

## UPDATED INFORMATIVE DIGEST

### AMENDMENTS TO THE AB 118 ENHANCED FLEET MODERNIZATION PROGRAM (CAR SCRAP) REGULATION

**Sections Affected:** This action modifies California Code of Regulations, title 13, Chapter 13, sections 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, and 2629.

**Background:** In October 2007, Governor Schwarzenegger signed Assembly Bill 118 (AB 118 [Nunez], Chapter 750, Statutes of 2007) into law. This legislation provided approximately \$200 million annually for new programs to improve air quality through the development and use of advanced technologies as well as alternative and renewable fuels. The legislation included \$30 million annually for the Enhanced Fleet Modernization Program (EFMP), which provides funding to retire the highest polluting vehicles in areas with the greatest air quality problems. The legislation also directs the program to consider flexible compensation related to the replacement of the vehicles being retired, and requires the Air Resources Board (ARB or Board) to consider cost-effectiveness and impacts on low-income and disadvantaged populations.

Additional legislation, Senate Bill 459 (SB 459 [Pavley], Chapter 437, Statutes of 2013), signed by Governor Brown in September 2013, directs ARB to revise EFMP to increase the benefits of the program for low-income California residents, and to increase outreach to community-based organizations. Additionally, SB 459 directs ARB to consider increased emphasis on greenhouse gas reductions, requires program guidelines ensure that vehicles eligible for retirement demonstrate sufficient remaining useful life, and requires ARB to update the program guidelines no later than June 30, 2015.

**Description of Regulatory Action:** At the Board's June 26, 2014 public hearing, the Board approved the amended regulation, summarized below, as noticed April 22, 2014 in the California Notice Register and as set forth in the Staff Report: Initial Statement of Reasons released on May 9, 2014 with additional changes made available for comment on November 7, 2014. The proposed amendments improve EFMP by focusing the program on low-income participants, expanding program flexibility to improve program participation, and ensuring the vehicles that are retired are functional, which enhances emissions benefits. Amendments are focused in two areas: a Retirement Only program, and a new Pilot Retire and Replace Program.

#### **Retirement-Only Program**

The modifications to the Retirement-Only Program will increase its effectiveness while retaining its complementary relationship with the Consumer Assistance Program (CAP) run by the Bureau of Automotive Affairs (BAR). The modifications:

- 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
- Ensure consistency with CAP and simplify implementation.

### **Limit EFMP Retirement-Only to Low-Income Participants**

Eligibility requirements for the retirement-only component of the EFMP were modified to restrict participation to applicants with household income less than or equal to 225 percent of the Federal Poverty Level. The EFMP Retirement-Only Program has been oversubscribed, typically exhausting the funding within the first eight months of each fiscal year. Restricting program participation will ensure that the limited funds meet the directive of SB 459 to focus incentives on low-income participants.

### **Require the Vehicle to Complete a Smog Check Test to Demonstrate Functionality**

Vehicles applying for retirement through EFMP must successfully complete a smog check test within 180 days of applying to the program. An acceleration simulation mode (ASM) dynamometer test is a universally available, widely accepted, and objective operating test. Successful completion of the test, whether the end result is a pass or fail, is a good indication that a vehicle is in sufficient condition to be driven on the road and has remaining useful life.

### **Monitor Program Participation**

The more stringent eligibility requirements for EFMP retirement-only run the risk that the current \$1,500 incentive will be insufficient to attract the higher quality vehicles necessary to increase the air quality benefits of the program. It is possible that participation in the program will decrease such that the program fails to expend its funding within the fiscal year. To safeguard against this, the modifications incorporate a provision to monitor program performance and incrementally increase the incentive up to \$2,500, specifically for vehicles passing a smog check test, if needed to maintain participation.

### **Ensure Consistency with CAP**

Minor modifications were made to simplify the EFMP Retirement-Only Program implementation and to ensure that the program remains consistent with BAR's CAP.

**Pilot Retire and Replace Program**

The new Retire and Replace Program will:

- Focus the program in the two federal extreme nonattainment areas in California: the San Joaquin Valley and South Coast air basins;
- Provide the two air districts in these regions 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 the retired vehicle is functional, and dismantled at a BAR contracted dismantler;
- Allow the replacement vehicle to include minivans that meet minimum fuel economy requirements and are 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.

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

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

## **Income Eligibility**

Amendments to the program guidelines restrict eligibility for the Pilot Retire and Replace Program to participants with household income less than or equal to 400 percent of the Federal Poverty Level.

## **Vehicle Retirement**

SB 459 requires that vehicles retired under EFMP demonstrate sufficient remaining useful life. In contrast to the strict smog check requirement for vehicles participating in the Retirement-Only Program, the amendments provide the implementing Air Districts the flexibility to determine a suitable surrogate for ensuring that vehicles retired through the program have sufficient remaining useful life. This can include a smog check test, proof of current registration, or other methods.

## **Vehicle Replacement**

The program provides a tiered incentive structure that focuses incentives towards the lowest income applicants as well as promotes the adoption of advanced technology replacement vehicles. The program allows replacement vehicles that are at a minimum eight years old or newer and includes minivans that meet minimum fuel economy standards.

## **Alternative Mobility Options**

To promote the use of alternative modes of transportation, the program guidelines allow for the highest possible face value incentive for participants choosing an alternative mobility option such as public transit passes in lieu of a replacement vehicle.

## **Outreach / Consumer Protections**

The amendments require the program to provide significant outreach and assistance to low-income communities and individuals. In addition, implementing Air Districts must provide consumer protections to program participants to ensure that the benefits of the program accrue to the consumer. Flexibility is provided in the guidelines to allow Air Districts to determine the most effective means of outreach and consumer protections within their respective regions.

## **Administration**

The amendments replace the existing Pilot Voucher Replacement Program with the new Pilot Retire and Replace Program. To track the Pilot Retire and Replace Program implementation, Air Districts are required to report key metrics (e.g. participation and income levels served, etc.) to ARB on a quarterly basis. A maximum of 10 percent of the total funding may be used for program administration and outreach, with an

additional 5 percent of the total funding allocated to engage partners or contractors specifically to support low-income populations.

**Comparable Federal Regulations:** There are no federal regulations comparable to the regulation. The regulation modifies the EFMP structure and establishes administrative and implementation requirements that address the requirements set forth in SB 459. Participation in EFMP by individuals and businesses is strictly voluntary.

**Changes to Underlying Laws:** These regulations were promulgated to implement SB 459, as described above.

**Changes to the Regulation:** Fifteen-day changes to the regulation were made to improve clarity.