State of California
AIR RESOURCES BOARD

Resolution 09-44

June 26, 2009

Agenda Item No.: 09-6-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility for systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, in sections 43000 and 43000.5 of the Health and Safety Code, the Legislature declared that air pollutant emissions from motor vehicles are the primary cause of air pollution in many parts of the state, and that despite significant reductions in vehicle emissions in recent years, continued growth in population and vehicle miles travelled throughout California have the potential not only to prevent attainment of the State standards, but in some cases, to result in worsening of air quality;

WHEREAS, section 40910 et seq. of the Health and Safety Code requires the local air districts to adopt and implement plans to achieve the State ambient air quality standards by the earliest practicable date;

WHEREAS, section 43018 of the Health and Safety Code authorizes the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the State standards for ambient air quality at the earliest practicable date;

WHEREAS, section 44125 of the Health and Safety Code establishes the Enhanced Fleet Modernization Program to voluntary retire passenger vehicles and light-duty and medium-duty trucks;

WHEREAS, section 44125 of the Health and Safety Code directs the Board, in consultation with the Bureau of Automotive Repair, to develop guidelines to implement the Enhanced Fleet Modernization Program and to ensure that the guidelines will meet the following requirements:

1. Retired vehicles are permanently removed from operation by a dismantler under contract with the Bureau of Automotive Repair;
2. Districts retain their authority to administer vehicle retirement programs;
3. The program targets high-polluting passenger vehicles and light-duty and medium-duty trucks that have been continuously registered in California for two years;
4. The program is focused where the greatest air quality impact can be identified;
5. Compensation is flexible, depending on emissions, age, and replacement vehicle factors; and
6. Cost-effectiveness and impacts on disadvantaged and low-income populations are considered.

WHEREAS, ARB staff conducted four public workshops in May, September, and December of 2008 and March 2009, and released concepts and draft regulatory language for public review;

WHEREAS, staff has proposed a regulation to implement the Enhanced Fleet Modernization Program, as provided in section 44125 of the Health and Safety Code;

WHEREAS, the Board has considered the impact of the proposed regulation on the economy of the State and the potential adverse economic impacts on California businesses enterprises and individuals;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, the Board finds that:

1. The proposed regulation meets the legislative direction specified in section 44125 of the Health and Safety Code by expanding the State's existing vehicle retirement program to specifically target the highest-polluting vehicles in the areas with the greatest air quality problems;
2. The provisions of the proposed regulation have made appropriate accommodations to provide extra funding and flexibility to low-income participants;
3. The proposed regulation would reduce oxides of nitrogen and hydrocarbon emissions by nearly two tons per day;

4. The proposed regulation is cost-effective when compared to other incentive programs; and
5. The proposed regulation meets the requirements of Health and Safety Code section 44125.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the adoption of sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630, title 13, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to complete a full review of the Enhanced Fleet Modernization Program by the end of 2010 to determine program effectiveness and to recommend any necessary changes to the program.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to coordinate with the Bureau of Automotive Repair on implementation of this regulation.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A hereto. If the Executive Officer determines that additional conforming modifications are appropriate, the Executive Officer shall adopt the modified regulation after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

I hereby certify that the above is a true and correct copy of Resolution 09-44, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

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Identification of Attachment to the Resolution

Attachment A: Proposed Regulation to Consider Adoption of the Proposed AB 118 Enhanced Fleet Modernization Program Regulation (Car Scrap), as set forth in Appendix A to the Initial Statement of Reasons, released on May 8, 2009.