State of California
AIR RESOURCES BOARD

Amendments to the Enhanced Fleet Modernization Program Guidelines

Resolution 14-17

June 26, 2014

Agenda Item No.: 14-5-3

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 declares 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 ARB and the 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 voluntarily retire passenger vehicles, and light-duty and medium-duty trucks;

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

(1) Retired vehicles must be permanently removed from operation by a dismantler under contract with the Bureau;

(2) Districts retain their authority to administer vehicle retirement programs;
(3) The program will target high polluting passenger vehicles, light-duty and medium-duty trucks that have been continuously registered in California for two years or otherwise proven to have been driven primarily in California;
(4) The program shall be focused where the greatest air quality impact can be identified;
(5) Compensation is flexible, depending on emissions and age of retired vehicle and replacement vehicle factors;
(6) Cost-effectiveness and impacts on disadvantaged and low-income populations shall be considered;
(7) Provisions that coordinate the vehicle retirement and replacement components of the program with the vehicle retirement component of the Bureau's Consumer Assistance Program to ensure that vehicle owners participate in the correct program to maximize emission reductions;
(8) The program shall have a requirement that vehicles eligible for retirement have sufficient remaining useful life;
(9) Compensation for either retired or replacement vehicles for low-income motor vehicle owners may be increased as necessary to maximize the air quality benefits of the program while also ensuring participation by low-income motor vehicle owners;

WHEREAS, section 44125(c)(6) of the Health and Safety Code states that program eligibility may be limited on the basis of income to ensure the program adequately serves persons of low or moderate income;

WHEREAS, section 44125(c)(10) of the Health and Safety Code provides that the guidelines may require a vehicle to take, complete, or pass a smog check inspection;

WHEREAS, section 44125(d) of the Health and Safety Code directs the Board to study and consider the following potential program elements:

(1) Methods of financial assistance other than vouchers;
(2) An option for automobile dealers and other used car sellers to accept cars for retirement, provided the cars are dismantled in a manner consistent with the requirements of the program;
(3) An incentive structure with varied incentive amounts to maximize program participation and cost-effective emissions reductions;
(4) Increased emphasis on the replacement of high-polluters with cleaner vehicles or the increased use of public transit that results in the increased utilization of the vehicle replacement component of the program;
(5) Increased emphasis on the reduction of greenhouse gas emissions through increased vehicle efficiency or transit use as a result of the program;
(6) Increased partnerships and outreach with community-based organizations;

WHEREAS, section 44125(c)(5)(C) of the Health and Safety Code provides that increases in compensation amounts may be based on factors, including, but not limited

to, the age of the retired or replaced vehicle, the emissions benefits of the retired or replaced vehicle, the emissions impact of any replacement vehicle, participation by low-income motor vehicle owners (as defined in Health and Safety Code section 44062.1), and the location of the vehicle in an area of the State with the poorest air quality;

WHEREAS, ARB staff conducted three public workshops in March 2014 and released concepts and draft regulatory language for public review;

WHEREAS, that portion of the ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of Resources Agency pursuant to Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review pursuant to this certified program (California Code of Regulations, title 17, sections 60001-60007);

WHEREAS, staff determined that the proposed amendments to the Enhanced Fleet Modernization Program Guidelines are exempt from CEQA as described in CEQA Guidelines §15061 because it is an action taken by a regulatory agency for protection of the environment (CEQA Guidelines §15308 "class 8" exemption), and 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 (CEQA Guidelines §15061(b)(3) "common sense" exemption) as described in Chapter IV of the Staff Report;

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;

WHEREAS, the Board has studied and considered:

(1) Methods of financial assistance other than vouchers;
(2) An option for automobile dealers and other used car sellers to accept cars for retirement, provided the cars are dismantled in a manner consistent with the requirements of the program;
(3) An incentive structure with varied incentive amounts to maximize program participation and cost-effective emissions reductions;
(4) Increased emphasis on the replacement of high-polluters with cleaner vehicles or the increased use of public transit that results in the increased utilization of the vehicle replacement component of the program;
(5) Increased emphasis on the reduction of greenhouse gas emissions through increased vehicle efficiency or transit use as a result of the program;
(6) Increased partnerships and outreach with community-based organizations;

WHEREAS, the Board finds that the proposed amendments to the Enhanced Fleet Modernization Program Guidelines ensure the following:

(1) Vehicles retired pursuant to the program are permanently removed from operation and retired at a dismantler under contract with the Bureau;
(2) Districts retain authority to administer vehicle retirement programs otherwise authorized by law;
(3) The program is focused where the greatest air quality impact can be identified;
(4) The vehicle replacement component is available in areas designated as federal extreme nonattainment;
(5) The program has a requirement that vehicles eligible for retirement have sufficient remaining life; and
(6) Coordination of the vehicle retirement and replacement components of the program with the vehicle retirement component of the Bureau's Consumer Assistance Program to ensure that vehicle owners participate in the appropriate program to maximize emissions reductions;

WHEREAS, the Board finds that consumer protections are necessary to minimize adverse impacts on disadvantaged and low-income populations and to maximize the air quality benefits of the program;

WHEREAS, the Board finds that maximizing air quality benefits while ensuring participation by low-income vehicle owners may require adjustment of the incentives offered;

WHEREAS, the Board finds that increased emphasis on reduction of greenhouse gases through increasing vehicle efficiency or transit use by persons of low to moderate income may require providing additional financial resources to those persons or to institutions that serve them; and

WHEREAS, the Board further finds that:

The proposed amendments are exempt from CEQA because it can be seen with certainty that there is no possibility that the amendments may adversely affect air quality or any other environmental resource area (CEQA Guidelines section 15061(b)(3)) and because the amendments will enhance the environment by better protecting the public from health impacts associated with exposure to air pollutant emissions from motor vehicles and there is no substantial evidence that it would result in any significant adverse environmental impacts (CEQA Guidelines section 15308 – Actions Taken by Regulatory Agencies for Protection of the Environment).

The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption sections 2620, 2621, 2622, 2623, 2623.5, 2624, 2625, 2626, 2627, 2628, 2629, and 2630 to title 13 California Code of Regulations, as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board authorizes the Executive Officer to continue development of additional incentive programs that may be combined with the Enhanced Fleet Modernization Program to better serve persons of low-to-moderate income and disadvantaged communities.

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. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language and any additional supporting documents and information shall be made available to the public for a period of at least 15 days, provided such modifications do not alter the conclusion of the environmental analysis, and provided that the Executive Officer shall consider such written comments as may be submitted during this period and make such further modifications as may be appropriate in light of the comments received, make those modifications available for public comment for at least 15-days, and present the regulation to the Board for further consideration if he determines that this is warranted. Upon the Executive Officer addressing the need for any additional conforming modifications as appropriate and making such modifications, if any, publicly available for comment, the Executive Officer shall take final action to adopt the regulation, as set forth in the Attachments hereto and in any subsequent modifications that have been made publicly available for comment.

BE IT FURTHER RESOLVED if it is determined that any 15-day modifications to the regulation affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by ARB's regulations at California Code of Regulations, title 17, sections 60001-60007, and/or prepare written responses to any comments received raising significant environmental issues to present to the Board for its consideration for approval along with the proposed Final Regulation Order as necessary.

I hereby certify that the above is a true and correct copy of Resolution 14-17 as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board

Resolution 14-17

June 26, 2014

Identification of Attachments to the Board Resolution

Attachment A: Proposed Amendments to the Regulation for the Enhanced Fleet Modernization Program, California Code of Regulations, title 13, sections 2620, 2621, 2622, 2623, 2623.5, 2624, 2625, 2626, 2627, 2628, 2629, and 2630, as set forth in Appendix A to the Initial Statement of Reasons, released May 9th, 2014.