

State of California
AIR RESOURCES BOARD

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

**PUBLIC HEARING TO CONSIDER THE PROPOSED GUIDELINES FOR THE CLEAN
CARS 4 ALL AND ENHANCED FLEET MODERNIZATION PROGRAMS**

Public Hearing Date: July 26, 2018
Agenda Item No.: 18-6-1

I. GENERAL

The Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), entitled Public Hearing to Consider Proposed Guidelines for the Clean Cars 4 All and the Enhanced Fleet Modernization Programs, released June 5, 2018, is incorporated by reference herein. The Staff Report contained a description of the rationale for the proposed amendments, and all references relied upon and identified in the Staff Report were made available to the public. Additional data became available following the release of the Staff Report and was included as Attachment B To the Notice of Public Availability of Modified Text and Additional Information. This attachment was made available to the public with the notice of 15-day changes, on January 31, 2019.

In this rulemaking, the California Air Resources Board (CARB or Board) is adopting regulatory guidelines for the Clean Cars 4 All Program, and adopting amendments to the regulatory guidelines for the Enhanced Fleet Modernization Program (EFMP). This rulemaking is in response to legislation signed into law on October 10, 2017, that requires CARB to update the guidelines for EFMP and Clean Cars 4 All. Specifically, AB 630 (Cooper, Chapter 636, Statutes of 2017) requires CARB to: (1) Update the guidelines to an existing voluntary incentive program, EFMP; (2) Create guidelines for Clean Cars 4 All; and (3) update the EFMP guidelines to provide increased flexibility for light-duty pick-up truck replacement vehicles. The current Programs are popular and regarded as largely successful, and thus only minor, technical changes are required by this legislation to update the EFMP program and codify EFMP Plus-up as the Clean Cars 4 All program.

On July 26, 2018, CARB conducted a public hearing to consider the proposed guidelines for the Clean Cars 4 All and Enhanced Fleet Modernization Programs. At this hearing, CARB received oral and additional written comments. At the conclusion of the hearing, the Board approved Resolution 18-25, approving for adoption the proposed regulatory amendments. In the Resolution, the Board also directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate, and if so, to make the modified regulatory language available for public comment for at least 15 days, along with any additional supporting documents and information. The Board directed the Executive Officer to, after considering any additional public comments, either

present the modified regulation to the Board for further consideration, if warranted, or to take final action to adopt the regulation.

Following the public hearing, the Executive Officer determined that additional conforming modifications were necessary and made these modifications available for public comment on January 31, 2019 for an additional 15-day comment period.

A. MANDATES AND FISCAL IMPACTS TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS

The Board has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

B. CONSIDERATION OF ALTERNATIVES

For the reasons set forth in the Staff Report, in staff's comments and responses at the hearing, and in this FSOR, the Board determined that no alternative considered by 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board.

II. MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL

A. MODIFICATIONS APPROVED AT THE BOARD HEARING AND PROVIDED FOR IN THE 15-DAY COMMENT PERIOD

No modifications to this rulemaking were made prior to or during the July 26, 2018 board hearing. However, following the board hearing the Executive Officer determined the following conforming modifications to be necessary, and made these modifications available for public comment on January 31, 2019.

Expanded Definition of Dismantle

Section 2621: Staff added the term "scrap" to the definition of Dismantle to incorporate the new terminology into the regulatory definition to provide clarity and ensure that terminology is consistent throughout the regulation.

Mobility Option Incentive Amount

Sections in 2627(I): In the Staff Report staff proposed to increase the amount of the Mobility Option incentive from \$4500 to \$7000 to encourage more participants to choose this replacement option. The increased amount was set to equal what a participant would receive for the most popular type of replacement

vehicle purchased through the program at the time, which was a conventional hybrid. Data presented in the Staff Report Appendix G, Table G-1 shows the total number of vehicle incentives from all participating districts. From July 1, 2015 through December 31, 2017, the most popular vehicle option was a conventional hybrid at 1,151, followed by plug-in hybrids at 950. Data from quarterly reports submitted to CARB after the Staff Report was made publicly available on June 5, 2018 reveal that plug-in hybrid electric vehicles are increasing in popularity at a much faster rate than that of conventional hybrid electric vehicles. Incentive totals through June 30, 2018 show conventional hybrids at 1,394, whereas incentives for plug-in hybrids reached 1,384, closing the gap of 201 vehicles to 10 in just six months. Staff expect plug-in hybrid incentive totals to surpass conventional hybrids once the next reporting cycle totals are tabulated. This trend means the average vehicle incentive amount is also increasing and is now just over \$7500. To reflect newly submitted data, the incentive amount for the Mobility Option was increased by \$500 to \$7500. This increased incentive amount will make the Mobility Option more competitive and attractive to participants compared to the most popular vehicle option.

Vehicles Ineligible for Incentives

Section 2625(d) and Section 2636(d): Staff added language to clarify that ineligible vehicles include those being re-registered in California, which is consistent with the intent of the existing language in section 2624(c). The modification simply makes explicit what is implied by the existing language, and ensures the regulation is as clear as possible.

Section 2625(e) and Section 2636(e): Staff added this subsection to support section 2624(a), which states that only the registered owner of a scrapped vehicle can be eligible for EFMP incentives. This subsection clarifies that an eligible vehicle cannot be undergoing a change of ownership, which supports the intent of the existing language in section 2624(a).

Scrapped Vehicle Minimum Eligibility Requirements

Section 2624(b) and Section 2635(b): Staff added language to clarify that a vehicle with a salvage title must be registered as operable to be eligible for retirement. This clarification is consistent with the overall intent of the program to ensure scrapped vehicles are operational and being driven in the State, as required in 2624(c).

Section 2624(c)(2)(C): Staff made a slight change to the timing requirements of invoices submitted to support scrapped vehicle eligibility. Under this section, an unregistered vehicle, or a currently registered vehicle not meeting the DMV requirements of sections 3394.4 (b)(6)(C) and 3394.4 (b)(6)(D), may still qualify for an incentive if the registered owner can provide invoices from an Automotive Repair Dealer demonstrating that the vehicle was operated in California in the two years before application submittal. As proposed, the oldest invoice may not be older than twenty-four months prior to the date of application submittal, a change from the original requirements of application receipt. This change will

provide certainty to applicants, as they can more easily control when an application is submitted, but not necessarily when it is received.

Section 2624(e) and Section 2635(e): Staff added language to clarify the vehicle weight limit is inclusive of 10,000 pounds. This change was made to be consistent with the existing requirements cited in section 2624(c)(1). Also, staff reinstated clarifying language that was erroneously removed in the original proposal. This reinstated language provides specific examples of the types of eligible vehicles, which helps the reader to correctly interpret this subsection.

B. NON-SUBSTANTIAL MODIFICATIONS

Subsequent to the 15-day public comment period mentioned above, staff identified some additional non-substantive changes to the regulation. These changes are summarized below:

Section 2627(l): Added language to clarify that hybrid vehicles must meet the minimum fuel economy standard established in section 2627(g)(2). The table which summarizes section 2627(l) is also updated to reflect this clarification.

Staff also made some non-substantive grammatical changes.

The above described modifications constitute non-substantial changes to the regulatory text because they more accurately reflect the numbering of a section and correct spelling and grammatical errors, but do not materially alter the requirements or conditions of the proposed rulemaking action.

III. DOCUMENTS INCORPORATED BY REFERENCE

The regulation does not incorporate by reference any additional documents.

IV. SUMMARY OF COMMENTS AND AGENCY RESPONSE

Written comments were received during the 45-day comment period in response to the July 26, 2018 public hearing notice, and written and oral comments were presented at the Board Hearing. Listed below are the organizations and individuals that provided comments during the 45-day comment period:

| Commenter | Affiliation |
|-------------------------------------|--|
| Chavez, Christopher (July 16, 2018) | Coalition for Clean Air (CCA) |
| Krulewitz, Andrew (July 23, 2018) | Citizen (Krulewitz) |
| Reinhardt, Alisa (July 23, 2018) | California New Car Dealers Association (CNCDA) |

The following individuals provided written comments at the public hearing:

| Commenter | Affiliation |
|------------------|--|
| Neuenberg, Mike | Sacramento Metropolitan Air Quality Management District (SMAQMD) |

The following individuals, listed in the order in which they spoke, provided oral testimony at the public hearing:

| Commenter | Affiliation |
|------------------|--|
| Neuenberg, Mike | SMAQMD |
| Yee, Deanna | Bay Area Air Quality Management District (BAAQMD) |
| Abbs, Alan | California Air Pollution Control Officers Association (CAPCOA) |
| Magavern, Bill | CCA |
| Park, Minh | Natural Resources Defense Council (NRCD) |
| Go, Jaymee | Valley Clean Air Now (Valley CAN) |

The following individuals provided written comments on the 15-day changes:

| Commenter | Affiliation |
|-----------------------------------|--|
| Bobier, Victor (January 31, 2019) | Citizen (Bobier) |
| Sidener, Margo (February 6, 2019) | Breathe California of the Bay Area(BCBA) |

Overall Support

1. Comment: CARB received comments in general support of the proposal. (CCA, CNCDA, BAAQMD, CAPCOA, NRDC, and BCBA)

“We are pleased to support these guidelines... We believe the guidelines reflect the legislative intent of AB 630 and broader goal of climate equity.” (Chavez, CCA)

“We strongly support both expanding the program statewide and simplifying the vehicle replacement requirements, as this will help with program clarity for consumers and be easier for dealers to implement.” (CNCDA)

“We support staff’s proposal for the following two reasons: First, allowing more air districts to implement retire-and-replace programs will broaden the reach of the Clean Cars 4 All Program and further its emissions capacity. Secondly, providing consumers with more flexibility in replacement vehicle choice will ultimately give them more incentive to replace their high emission vehicles.” (NRDC)

Agency Response: CARB appreciates the commenters’ support.

Program Outreach

2. Comment: CARB received comments recommending Clean Cars 4 All and EFMP use multiple strategies in reaching out to the community.

“CARB should strongly encourage the districts to use multiple strategies in reaching out to the community... Given the target demographic of the program, relying on one outreach strategy may result in limited reach. For example, a purely online outreach strategy will likely miss those without access to the Internet... Partnerships with trusted local and community leaders will increase the effectiveness of CC4A and EFMP outreach efforts.” (Chavez, CCA)

Agency Response: No change was made in response to this comment. The proposed Clean Cars 4 All guidelines intentionally do not limit air districts to adopt specific outreach methods. Instead, the guidelines give air districts flexibility to design their own strategies using their local expertise. One of CARB’s primary objectives with Clean Cars 4 All is to increase participation rates, and to do so will require effective community outreach efforts. As such, the regulation language as written allows air districts to adopt diverse outreach strategies to maximize participation that work in their regions, including a pathway to access the program that utilizes internet access.

Integration and Coordination across Incentive Programs

3. Comment: CARB received comments urging increased coordination across agencies and programs to ensure related clean air and climate incentive programs are integrated.

“Ensuring consumers are aware of ... other incentive programs will help improve the effectiveness of all programs. Connecting residents with these programs will help yield additional greenhouse gas reduction and air quality benefits.” (Chavez, CCA)

“Close coordination with utilities is a perfect example of how linking incentive programs can yield additional greenhouse gas benefits.” (NRDC)

Agency Response: No change was made in response to this comment. CARB agrees that coordination and integration across incentive programs is an important objective moving forward. As such, the proposed guidelines are already designed to provide flexibility to facilitate integration and coordination with other clean air incentive programs.

Leasing of Used Replacement Vehicle

4. Comment: CARB received comments stating that leasing new ZEVs still requires a significant investment from program applicants even after the incentive is applied. As such, used leases offer lower-income participants a more affordable option. Specifically, the commenter proposed a leasing model where a third-party leasing company could purchase a used ZEV and lease it to a lower income driver at a low monthly price. This commenter further recommended that used leases be eligible under Clean Cars 4 All only if the leasing company provided dedicated ZEV charging and all manufacturer-recommended maintenance free of charge. This commenter claims that leasing under this model provides additional benefits to lower income drivers, including cost certainty, opportunity to build credit, and lower total cost of ownership.

“To encourage more rapid and widespread adoption of ZEVs in disadvantaged communities, I humbly recommend that the California Air Resources Board consider expanding eligibility for Clean Cars 4 All funds to include leases of used ZEVs.” (Krulewitz)

Agency Response: No change was made in response to this comment. The proposed Clean Cars 4 All guidelines do not expressly prohibit used ZEVs from being leased through the program. The guidelines were intentionally designed to be flexible, so that detailed features such as allowing used leases, can be considered when CARB develops the detailed requirements of the program beginning with the FY 19-20 Low Carbon Transportation Funding Plan process. As part of this process, CARB will host a Workshop and follow-up work group(s) to finalize the detailed requirements for Clean Cars 4 All. CARB encourages the commenter to take part in the FY 19-20 Funding Plan development process and present their case for CARB to consider allowing used ZEV leases.

Funding for Program Start-Up and Implementation Costs

5. Comment: SMAQMD requested increased seed money from CARB to assist the air district with start-up costs for Clean Cars 4 All. This commenter also summarized this comment submission via verbal testimony at the July 26, 2019 board hearing.

“Since significant initial start-up work is required before Clean Cars 4 All becomes a reality, the addition of seed money to help get the program off the ground would go a long way towards ensuring the program’s success in the Sacramento region.” Noting the anticipated financial strain of operating the program, the commenter also requested a higher funding percentage to support program operating costs, relative to what CARB has historically provided to implementing air districts. “We believe the current funding percentages allocated for program support require additional flexibility... Our estimated true cost for Program Implementation and Community Outreach and Education is 25 percent versus the 15 percent offered by CARB and our agency is using limited funds to cost-share an additional 5 percent to help offset the gap. We request that CARB staff allow a higher percentage of funds towards these core functions.” (SMAQMD)

Agency Response: No change was made in response to this comment. The proposed guidelines do not place any specific limits on the funding percentage allowed for Clean Cars 4 All to support implementation costs. As such, no changes to the proposed regulation would be required for CARB to allow increased financial support, as requested by the district.

Use of Term ‘Scrap’

6. Comment: A commenter requested that we consider not changing the term ‘retire’ to ‘scrap’ in the proposed regulation.

“We would like to explore the possibility of directing some of the retired vehicles from Clean Cars 4 All into educational programs for students instead of sending the vehicles directly to be scrapped.” (CNCDA)

Agency Response: No change was made in response to this comment. Changing the term 'retire' to 'scrap' does not affect whether or not vehicles accepted through the program to be scrapped can be donated for educational purposes. Moreover, the proposed Clean Cars 4 All guidelines do not prevent the use of some vehicles for educational purposes, as long as they are ultimately dismantled and never re-registered and returned to service.

Miscellaneous Comments

7. Comment: A commenter stated that his income isn't taxable and that he's interested in getting a specific subset of BEVs that meet his lifestyle. This commenter also stated that the Federal rebate for BEVs isn't useful to him since his income isn't taxable. (Bobier)

Agency Response: No change was made in response to this comment. CARB appreciates the commenter's input and perspective. However, these comments are not relevant to the proposed guidelines or the 15-day changes. CARB notes that the incentives for EFMP and Clean Cars 4 All are applied to the price of the desired replacement vehicle at the point of purchase, and do not depend on an applicant's tax liability.

V. Peer Review

Health and Safety Code Section 57004 sets forth requirements for peer review of identified portions of rulemakings proposed by entities within the California Environmental Protection Agency, including CARB. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer review process. Here, CARB determined that the rulemaking at issue does not contain a scientific basis or scientific portion subject to peer review, and thus no peer review as set forth in Section 57004 was or needed to be performed.