. In addition, the local air districts administering the voucher program may choose to use other more direct means, such as remote sensing or confirmatory Smog Check testing, to identify targeted vehicles.

50.Comment: SEMA believes that the 5 percent allowance for the administration of the program is excessively high for a program which will likely use many existing staff members and procedures from existing retirement programs. Other than the generation of a process to address vouchers (models of which already exist) there is very little that is new or unique about the proposed program that would preclude this program from being administered using existing resources (75).

Response: The Bureau of Automotive Repair will utilize some common resources for administration of the proposed EFMP and the existing CAP program. However, the proposed EFMP is roughly equal to the existing program in terms of both funding and number of retired vehicles and it is not reasonable to double the operations of an existing program without augmenting resources.

51.Comment: SEMA’s primary concerns with the amounts being proposed for compensation listed under Section 2623 of the regulatory language are: (1) higher dollar amounts will tend to increase the likelihood for fraud, a situation that would be made far more likely due to the relaxed vehicle eligibility requirements and 2) the higher compensation (i.e., vouchers in addition to direct payment at time of vehicle retirement) not only aggravates this concern but also does so without any real assurance that there would be an increased emission reduction/benefit.

Response: See response to Comment 46.

52.The proposal does not go far enough to ensure targeted vehicles are in fact emitting at a higher level than solicited vehicles and are thus worth paying a premium for. The net effect of this is to pay extra for no verified benefit which simply wastes taxpayer funds that could be put to better use. SEMA believes that if a voucher system is to be used then it should be such that a targeted vehicle is confirmed on an individual basis as being a higher emitter. This can readily be accomplished by requiring that the emissions of targeted vehicles first

be confirmed by emission testing either in the form a multiple high remote sensor readings, direct emission tests (out of cycle, roadside pullover, etc.) or a combination of both. To the extent a confirmed high emitting vehicle cannot be cost effectively repaired then paying an incentive to scrap it should be based on confirmation of the vehicle emission level, not simply projections and averages based on flawed computer modeling assumptions. This is even more critical if additional incentives are to be provided for "targeted" vehicles which "probably" emit more. SEMA does not believe that relying on probability alone is acceptable. There must be objective verification that individual targeted vehicle emissions do, in fact, greatly exceed those of solicited vehicles (75).

Response: The claim that targeted vehicles will have higher emissions on average than solicited vehicles is based on statistical probability of higher emissions as determined by the Bureau of Automotive Repair's High Emitter Profile model which is used in administration of the Smog Check program and has been validated through scientific investigation and the public process. The use of statistical probabilities in selection processes is an established and respected practice in the scientific community. In addition, the local air districts administering the voucher program may choose to use other established means, such as remote sensing or confirmatory Smog Check testing to identify targeted vehicles. All of the means of identifying targeted vehicles use established and vetted processes to determine that the emissions will on average exceed that of the solicited vehicles.

53.Comment: SEMA strongly recommends that there be no relaxation of the vehicle eligibility requirements (relative to existing programs) to not only reduce the potential for such easily committed fraud but also to help ensure the vehicles which may ultimately be submitted for retirement were, in fact, actually being driven and were active contributors to the emission inventory. Thus SEMA requests that Section 2624(b)(2)(A) through (b)(2)(D) and (b)(3) through (b)(6) be omitted from the proposal (75).

Response: There is no relaxation of the vehicle eligibility requirements relative to existing programs except as directed by the authorizing legislation of the EFMP. Section 2624(b)(2)(A) through (b)(2)(C) are the same as the existing voluntary accelerated vehicle retirement regulation in CCR Title 13, Section 2603(a)(2)(A) through (a)(2)(C). Section 2624(b)(2)(D) and (b)(3) through (b)(6) are added at the direction of the authorizing legislation in Health and Safety Code section 44125(b)(3).

54.Comment: SEMA believes the additional vehicles proposed for inclusion in Sections 2624(b)(2)(A) through (b)(2)(D) and (b)(3) through (b)(6) should instead be added to section 2625 as *ineligible* vehicles to minimize the potential for program fraud and maximize the potential program cost effectiveness as was previously described. Furthermore, SEMA requests the following item be added to this section to meet the statutory requirements of Vehicle Code Section 5050 (75):

(f) A vehicle of potential interest to collectors or other automotive enthusiasts as is described in Vehicle Code sections 5004 and 5051(b) - 5051(d).

Response: As explained earlier, sections 2624(b)(2)(A) through (b)(2)(D) and (b)(3) through (b)(6) are either identical to existing vehicle retirement regulations or mandated by legislation authorizing the EFMP. Thus, these sections should not be included in the list of ineligible vehicles.

ARB believes that vehicles of special interest will not enter the program due to simple supply and demand; any vehicle of particular interest or value will not be voluntarily sold to the program and are under no compulsion of any kind. Participation in the EFMP is completely voluntary. Furthermore, the contracting dismantler is free to purchase any vehicle of special interest or value prior to participation in the program. Restriction of vehicle eligibility as suggested would be vague, overly broad and unnecessary.

55. Comment: SEMA does not believe vehicles should be targeted based upon their emission potential as proposed in Section 2626. Instead, SEMA believes any vehicles to be solicited should be identified based on actual emission data that demonstrates that each such vehicle is, in fact, a verified high emitter. Actual data is far more likely to ensure actual benefits, whether retirement or repair is to be the option chosen. SEMA believes there must be direct measurement of the vehicle emissions to ensure and verify accurate emission reductions are being assigned to the program. SEMA has not, and does not, support predefining specific groups of vehicles as being high emitters and/or potential retirement candidates (targeted or not) based on such parameters as model year, fuel used or annual mileage accrual. Gross polluting vehicles can be of any model year, vehicle type and fuel, etc., and thus SEMA believes direct measurement of actual/individual vehicles instead of models and projections based on predetermined vehicle groups should be the basis for soliciting high emitting vehicles of any kind, excluding those exempted by Section 2625 (f) as proposed by SEMA (75).

Response: ARB agrees that gross-polluting vehicles can be of any model year, vehicle type and fuel, etc; but given both an older and newer gross polluting vehicle, it is generally more cost effective to retire the older, less expensive vehicle.

It is also an established fact that older vehicles pollute more on average than newer vehicles; it is this fact that makes accelerated vehicle retirement an attractive option to reduce vehicle emissions. The pre-1976 (pre-catalyst) and diesel (uncontrolled emissions) vehicles specifically mentioned as solicited and targeted vehicles have been proven in emissions tests to emit substantially more pollutants on average than newer vehicles. The emission requirements for these vehicles when new were much less stringent than the requirements for newer cars. Direct measurements of older vehicles and vehicle selection based on those measurements could potentially improve the cost effectiveness of the

program, but purchase of any solicited or targeted vehicle in use generates an emission benefit and is cost-effective in comparison to other state and local incentive programs. Also, see the response to Comment 52.

56. Comment: SEMA is concerned over the Estimated Emissions Benefits derived for EFMP in Appendix C [of the ISOR] using EMFAC model. The first concern is the continual reliance upon the use of average emission data in the EMFAC model causes the projected emission reductions of vehicle retirement programs to significantly overstate such reductions. Numerous studies have shown that a relatively small percentage of vehicles (10 percent to 20 percent) in any given model year emit at rates which far exceed the rest of the vehicles in that model year. When these extremely high emitters are averaged together with the other vehicles, the resulting calculation is one in which the numbers have been artificially inflated. The vast majority of vehicles in the model year emit below the skewed higher average. Thus, they do not provide the projected emission reduction if they are scrapped. SEMA has previously recommended the use of median data as an alternative since it will help improve the likelihood that a scrapped vehicle emits at a level more in line with the computer modeled projections. This will improve the accuracy of the EMFAC model and will give a more representative view of both the emission contribution of older vehicles and of the true emission reductions possible from the program (75).

Response: The EMFAC model has been accepted through a public process of scientific review and represents the best available motor vehicle emission estimate on average. ARB agrees that using the average emissions from EMFAC for a model year to estimate the emission reduction for a single vehicle will on average over state the reduction for that vehicle exactly as explained in the comment; however, it will not overstate the emission reductions for a group of vehicles, if the group is significantly large enough. The median may be a better choice for estimating the reduction for a particular vehicle, but the EFMP proposes to purchase more than one vehicle. In absence of more detailed and expensive emissions tests for a given vehicle, EMFAC remains the best estimate and the accuracy of the calculations in Appendix C of the ISOR improves as the number of vehicles retired increases.

57. Comment: Some other general problems with the EMFAC model's projections have to do with vehicle accrual rate and vehicle population errors. SEMA has long contended that the annual mileage estimates for older vehicles do not reflect reality. For example, the current EMFAC model predicts an "average" 45 year old vehicle is driven about 5,000 miles per year on a statewide basis. More recent model years have similarly unrealistic assumptions. These are simply not true. SEMA has extensive regular contact with owners of such older vehicles, the vast majority of which are purely collector vehicles. Our findings have consistently shown that such vehicles are rarely driven more than just a fraction of that amount. Attributing higher mileage when such is not the case will cause the projected emission benefit of retiring such a vehicle to be much higher than is actually the case since the car was not being driven as much and thus was not contributing to the emission inventory. Program cost

effectiveness will also be worse since the same cost is being incurred for a reduced benefit (75).

Response: Annual vehicle accrual rates in EMFAC are based on odometer readings and surveys and have been accepted by the public process as an average accrual rate for emissions estimates. ARB has not seen the data from SEMA's "extensive regular contact with owners of such older vehicles," and thus cannot comment explicitly on that data. However, it is plausible that the vehicle owners in contact with SEMA are biased towards the sub-population of owners who would be considered collectors and typically use those vehicles less than average. If those vehicles are driven less than average, then there must be other vehicles that are driven more than average. Since it is these other vehicles (and not low mileage special-interest or collector vehicles) that will participate in the EFMP, then use of EMFAC vehicle accrual rates could actually underestimate the number of miles driven and the emission benefits from retirement of those vehicles. However, absent additional information, EMFAC is the most robust data set available.

58. Comment: The reduced actual mileage rates for older model years also will lower the relative emission contribution of those older years, thus making older vehicles as a group less of a relative emission problem than what the EMFAC model implies. SEMA's claims are verified in part by data presented independently in a study conducted by Sierra Research as part of the AB1493 regulatory process. Sierra Research raised an issue regarding how EMFAC determines the odometer value as vehicles age. Their findings indicate that EMFAC grossly overstates the vehicle mileage at higher vehicle ages. At the 20 year vehicle age point, for example, the EMFAC model assigns a total mileage accrual of about 240,000 miles while actual data from both Smog Check and roadside pullovers are in relatively close agreement that the accrued mileage is closer to 100,000 miles. As was stated above, this miscalculation will falsely attribute a higher emission contribution, and thus a higher potential emission benefit from early retirement of older vehicles. CARB staff has recognized that Sierra Research's findings are "legitimate" and have indicated that they will investigate correcting the problem when the model is revised. SEMA wishes to note that it believes the estimated emission benefits for this program and all others which rely upon the EMFAC model are thus significantly overstated. (75)

Response: The ARB is committed to using the best available data for the emission estimates. At present, the best available data is from the EMFAC 2007 model. The EMFAC model accounts for older vehicles driving fewer miles than newer vehicles. The model uses BAR Smog Check records and DMV registration data to determine mileage. This data is reviewed and updated with every revision to EMFAC. Additional data will be incorporated as they are developed and vetted. Regardless, the overall program benefits are not substantially impacted by average lifetime accrual mileage.

59. Comment: Another example of how the EMFAC model fails concerns vehicle population data. In instances where large numbers of vehicles are registered to

a single person, such as someone with a large car collection, there is no recognition of the fact that only one of these vehicles can be driven at a given time. In reality, most collectors drive any given car very rarely, especially when there are several others available. The EMFAC model, however, assumes all registered vehicles are being driven the projected average number of miles per year even when this is clearly not the case for owners with many vehicles. Even if allowances were to be made for other family members driving the cars on occasion, it is clear there are miles and thus emissions, being attributed to these vehicles that are not actually realized. If a person owns 10 cars (each 45 years old or more), it is unlikely that these vehicles are being driven a total of 50,000 miles a year. Yet, as was just shown, the EMFAC model will assign a total vehicle accrual of 240,000 miles to each vehicle even though vehicles such as these would likely never be driven to such mileages. (75)

Response: ARB agrees that in the extreme example given of one owner with 10 cars, it is extremely unlikely that each is driven 5,000 miles per year and has 240,000 miles on the odometer as predicted by EMFAC. Presumably, those particular 10 vehicles are selected, owned and maintained as collector cars specifically because they have far lower mileage than the average vehicle of similar age. The existence of a population of collector vehicles which is a subset of the population of all older vehicles does not mean that all older vehicles are used similarly to the subset of collector vehicles. The data used to create the EMFAC model suggest that the average 45-year-old vehicle will travel 5,000 miles per year, and it is this type of vehicle (not collector cars) that the program is targeting.

ARB agrees that the EMFAC model was not designed to predict emissions from a single vehicle, or even a group of ten vehicles. Nor is it likely to accurately predict the emissions from special interest or collector vehicles as their usage is arguably less than the average for its model year. Nevertheless, there is a substantial population of older vehicles that are used regularly and their usage impacts the average use data. Almost 100,000 non-collector and non-special interest vehicles are proposed to be purchased during the planned operation of the EFMP; ARB expects that the emission reductions for a population of this size will tend towards the average predicted by EMFAC.

60. Comment: Since there are multiple "scenario descriptions" due to the possibility of a direct payment, a voucher or both going to car owners from two different income levels, there is even more potential for flawed modeling assumptions. SEMA is particularly concerned with the fact that while vouchers do a good job of at least ensuring that there will be a replacement vehicle in some instances, there is no such assurance in all cases even though funds are being expended and emission benefits are being projected based on there being one in all cases. Even when a replacement vehicle is purchased, the inaccuracies relative to the estimated emission levels get compounded by additional inaccuracies associated with the projected replacement vehicle, especially when an older used car is the replacement since its emission level is far less predictable for any number of reasons. (75)

Response: ARB agrees that there are a number of uncertainties in estimating benefits from this type of program. Therefore, ARB has attempted to design the program to ensure as much as possible that the retired vehicle was actively in use and that when additional funds are expended there will be a replacement vehicle. Such mitigating measures include continuous registration and insurance requirements as well as proof of operation such as repair invoices, etc. in situations were registration is not continuous. ARB has actively solicited and included suggestions to strengthen the requirements. However, further measures could seriously hamper the efficiency of the program due to greater burdens on the consumer and higher administrative costs.

61. Comment: SEMA takes exception to the assumption that "The emissions of retired vehicles from model years 1976 to present are assumed 30% higher than the average of the model year of the retired vehicle" due to the use of the HEP in the solicitation of the vehicles. This is unsupported and only serves to unrealistically inflate the estimated emission benefits of scrapping a given vehicle when there is no real assurance that any such emission benefit will ever actually be achieved. SEMA requests that this 30% bonus be eliminated from the program since there is insufficient assurance that these claims will be realized.

Response: Since the program will actively target vehicles with the highest emissions, including gross polluters, ARB disagrees with the comment that participating vehicles will have average emissions. The mechanism to identify likely high emitters is the BAR's High Emitter Profile (HEP). This database uses data from several different sources to determine which vehicles will most likely have high emissions. Some of data come from the state Vehicle Identification Database (VID), which collects information from each Smog Check performed in California. The VID is used by the Department of Motor Vehicles, BAR, and other government agencies. In addition, general vehicle data such as make, model year, vehicle miles traveled, and engine size help define the HEP.

This information is used to determine which vehicles are most likely to fail their Smog Checks, especially at Gross Polluter levels – levels that are at least two times the emissions level allowed for a particular vehicle. Staff's estimate that the average program vehicle will have 30 percent higher emissions, not two times the emissions, is conservative given the vehicles that are being targeted for retirement.

62. Comment: SEMA believes that using the 1985-1988 model years in the emission benefit calculations is neither appropriate nor conservative. SEMA believes it is the market value of the potential retired vehicle more than any other factor which will determine if its owner decides to participate in the program. Persons with vehicles that have a low market value will be more likely to participate and get a premium for their vehicle than those who own vehicles that are worth more. However, SEMA still has considerable doubt that many of those owning such low value vehicles will have the ability to cover the upfront incremental costs of getting into a newer vehicle, even with higher compensation.

Those who do find it economically viable to retire their low value vehicles are not likely to have a vehicle of the projected model year for several reasons. The first of these is that there are quite a few newer vehicles with similarly low market values, especially since the average fleet age is about 9 years old. It makes no sense to project the "typical" retired vehicle to be 24 years old when such vehicles are such a relatively small portion of the fleet. SEMA contends that this is unrealistic, that most vehicles of this age are now rarely used as basic transportation and are more likely to be collector cars or cars which otherwise are not driven very often. Assuming that the typical vehicle is older has the effect of increasing the average emissions of the retired vehicles and thus artificially exaggerates the projected emission benefits. SEMA believes it is more appropriate to use a newer model year such that the average market value for vehicles of the chosen model year is sufficiently low to make the purchase of a replacement vehicle economically viable once the upfront incremental costs have been considered (75).

Response: ARB selected the 1985-1988 model years as representative of the typical vehicle to be retired because it is approximately both the mean age and median model year of vehicles currently participating in district level VAVR programs and the statewide CAP program. This selection is labeled conservative to reflect the expectation that even older vehicles may be retired under the EFMP program, since pre-1976 vehicles are not currently eligible for CAP, which is by far the largest vehicle retirement program in operation.

63. Comment: SEMA believes market value will likely determine the choice of a replacement vehicle, if there is to be one. In cases where vouchers are used, the model year options for the replacement are already established and are newer than the 9-year mean fleet age. This would increase the emission benefit to the extent that these vehicles are assumed to be lower emitting than the fleet average vehicle. Reality, of course, is likely to be different. SEMA does not expect that many lower income program participants will be able to purchase even an 8-year old vehicle after receiving the highest possible compensation level due to the upfront incremental costs associated with the purchase of a newer vehicle. Those in a somewhat better economic situation will be even less likely to be able to do so since they will get less compensation and will be forced to consider the purchase of a vehicle which is 4 years old or less and thus is much more highly valued. SEMA does not expect this to happen very often either. SEMA believes that the most viable scenario is that a low income person will retire a low value car that is slightly older than the fleet average to buy another relatively low value car that is slightly newer (8 years versus 9) than the fleet average. While the EMFAC model may predict a slight emission benefit from this "upgrade," SEMA is not confident that there will, in fact, be any real emissions benefit due to all of the uncertainties, inaccuracies and flawed assumptions we've previously outlined. The potential for fraud seems more certain (75).

Response: The performance of the recent Federal Cash for Clunkers program proves that there are a very large number of people who are motivated to

purchase a brand-new vehicle with incentives of $3,500 to $4,500. ARB expects that the $3,000 to $3,500 total (including the voucher) may also attract similar interest. Even in the absence of a new vehicle purchase, there will still be a significant and cost-effective (relative to current incentive programs) emissions benefit on average.

64. Comment: A concern over Appendix D: Calculation of Cost Effectiveness of EFMP [of the ISOR] in the regulatory text is of the assumption of a 57/43 split based on income level. SEMA does not believe the CAP program is a good benchmark for this program since the possibility of a repair option with CAP and the potential for a much higher payout with EFMP introduces too many differences. Furthermore, the potential for fraud with the CAP program is significantly less due to the lower upfront costs of repairs relative to the higher costs of purchasing, licensing, registering and insuring a vehicle with EFMP. SEMA believes that there will likely be a much lower take rate for the vouchers with income eligible than is projected plus the overall program cost effectiveness will actually be much worse due to all of the issues described in detail in the comments provided (75).

Response: ARB disagrees that the CAP program is not a good benchmark. A substantial number of ineligible applicants to the CAP program for vehicle retirement would be eligible for retirement under EFMP. In fact, this number approaches the proposed scope of the EFMP in total. These applicants are split approximately 57/43 based on income level, and it is conceivable that they may effectively consume the new program entirely. Hence, the assumption that the new program will evidence the same income level split is very reasonable. In addition, approximately half of the households in the state of California qualify as low income under the CAP/EFMP criteria. Given that lower income households are more likely to own older vehicles eligible for retirement, then it is likely that more than half of the program participants will be lower income households.

The comments below were received during the first 15-day notice period after the Board hearing.

A. Regulatory Provisions

EFMP Clarification

65. Comment: The California New Car Dealers Association (CNCDA) understands and supports ARB's goal of reducing greenhouse gas (GHG) emissions from mobile sources, but 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 (83).

Response: The addition of the greenhouse gas requirement is well within the Board's purview and consistent with the Board's efforts to reduce climate change emissions. Though no specific mention of GHG emissions is made, Health and Safety Code section 44125(b)(5) lists factors for the Board to consider in setting the compensation levels, but also states that the list is "including, but not limited to." Most importantly, requiring more efficient vehicles will not reduce the criteria pollutant benefits of the program.

66. Comment: We support the revised regulatory proposal with one significant reservation. We specifically object to Section 2623(f) and request deletion of subdivision (f) which states "Consumers who have received federal funds for a vehicle may not receive funds under EFMP for the same vehicle." We consider subdivision (f) to be an imprudent impediment to an optimally-functioning program. There is no provision in AB 118 that suggests incentives by other jurisdictions detract from the EFMP. Nothing in AB 118 compels rationing of incentives. To the contrary, the express purpose of the program is to accelerate Fleet Modernization and avoid the inane and counter-productive limitations of other "scrappage" programs. Do not constrain the Enhanced Fleet Modernization program. (82)

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 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 $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. (83)

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). (83)

Response: The restriction to prohibit participation in both the EFMP and federal car scrap programs simultaneously is a policy choice that was within the Board's purview to make. Combining the two programs would significantly reduce the number of vehicles retired early and reduce the emission reduction benefits. The EFMP is intended to provide funding to retire the greatest number of vehicles possible and to thus have the greatest emission impact.

Additionally, ARB disagrees that $4,000 is not adequate stimulus to motivate large numbers of the public to participate for two reasons; 1) the voucher may be redeemed for the purchase of a replacement vehicle up to eight years old and the average advertised price of an eight year old vehicle is not significantly higher than $4,000, and 2) the recent Federal Cash for Clunkers program proved to be very popular with an incentive of $3,500 or $4,500 per vehicle. ARB believes that the amount of compensation is sufficient and adding the two would undermine the intent of the EFMP.

Green House Gases and Fuel Economy Requirement

67. Comment: 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 (83).

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 NOx, 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. 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. 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 rarer. 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 (83).

Response: ARB believes that requiring more fuel efficient vehicles for replacement will not reduce the criteria pollutant benefits of the program. The ARB expects that the program will be fully subscribed and that requiring more fuel efficient vehicles will reduce GHG emissions, as well as reduce criteria pollutant emissions. With that said, consumers have the option of still retiring their vehicle and replacing it with one that does not meet the GHG and fuel economy requirement, albeit without the additional incentives.

Drafting Error

68. Comment: 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 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 (83).

Response: ARB agrees that the language in section 2623 (f) should be clarified as follows: "(f) Consumers who have received federal funds for scrapping a vehicle may not receive funds under EFMP for the same vehicle."

Solicited Vehicles

69. Comment: The amended regulation appears to contain an inconsistency between Section 2621(j), which states that 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 (83).

Response: ARB disagrees with this comment. The difference between these two sections is that Section 2621(j) is specific to vehicles solicited by BAR for participation solely in the retirement component of the program. Section 2626(a) refers to vehicles solicited by BAR, ARB, and the districts for the voucher and retirement piece under the EFMP as intended by the title of Section 2626 "Targeted Vehicles and Vehicle Solicitation" and the definition of "targeted vehicle" under Section 2621(k).

The comments below were received during the second 15-day notice period after the Board hearing.

One comment was received but it was not pertinent to the modifications proposed in the second 15-Day Notice. The comment primarily addressed the vehicle eligibility requirements (section 2624(b)(2)(A) through (b)(2)(D) and (b)(3) through (b)(6) of the proposed regulation), which were not changed in connection to the second 15-day notice period. Vehicle eligibility requirements are addressed in comment 53, above. The remainder of the comment did not address changes to the proposed regulation text made available for the second 15-day notice period.