

PROPOSED REGULATION ORDER

Regulation for AB 118 Enhanced Fleet Modernization Program

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

(Note: The entire text of sections 2620 through 2628 is new language.)

Chapter 8.1. AB 118 Enhanced Fleet Modernization Program

§ 2620. Purpose

The purpose of this regulation is to improve California air quality through the voluntary early retirement of light and medium duty vehicles as directed by the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (Assembly Bill 118 Statutes of 2007, Chapter 750; Health and Safety Code sections 44125-44126) section 44125(a). Vehicle owners, who meet certain eligibility requirements, are offered the following:

- (a) Payment for the voluntary retirement from operation of a motor vehicle.
- (b) Additional payment, in the form of a voucher, to owners of targeted vehicles for the purchase of a cleaner vehicle meeting emission and/or model year requirements.

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

§ 2621. Definitions

- (a) **“ARB or Board”** means the California Air Resources Board.
- (b) **“BAR or Bureau”** means the Bureau of Automotive Repair in the Department of Consumer Affairs.
- (c) **“Dismantle”** means to, crush, stamp, shred, or otherwise render permanently and irreversibly incapable of functioning as originally intended, any vehicle or vehicle part.
- (d) **“Dismantler”** means the person or business, defined and licensed according to the requirements of California Vehicle Code sections 220, 221, 11500, et seq., and other business codes and the regulations of the Department of Motor Vehicles (DMV), who under contract with BAR dismantles or otherwise removes from service those vehicles obtained in the EFMP.

(e) **“District”** means a local air quality management district or air pollution control district, as defined by California Health and Safety Code, Part 3, Section 40000 et seq., which has responsibility for administering air pollution control programs.

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

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

(h) **“Emissions-Related Part”** means any vehicle part which affects any regulated emissions from a vehicle that is subject to California or federal emissions standards and includes, but is not limited to, those parts specified in the “Emissions-Related Parts List,” adopted by the State Board on November 4, 1977, as last amended June 1, 1990.

(i) **“Income Eligible”** means eligible for increased financial incentives according to the income eligible definition used in the BAR Consumer Assistance Program (CAP).

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

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

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

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

§ 2622. Program Administration

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

(b) The Bureau may contract annually with the Board to administer the voucher portion of the EFMP. The Board may contract with local air pollution control districts to locally administer the voucher portion of the program.

(1) Districts may use up to five (5) percent of program funds to recover administrative costs incurred.

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

§ 2623. Program Limits

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

(a) Payment up to one thousand dollars (\$1,000) for each vehicle retired from operation at a dismantler operating under contract with the Bureau of Automotive Repair; or

(b) For income eligible participants, payment up to fifteen hundred dollars (\$1,500) for each vehicle retired from operation at a dismantler operating under contract with BAR.

Targeted Vehicles may also qualify for:

(c) Payment, in the form of a voucher, up to two thousand dollars (\$2,000) for the replacement of a targeted vehicle with a vehicle four years old or newer; or

(d) For income eligible participants, payment, in the form of a voucher, up to twenty-five hundred dollars (\$2,500) for the replacement of a targeted vehicle with a vehicle eight years old or newer.

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

§ 2624. Eligibility Requirements

(a) In order to participate in the EFMP, an applicant must submit a completed application to BAR as incorporated by reference to CCR Section 3394.6 (a).

(b) In order to participate in the EFMP, a vehicle must meet the following requirements, as applicable:

(1) It shall be voluntarily sold to the Dismantler;

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

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

(B) A vehicle may also be eligible if the registration has lapsed for less than 181 days during the previous twenty-four (24) months, pursuant to Health and Safety Code 44094, and all appropriate registration fees and late penalties have been paid to the DMV, provided that the vehicle is registered for at least ninety (90) days immediately prior to its date of sale to the dismantler;

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

1. Registration data for that vehicle obtained from DMV records ;and
2. If D.1 provides inconclusive results for an individual vehicle, then copies of the applicable vehicle registration certificates may be used;

(D) An unregistered vehicle may also be eligible if proven to have been driven primarily in California for the last two years and not have been registered in any other state or country in the last two years. Documentation of operation in California includes, but is not limited to proof of insurance, repair documentation;

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

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

(5) Vehicles that are tampered, pursuant to Section 3340.41.5 of Title 16, Division 33, Article 5.5 of the California Code of Regulations, shall be eligible for acceptance into the EFMP program.

(c) Each vehicle shall pass a visual and operational inspection consistent with the requirements of the CAP as listed in CCR Sections 3394.4 (c) (8) A-J and 3394.4 (c) (9) A-E performed by the dismantler or BAR representative, and conducted on-site at the dismantler location.

(1) Vehicles failing the requirements pursuant to Section 2624 may be re-inspected by the Dismantler for compliance with these requirements at any time after modifications have been made to the vehicle to correct the deficiency(ies).

(d) The owner shall obtain a Revivable Junk Receipt from the Department of Motor Vehicles after receiving written confirmation from the Bureau of Automotive Repair on program eligibility.

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

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

§ 2625. Ineligible Vehicles

(a) A dismantled vehicle pursuant to Section 11519 of the Vehicle Code.

(b) A vehicle registered to a non-profit organization or a business.

(c) A Vehicle operated by a fleet licensed and registered pursuant to Section 44020 of the Health and Safety Code.

§ 2626. Targeted Vehicles and Vehicle Solicitation

(a) BAR and the Board will solicit vehicles with the greatest potential for having the highest emissions for participation in the EFMP. BAR shall use existing vehicle emissions data to identify and solicit program participation beginning with vehicles with the highest emissions potential first. BAR will adjust program outreach and solicitation based on participation.

(b) BAR shall primarily focus outreach efforts and solicit vehicles in the South Coast and San Joaquin Valley basins.

(c) The Board and Districts may solicit Targeted Vehicles as appropriate for participation in the voucher portion of the EFMP.

§ 2627. Vouchers

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

(c) The Board or the District administrating the voucher program shall contract with dismantlers, who are under contract with the Bureau for vehicle retirement, for distribution of the vouchers.

(d) The Board or the District administrating the voucher program shall contract with participating vehicle dealers for redemption of the vouchers.

(1) All entities under contract to redeem vouchers must be licensed as dealers.

(2) Participating dismantlers with a valid dealer's license may participate in voucher redemption, but must also make consumers aware that there are other participating dealers.

(3) Vouchers may only be redeemed by dealers under contract; private-party vehicle transactions are not eligible for voucher redemption.

(4) The voucher may not be redeemed on the purchase of a dismantled vehicle (pursuant to Section 11519 of the Vehicle Code).

(5) The voucher may not be redeemed on the purchase of a vehicle with a salvaged title.

(e) No person may receive more than one voucher from the EFMP program.

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

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

§ 2628. Parts Recycling and Resale.

Dismantlers, and their agents, contractors and employees shall not remove any parts from an EFMP purchased vehicle for resale or reuse unless specifically exempted by BAR through contract.

(a) No compensation with public funds from the EFMP shall be granted for any vehicle from which emission-related or drive train parts have been sold.

(b) All activities associated with retiring vehicles, including but not limited to the disposal of vehicle fluids and vehicle components, shall comply with:

- (1) Local water conservation regulations;
- (2) State, county, and city energy and hazardous materials response regulations;
and
- (3) Local water agency soil, surface, and ground water contamination regulations.

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

§ 2629. Records and Auditing

(a) Records shall be maintained by the dismantler for each vehicle purchase and transaction in the EFMP program, including but not limited to:

- (1) Vehicle identification and date of purchase;
- (2) Record of vehicle inspections both before and after purchase.

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

§ 2630. Severability

Each part of this article shall be deemed severable, and in the event that any provision of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

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