TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE ENHANCED FLEET MODERNIZATION PROGRAM

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

DATE: June 26, 2014

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 26, 2014, and may continue at 8:30 a.m., on June 27, 2014. This item may not be considered until June 27, 2014. Please consult the agenda for the meeting, which will be available at least 10 days before June 26, 2014, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE 11346.5(a)(3)

Sections Affected: Proposed amendments to California Code of Regulations, title 13, section(s) 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, and 2630.

Background and Effect of the Proposed Rulemaking:

The EFMP is a voluntary accelerated vehicle retirement or "car scrap" program which provides monetary incentives to vehicle owners to retire older, more polluting vehicles. The program reduces emissions by accelerating the turnover and subsequent replacement of the existing light duty fleet with newer, cleaner vehicles. A one-dollar surcharge on motor vehicle registration provides approximately $30 million annually for EFMP.

ARB adopted EFMP guidelines in 2009 which included two program elements: a Retirement-Only program, and a Pilot Replacement Voucher program.

- *Retirement-Only:* Since August of 2010, the Bureau of Automotive Repair (BAR) has administered the EFMP retirement program, which offers $1,500 to low-income (i.e., those with an income no greater than 225 percent of the Federal

Poverty level) participants and $1,000 to all others. These criteria are aligned with BAR's Consumer Assistance Program (CAP), which is limited to retiring vehicles that have failed a Smog Check Test. The EFMP retirement-only element is extremely popular with motorists, with over 85,000 vehicles retired since its inception. Approximately 60 percent of the participants have been low-income.

- *Pilot Replacement Voucher:* In June 2012, the South Coast Air Quality Management District initiated a pilot program to provide additional incentives for those participants that not only scrapped an old vehicle, but also replaced it with a cleaner vehicle. This pilot consisted of identifying owners of likely high emitting vehicles and offering them an additional $2,000 ($2,500 for low-income) toward the purchase of a newer vehicle less than four years old (or less than 8 years old, if low-income). However, as of November 2013, only 22 people had taken advantage of this offer of additional funds towards vehicle replacement, and the program was suspended.

In 2013, ARB and BAR staff conducted an assessment of vehicles retired through EFMP to determine the program's effectiveness and to identify opportunities for improvement. Staff evaluated a total of 164 vehicles and found that the cost-effectiveness and emissions benefits of the program could be substantially improved by revising the acceptance criteria for retired vehicles. It recommended that the retirement and replacement program be modified to make it easier and more attractive for vehicle owners to participate. These results were presented to the Board in November 2013 and the full report is available at http://www.arb.ca.gov/msprog/aqip/EFMP_Update_Staff_Report_November_2013.pdf

Concurrent with the staff's assessment, Senate Bill 459 Pavley (SB 459, Chapter 437, Statutes of 2013) was enacted, directing ARB to revise the EFMP to increase the benefits of the program for low-income California residents, and increase outreach to community-based organizations.

Objectives and Benefits of Proposed Amendments

The proposed amendments would improve the EFMP by focusing the program on low-income participants, expanding program flexibility to improve program participation, and ensuring that retired vehicles are functional, the last of which will enhance the emissions benefits of the program. Amendments are focused in two areas: a Retirement Only program, and a Pilot Retire and Replace program.

Retirement Only

Staff proposes several modifications to the Retirement-Only portion of the regulation, which would increase the program's effectiveness while retaining its complementary relationship with CAP. The proposed modifications include:

- Offer EFMP retirement only to low-income participants;
- Require the vehicle to complete (but not necessarily pass) a Smog Check test to demonstrate functionality;
- Monitor the program and adjust the incentive levels as necessary to ensure that participation remains high; and
- Provide modifications to ensure consistency with CAP and to simplify implementation.

Pilot Retire and Replace

Staff proposes establishing a new Retire and Replace portion that would:

- Focus the program in the two federal extreme nonattainment areas in California: the San Joaquin Valley and South Coast air basins;
- Provide these two air districts the flexibility necessary to develop their pilot programs for maximum effectiveness, and to allow each district to take one or more approaches to program implementation;
- Limit participation to low- and moderate-income consumers;
- Ensure that the retired vehicle is functional and dismantled at a BAR contracted dismantler;
- Allow minivans that meet minimum fuel economy requirements to be replacement vehicles;
- Require that replacement vehicles be 8 years old or newer;
- Offer additional incentives including advanced technology incentive programs that are still under development;
- Offer the choice of a replacement vehicle or alternative transportation mobility options (e.g., public transportation); and
- Include provisions to protect consumers to ensure that the consumer receives the full benefit of the incentive.

To track pilot program implementation, the districts would be required to report a number of key metrics (e.g., participation and income levels served, etc.) on a quarterly basis. If those reports indicate that participation is low, then ARB and the districts would jointly determine if changes were necessary. Prior to implementation of any changes, the ARB and the districts would be required to conduct public workshops. To ensure the districts have the funding to properly administer the program, the proposed amendments allow up to 10 percent of the total funding provided to pay for program administration and outreach, and an additional 5 percent of the total funding to be used to engage partners or contractors specifically to support low-income populations.

The proposed amendments would require minimum incentives as shown in the table below. Under the proposal, ARB and the districts would monitor program effectiveness, and, if necessary to increase participation, raise the incentives above these minimums.

Proposed Retire and Replace Program Minimum Incentives

Income Eligibility	Replacement Options				
		May be also Eligible Low-Carbon Transportation (CVRP) type incentives[2]			
	8 year old or newer[1]	35+ MPG	Plug-In Hybrid[3]	Zero-Emission Vehicle[3]	Alternative Transportation Mobility Options
Low Income <225% Federal Poverty Level	$4,000	$4,500	$4,500	$4,500	$4,500 Face Value
Moderate Income <300% Federal Poverty Level	Not Available	$3,500	$3,500	$3,500	$3,500 Face Value
Above Moderate Income <400% Federal Poverty Level	Not Available	Not Available	$2,500	$2,500	$2,500 Face Value

1. MPG criteria – Best in class minivan eligible
2. Program concurrently under development: conventional hybrid for low-income only, financing element, may require 3-yr reporting
3. May allow lease used based on market demand

Benefits

The proposed amendments will reduce smog-forming emissions by 1.4 tons per day. Reduction of smog-forming emissions helps to achieve California's mandated air quality standards. Improved air quality provides health benefits to the public and to the environment. In addition, these benefits will target low income populations and disadvantaged communities.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic, and has concluded that these regulations are neither inconsistent nor incompatible with other state regulations.

COMPARABLE FEDERAL REGULATIONS

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

STATE IMPLEMENTATION PLAN REVISION

If adopted by ARB, ARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

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

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on May 6, 2014

Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Tess Sicat, Manager of the Alternative Strategies Section, (626) 459-4435, or Mr. Aaron Hilliard, Air Resources Engineer, (916) 322-4781.

Further, the agency representative and designated back-up contact persons, to whom non-substantive inquiries concerning the proposed administrative action may be directed to, Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Web site for this rulemaking at http://www.arb.ca.gov/regact/2014/carscrap14/carscrap14.htm

DISCLOSURES REGARDING THE PROPOSED REGULATION

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Fiscal Impact / Local Mandate

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. Except for these costs, the proposed regulatory action would not create costs or savings to any other State agency, or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to the State or local agencies.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action – which sets implementation requirements for the EFMP – would have no impact on the creation of jobs within the State of California. Businesses that may be slightly affected by the changes to the existing program include licensed dismantlers and car dealerships as increased incentives per vehicle may slightly reduce the number of vehicle retired and also replaced. These impacts would be short-term; because the regulation sunsets in 2023, there would be no economic impacts to either dismantlers or dealers over the long term. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action may affect small businesses such as dismantlers, although participation in the EFMP is strictly voluntary and there are no

mandated requirements for those small businesses that choose to participate in the EFMP.

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, the 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 and its effect on California businesses can be found in the ISOR.

Results of the Economic Impact Analysis/Assessment Prepared Pursuant to Gov. Code sec. 11346.3(b).

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. The EFMP is a voluntary incentive program that impacts, on a short-term basis, less than 2 percent of all vehicles retired each year. There are no compliance costs; the EFMP is a voluntary incentive program that does not require mandatory participation by businesses. The amendments to the program are not expected to significantly adversely impact California businesses since they will participate only if it is financially beneficial. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed amendments is to reduce fleet emissions by accelerating both the turnover of the existing fleet and the consequent replacement with newer, cleaner vehicles. Reducing emissions from the existing fleet is a critical part of California's SIP. Under current funding, staff expects total retirements of 18,000 vehicles each year. It is anticipated that the Pilot Retire and Replace element will provide incentives for approximately 700 participants, divided equally between the South Coast and San Joaquin Valley air basins. The majority of the program's benefits will be derived from the retirement of older vehicles and subsequent replacement with fleet average vehicles. The overall program is expected to reduce smog-forming emissions by 1.4 tons per day. Reduction of smog-forming emissions will result in health benefits to the public by reducing instances of smog-related medical problems, including asthma. Reduction in smog-related medical issues also reduces related costs, such as emergency room visits and other medical costs.

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action may affect small businesses.

Housing Costs

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Business Reports

The proposed regulation will not impose reporting requirements on private persons or businesses. The program is designed to provide access to cleaner, safer vehicles and reduce health impacts and related medical costs.

Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Environmental Analysis

ARB, as the lead agency for the proposed regulatory action, has concluded that this action is exempt from CEQA, pursuant to CEQA Guidelines §15308 ("class 8" exemption) – Actions Taken by Regulatory Agencies for Protection of the Environment; and it is also exempt pursuant to CEQA Guidelines §15061(b)(3) ("common sense" exemption) because it can be seen with certainty that there is no possibility that the proposed action may result in a significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter IV of the Staff Report.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may also present comments relating to the proposed amendments orally or in writing at the hearing, and comments may be submitted by postal mail or electronic submittal before the hearing. The public comment period for this regulatory action will begin on May 9, 2014. To be considered by the Board, written comments not physically submitted at the meeting must be received **no later than 5:00p.m., Pacific Daylight Time, June 23, 2014,** and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), all written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board Members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 44125. This action is proposed to implement, interpret and make specific sections Health and Safety Code sections 39600, 39601, and 44125.

HEARING PROCEDURES

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

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

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

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envié un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

Richard W. Corey
Executive Officer

Date: April 22, 2014

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.