

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO AIR RESOURCES BOARD VOLUNTARY ACCELERATED VEHICLE RETIREMENT REGULATIONS TO MINIMIZE DIFFERENCES BETWEEN ARB AND BAR VAVR REGULATIONS AND ALLOW PARTS RECYCLING AND RESALE OF NON-EMISSION-RELATED AND NON-DRIVE TRAIN PARTS

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of amendments to Air Resources Board Voluntary Accelerated Vehicle Retirement regulations to minimize differences between ARB and BAR VAVR regulations and allow parts recycling and resale of non-emission-related and non-drive train parts.

DATE: January 17, 2002

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
1001 "I" Street
Auditorium, Second Floor
Sacramento, Ca 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., January 17, 2002, and may continue at 8:30 a.m., January 18, 2002. This item may not be considered until January 18, 2002. Please consult the agenda for the meeting, which will be available at least 10 days before January 17, 2002, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board by January 3, 2002, at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations, sections 2601, 2603, 2604, 2606, 2607, 2608, 2609, 2610, and proposed adoption of section 2611 and Appendices C and D.

The 1994 State Implementation Plan (SIP) requires significant emission reductions and most stakeholders believe that achieving these reductions is a

significant challenge. In addition, the Legislature believed that it was important to provide maximum flexibility to both private industry and local air quality districts to determine how to achieve required emission reductions. Therefore, at the request of many stakeholders, the Legislature passed Senate Bill 501 (Stats. 1995, ch. 929; Calderon).

This legislation provided for emission reduction credit programs through voluntary accelerated vehicle retirement (VAVR). Designed to be market-based, these programs provide an alternative strategy to achieve emission reductions at a lower cost when compared to traditional emission control strategies, such as stationary source controls.

SB 501, Health and Safety Code sections 44100 – 44122, required the Air Resources Board (ARB) to adopt regulations for VAVR credit programs for use by both public and private entities. In compliance with this directive, the ARB originally adopted the current VAVR regulations on October 22, 1999. This type of VAVR program is commonly referred to as the Mobile Source Emission Reduction Credit (MSERC) program.

Concurrently, to provide a "safety valve" for consumers with vehicles that fail the biennial smog inspection, the Bureau of Automotive Repair (BAR) implemented a VAVR program separate from the MSERC programs operated under the above referenced ARB regulations.

In summary, the important distinction between these two VAVR programs is that the VAVR program operated in compliance with ARB regulations generate emission credits to substitute for other SIP required emission reductions, whereas the program operated under BAR regulations is strictly a safety valve for consumers that fail the biennial smog inspection and is *not* used to generate emission credits.

Until recently, because the price paid to consumers was similar (i.e., \$450 to \$700 per vehicle), the two types of VAVR programs functioned in relative harmony, even though vehicle eligibility requirements differed between the two programs. However, this changed when BAR more than doubled the price paid to retire a vehicle from \$450 to \$1000 per vehicle. The BAR payment increase caused the perception that the two programs were in competition. In addition, this caused a closer examination of the vehicle eligibility requirements between the two programs with many stakeholders noting that the BAR vehicle eligibility requirements are less stringent than those established by the ARB VAVR regulations.

Stakeholders then complained that the combined cost differential and vehicle eligibility differences jeopardized MSERC program viability. Additionally, participants noted that the Health and Safety Code requires the ARB to

“harmonize the requirements and implementation of this program with the motor vehicle inspection program.” Statutes also state: “Insofar as practicable, these programs shall be seamless to the participants and the public.”

Finally, stakeholders also noted that the Health and Safety Code requires regulatory provisions to provide for recycling, sales, and use of parts from vehicles offered for retirement. It should also be noted that, on February 26, 1999, Senator Johannessen introduced Senate Bill 1058 to legislate parts recovery limited to non-emission-related parts. However, Senator Johannessen dropped this bill to allow the ARB an opportunity to re-examine and/or revise the VAVR regulations.

In summary, many participants felt that present ARB regulations fall short in meeting the mandates of the Health and Safety Code, i.e., “harmonize” ARB and BAR regulations and provide for parts recovery from retired vehicles.

In response, the ARB staff completed a fact finding study focusing on the differences between the ARB and BAR VAVR regulations, as well as to examine options to provide for parts recovery and re-sale. For this effort, ARB staff conducted several informal workshops with the various stakeholders. Then, based on the workshop results, staff prepared, and released for public comment, a preliminary staff report with recommendations to revise existing regulations and to present parts recovery options.

Finally, interested parties submitted numerous comments regarding the recommendations contained in the staff report. ARB staff evaluated the public comments; and, as a result of the review, ARB staff proposes to amend the ARB VAVR regulations as follows:

- ARB staff recommends a revision to the ARB VAVR regulations to minimize the differences between ARB VAVR regulations and BAR VAVR regulations as required in Health and Safety Code section 44102. *Specifically, with respect to vehicle eligibility, ARB staff recommends that the ARB VAVR regulations be amended to match the BAR regulations with only two exceptions, i.e., staff proposes to retain requirements for driving in reverse and the vehicle registration history.*
- ARB staff recommends a revision to the ARB VAVR regulations to allow limited parts recovery. *Specifically, ARB staff recommends that the ARB VAVR regulations be amended to allow parts recovery for non-emission-related and non-drive train parts.*

COMPARABLE FEDERAL REGULATIONS

U.S. EPA has published a document, "Guidance for the Implementation of Accelerated Retirement of Vehicles Programs," but has not promulgated formal regulations for this program.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Regulatory Action, which includes a summary of the environmental impacts of the proposal.

Copies of the Staff Report 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 the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Environmental Resources Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (January 17, 2002). 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 the ARB's web site listed below.

Further inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Leon Vann, Smog Check Policy Advisor at (916) 445-8449 or Mr. Chuck Bennett, Air Resources Engineer, at (916) 322-2321.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Marie Kavan, Regulations Coordinator, (916) 322-6533. 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.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls outside the Sacramento area.

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

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any 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 non discretionary savings to local agencies,

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The 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 Executive Officer has made an initial determination that the proposed regulatory action will 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 will 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. An detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report (ISOR).

The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because this is a change to a regulation that is voluntary with respect to small businesses and there are no mandated requirements and no associated impacts.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the ARB's Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, January 16, 2001**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: vavr@listserve.arb.ca.gov and received at the ARB **no later than 12:00 noon, January 16, 2001**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB 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.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600 and 39601, 44101 and 44104. This action is proposed to implement, interpret and make specific SB 501 and Health and Safety Code sections 44100 – 44122.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

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 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 the ARB's Public Information Office, Air Resources Board, 1001 "I" Street, Environmental Services Center, 1st Floor, Public Information Office, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: November 20, 2001

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 Web –site at www.arb.ca.gov.