

**TITLE 16**  
**BUREAU OF AUTOMOTIVE REPAIR**

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING  
CONCERNING**

**CONSUMER ASSISTANCE PROGRAM**  
**ADMINISTRATIVE TERMS AND PARTICIPATION ELIGIBILITY**

**NOTICE IS HEREBY GIVEN** that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the actions described in the Informative Digest. Any person(s) interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following location on the following date:

**NORTHERN CALIFORNIA**

Thursday, May 1, 2014 at 9:00 a.m.  
Department of Consumer Affairs  
Hearing Room  
1625 North Market Boulevard  
Sacramento, CA 95834

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than 5:00 p.m. on May 1, 2014, or must be received by the Bureau at the above referenced hearing. Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will be included in the record of this proposed regulatory action, but will not be summarized or responded to. The Bureau, upon its own motion or at the request of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 9882 of the Business and Professions Code and Sections 44000, 44001.3, 44001.5 and 44002 of the Health and Safety Code, and to implement, interpret or make specific Sections 44005, 44010.5, 44011, 44012, 44014.2, 44014.7, 44015, 44017, 44017.1, 44037.1, 44062.1, 44062.3, 44091, 44092, 44093, 44094, 44095, and 44125 of

the Health and Safety Code, the Bureau is proposing to adopt the following changes to Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **INTRODUCTION:**

The Bureau, located within the Department of Consumer Affairs (DCA), is the State agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and light trucks, by requiring that these vehicles meet specific in-use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses Smog Check stations and technicians and certifies inspection equipment.

The Bureau is also charged with the implementation and administration of the Consumer Assistance Program (CAP) which includes both a Repair Assistance (RA) option and a Vehicle Retirement (VR) option. The RA option is designed to offer financial assistance to eligible individuals whose vehicles have failed a biennial Smog Check inspection and whose household income falls at or below a specified amount based on the federal poverty guideline. The VR option is designed to offer consumers the choice of scrapping their qualified vehicle at any time and for any reason for either \$1,000 or \$1,500, if they meet income eligibility requirements.

To offer CAP's RA and VR options to a larger number of individuals, BAR is proposing to expand its vehicle eligibility requirements from requiring that the vehicle be currently registered as operable to permitting participation of vehicles that have not had a registration lapse of more than 120 days during the 24 months prior to the registration expiration date and that have not been expired for more than 120 days at the time of application. This expansion will meet the needs of consumers who are most in need of financial help with repairs, help lower the emissions of high polluting and gross polluting vehicles, and help increase air quality for all California citizens.

The proposed action also includes several minor technical, grammatical, and editorial changes that have no regulatory effect or that are conforming.

### **CURRENT REGULATION:**

*Existing regulation in the California Code of Regulations, Title 16, Division 33, Chapter 1, Article 11, is summarized as follows:*

1. Article 11, Section 3394.2 specifies administrative relationships between CAP and its service providers.
2. Article 11, Section 3394.3 specifies the state assistance limits available for CAP's RA and VR programs.
3. Article 11, Section 3394.4 specifies the eligibility requirements of CAP's RA and VR programs.

## **EFFECT OF REGULATORY ACTION:**

The Bureau is proposing the following amendments to existing regulations:

1. Update CAP administration terms.
2. Modify the RA option and VR option eligibility requirements. This update will permit participation of vehicle owners whose vehicles registration has not had a significant lapse (more than 120 days) during the 24 months prior to the registration expiration date, and has not been expired for more than 120 days at the time of application.
3. Align RA and VR eligibility requirements to eliminate consumer confusion and achieve application processing efficiencies.

The proposed action will make the following changes to existing regulation:

1. Amend Section 3394.2 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
  - a. Move “contracts with dismantlers,” and add “agreements with” and “holding valid STAR certification.”

These modifications clarify the types of binding arrangements made between BAR and its service providers, and the type of test-and-repair station authorized to provide CAP services to consumers.
  - b. Add Health and Safety Code section 44014.2 and 44062.3 as reference citations.

Section 44014.2 identifies the section of law that establishes BAR’s authority to certify voluntarily participating smog check stations to perform test-and-repair functions on CAP vehicles and the type of binding arrangement that BAR may enter into with these stations.

Section 44062.3 identifies vehicle retirement participation criteria, minimum incentive amounts, and the type of binding arrangement that BAR may enter into with a vehicle dismantler.
2. Amend Section 3394.3 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
  - a. In subsection (b), add “holding valid STAR certification and,” and remove “contract” and replace with “an agreement.”

These amendments clarify the type of binding arrangement made between BAR and stations performing CAP repairs and the type of test-and-repair station authorized to perform CAP repairs.

- b. Add Health and Safety Code section 44062.3 as an authority citation and sections 44014.2 and 44062.3 as reference citations.

Section 44014.2 identifies the section of law that establishes BAR's authority to certify voluntarily participating smog check stations to perform test-and-repair functions on CAP vehicles and the type of binding arrangement that BAR may enter into with these stations.

Section 44062.3 identifies vehicle retirement participation criteria, minimum incentive amounts, and the type of binding arrangement that BAR may enter into with a vehicle dismantler.

- 3. Amend Section 3394.4 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:

- a. Remove "a person must meet" and add "must be met" in subsection (a).

This is an editorial change that better clarifies that the paragraphs under subsection (a) do not apply only to a person.

- b. Add "the applicant must" to paragraph (a) (1).

This addition clarifies that the applicant and the vehicle's registered owner must be the same person.

- c. Remove paragraph (a) (2).

Text from this paragraph will be restated in new subparagraph (a) (5) (B) of this section as described below.

- d. Replace "vehicle owner has" with "applicant must [not] have" in subsection (a) (3) and renumber to (a) (2).

This editorial change ties the necessity of the applicant being the vehicle's registered owner with the stipulation that the applicant (vehicle owner) not have previously participated in CAP's RA option with the same vehicle.

This paragraph is renumbered due to the removal of paragraph (a) (2) as noted above.

- e. Add “the applicant must” to paragraph (a) (4) and renumber to (a) (3).

This addition clarifies that the household income requirement pertains to the applicant.

This paragraph is renumbered due to the renumbering of paragraph (a) (4) to (a) (3) as noted above.

- f. Add “the applicant must” to paragraph (a) (5) and renumber to (a) (4).

This addition clarifies that the responsibility of paying for emissions-related testing and diagnosing is the responsibility of the applicant.

This paragraph is renumbered due to the renumbering of paragraph (a) (5) to (a) (4) as noted above.

- g. Remove paragraph (a) (6).

Text from this paragraph will be reincorporated in new subparagraph (a) (5) (A) of this section as described below.

- h. Add new paragraph (a) (5) to read, “At the time of application, the vehicle must:”

This new text introduces the beginning of the RA option’s vehicle participation requirements and specifies that the vehicle must meet the requirements as of the date of application.

- i. Add new subparagraph (a) (5) (A) to read, “Have failed its biennial Smog Check inspection. Aborted, manual mode, and training mode tests do not qualify.”

This vehicle requirement is reincorporated from previously removed paragraph (a) (6).

- j. Add new subparagraph (a) (5) (B) to read, “Be currently registered with the Department of Motor Vehicles with a valid and unexpired registration sticker, or have all fees paid to the Department of Motor Vehicles and not have a registration that has been expired more than 120 days.”

New subparagraph (a) (5) (B) is substantially similar to previously removed paragraph (a) (2), but provides low-income consumers, who may be unable to register their vehicle due to a failed Smog Check inspection, some flexibility in maintaining eligibility for state assistance. Additionally, BAR has referenced the validity of the vehicle’s registration sticker to clarify the requirement for consumers who may not be familiar with how the vehicle registration process works. By assisting more low-income vehicle owners to repair their vehicles and bring them into compliance with applicable emissions standards, the RA option of

CAP will help to reduce the number of vehicles operated on California's streets and highways with excessive emissions. Repairing these non-complying vehicles that might otherwise continue to be driven without being registered, will contribute to improvements in California's air quality and assist in meeting federal clean air goals.

- k. Add new subparagraph (a) (5) (C) to read, "Have been continuously registered in California with the Department of Motor Vehicles without substantial lapse during the two consecutive years preceding the current registration expiration date, such that it has not experienced breaks in registration totaling more than 120 days."

This subparagraph will ensure that vehicles being repaired have a measurable impact on air quality based on vehicle usage as determined by past registration history. This addition is also necessary to reasonably ensure that the reductions in air pollution resulting from RA are real. Additionally, this subparagraph will provide low-income consumers who may have allowed their vehicles registration to lapse for any other reason some flexibility in fulfilling the eligibility requirements to receive state assistance in meeting the mandates of the Smog Check Program. Further, allowing for greater participation will directly result in a reduction of ozone depleting carbon-based emissions. Lastly, this addition comports RA's eligibility requirement with that of VR to alleviate confusion on the part of the consumer.

- l. Remove "a person must meet" and add "must be met" in subsection (b).

This is an editorial change that better clarifies that the paragraphs under subsection (b) do not apply only to a person.

- m. Add "the applicant must" to paragraph (b) (1), and remove "Smog Check" and "preceding."

The added text defines who must meet the requirement. "Smog Check" is removed because it is not part of CAP's title while "preceding" is removed because the 12-month period logically occurs prior to submittal of an application for retirement.

- n. Add "the applicant must" to paragraph (b) (3).

This addition clarifies that the applicant and the vehicle's registered owner must be the same person.

- o. Add "applicant" to paragraphs (b) (4) and (b) (5), remove "vehicle owner," and replace (4) with (3).

The addition of “applicant” makes consistent the use of “applicant” in place of “vehicle owner”. The renumbering of the referenced paragraph is necessitated by the renumbering of subsection (a) (4) to (a) (3) as noted above.

- p. Remove subsection (b) (6).

Text from this subsection will be reincorporated in new subparagraph (b) (6) (C) of this section as described below.

- q. Renumber paragraph (b) (7) to (b) (6).

Renumbering is necessitated by the removal of (b) (6) as noted above.

- r. Replace “be currently registered with the Department of Motor Vehicles: or,” with “have failed its most recent Smog Check inspection for causes other than an ignition timing adjustment or a non-functional gas cap. Aborted, manual mode, and training mode tests do not qualify” in subparagraph (b) (7) (A).

Replaced text is restated in subparagraph (b) (7) (A) and added text is repositioned from paragraph (b) (9).

- s. Replace “be currently operating under a repair cost waiver or economic hardship extension issued by the Bureau of Automotive Repair; or,” with “be a passenger vehicle, truck, sports utility vehicle (SUV), or van with a gross vehicle rating of 10,000 pounds or less” in subparagraph (b) (7) (B).

A vehicle does not operate on a repair cost waiver or economic hardship extension. Repair cost waivers and economic hardship extensions are issued to consumers in lieu of a Smog Check certificate and are submitted to the Department of Motor Vehicles to complete the registration renewal process<sup>1</sup>. Also, any minor lapse in registration, as defined in proposed paragraph (b) (6) (D), would not be grounds for denial of CAP VR services. Lastly, the added text is being reincorporated from paragraph (b) (10).

- t. Replace “be currently operating under a Temporary Operating Permit issued by the Department of Motor Vehicles” with “be currently registered with the Department of Motor Vehicles with a valid and unexpired registration sticker, or have all fees paid to the Department of Motor Vehicles and not have a registration that has been expired more than 120 days” in subparagraph (b) (7) (C).

Temporary Operating Permits extend the validity of a registration by no more than 60 days<sup>2</sup>. This proposal would allow for participation up to 120 days past expiration, or 60 days longer than provided for by a Temporary Operating Permit. The requirement that the vehicle’s registration fees be paid to the Department of

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<sup>1</sup> Sections 44015 and 44060 of the Health and Safety Code

<sup>2</sup> Section 4156 of the Vehicle Code

Motor Vehicles is reincorporated from removed paragraph (b) (6). Additionally, pursuant to Health and Safety Code section 44062.3, “the owner of a motor vehicle that has been registered without substantial lapse, as defined by the department...may retire the vehicle from operation.” Further, BAR has determined that allowing consumers 120-days past the vehicle’s registration expiration date affords consumers ample time to determine whether or not to retire the vehicle.

- u. Add subparagraph (b) (6) (D) to read, “have been continuously registered in California with the Department of Motor Vehicles without substantial lapse during the two consecutive years preceding the current registration expiration date, such that it has not experienced breaks in registration totaling more than 120 days.”

Pursuant to Health and Safety Code section 44062.3, “the owner of a motor vehicle that has been registered without substantial lapse, as defined by the department...may retire the vehicle from operation.” This subparagraph seeks to define that criterion by requiring that the continuous registration period occur during the two years immediately preceding submittal of an application for retirement under CAP. Additionally, this subparagraph will provide low-income consumers who may have allowed their vehicle’s registration to temporarily lapse during that two-year period some flexibility in fulfilling CAP’s VR eligibility requirements by defining that a break or lapse in registration in excess of 120 days constitutes an unacceptable break in registration. Further, the proposed text is substantially similar to removed subparagraph (b) (8) (C). Lastly, allowing for greater participation will increase the number of individuals eligible to receive state reimbursement for voluntarily retiring their high-polluting vehicle. More vehicles retired directly results in a reduction of ozone depleting carbon-based emissions.

- v. Remove paragraphs (b) (8), (b) (9), and (b) (10).

The provisions of these paragraphs were either incorporated into paragraph (b) (6) and its subparagraphs or replaced by them.

- w. Remove paragraph (b) (11).

Text from this section will be reincorporated into new paragraph (8) as described below.

- x. Renumber paragraph (b) (12) to (b) (7) and add, “after approval of an application and prior to being accepted for retirement, the vehicle must.”

The added text helps clarify for consumers that approval of an application to participate in CAP’s VR option is not the final step in the process prior to actual retirement of the vehicle.

This paragraph is renumbered due to the renumbering of paragraph (b) (7) to (b) (6) and the removal of paragraphs (b) (8), (b) (9), (b) (10), and (b) (11).

- y. Add new paragraph (b) (8).

This paragraph and its subparagraphs are substantially similar to removed paragraph (b) (11). The addition of “after approval of an application and prior to being accepted for retirement, the vehicle must” helps clarify for consumers that approval of an application to participate in CAP’s VR option is not the final step in the process prior to actual retirement of the vehicle.

- z. Add Health and Safety Code section 44062.3 as an authority citation and sections 44014.2 and 44062.3 as reference citations.

Section 44014.2 identifies the section of law that establishes BAR’s authority to certify voluntarily participating smog check stations to perform test-and-repair functions on CAP vehicles and the type of binding arrangement that BAR may enter into with these stations.

Section 44062.3 identifies vehicle retirement participation criteria, minimum incentive amounts, and the type of binding arrangement that BAR may enter into with a vehicle dismantler.

- aa. Other minor conforming, grammatical, and editorial changes that have no regulatory effect (e.g., changing “a” for “the”).

#### **BENEFIT OF REGULATORY ACTION:**

This proposal will better allocate state resources towards helping consumers with emissions-related repairs or retirements thereby improving air quality and reducing overall consumer costs. Consumers and businesses will see an increased benefit through increased participation because of this regulation. Specifically, BAR estimates an increase in RA participation from 7,999 vehicles in Fiscal Year (FY) 2012-13 to 25,424 vehicles in FY 2013-14, and an increase in VR participation from 7,536 in FY 2012-13 to 14,757 in FY 2013-14.

Additionally, these increases in RA and VR participation will increase the annual emissions reductions of Carbon Monoxide, Oxides of Nitrogen, and Hydrocarbons by 736.9, 68.6, and 60 tons respectively.

#### **CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS:**

After reviewing existing state regulations relating to or affecting this regulatory proposal, BAR has determined that this proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

## **LOCAL MANDATE**

None.

## **FISCAL IMPACT ESTIMATES**

### **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500-17630 REQUIRES REIMBURSEMENT:**

None.

### **FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

This proposed regulatory action is cost neutral as any savings generated by BAR will be used, within current appropriations and authorities, to assist additional consumers in participating in CAP's RA and VR programs by contributing to the repair or retirement of additional high-polluting vehicles.

### **NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:**

None.

## **EFFECT ON HOUSING COSTS**

None.

## **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The proposed regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

### **IMPACT ON JOBS/BUSINESSES:**

BAR has made an initial determination that the proposed regulatory action will not have any impact on the creation of jobs or new business, the elimination of jobs or existing businesses, or the expansion of business in the State of California.

It is important to note that because of this proposed action, affected businesses could, collectively, see additional revenues of approximately \$17.5 million annually. Conversely, consumers would save approximately \$7.96 million in out-of-pocket emissions related repair expenses and receive approximately \$9.57 million in benefits derived from voluntarily retiring a high-polluting vehicle.

## **BENEFITS OF THE REGULATION TO WORKER SAFETY:**

BAR has made an initial determination that the proposed regulatory action will not have any impact on worker safety in the State of California. This determination was made because the proposal seeks to expand program participation and does not change the occupational scope of individuals employed by affected businesses.

## **BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS AND THE STATE'S ENVIRONMENT:**

BAR has made an initial determination that the proposed regulatory action will have the following benefits to the health and welfare of California residents and the State's environment as follows:

Expanding CAP assistance option eligibility will increase consumer participation, which will directly lead to increased revenue for businesses, lower out-of-pocket expenses for eligible consumers, and a 136 percent increase in emissions reductions.

Recent studies, such as the 2010 RAND Health Foundation report, *The Impact of Air Quality on Hospital Spending*, concluded that, "Meeting federal clean air standards would have prevented an estimated 29,808 hospital admissions and ER visits throughout California over 2005 - 2007... Failing to meet federal clean air standards cost health care purchasers/payers \$193,100,184 for hospital care alone. In other words, improved air quality would have reduced total spending on hospital care by \$193,100,184 in total."

Additionally, an Air Resources Board study, *Health Effects of Particulate Matter and Ozone Air Pollution*, November 2007,<sup>3</sup> identified significant health effects attributable to high levels of ozone. Polluting vehicles produce hydrocarbons and oxides of nitrogen which combine in the presence of sunlight to form bad ozone. The report stated that, "Ozone is a powerful oxidant that can damage the respiratory tract, causing inflammation and irritation, and induces symptoms such as coughing, chest tightness, shortness of breath, worsening of asthma symptoms, and even death. Ozone in sufficient doses increases the permeability of lung cells, rendering them more susceptible to toxins and microorganisms. The greatest risk is to those who are more active outdoors during smoggy periods, such as children, athletes, and outdoor workers. Exposure to levels of ozone above the current ambient air quality standard leads to lung inflammation and lung tissue damage, and a reduction in the amount of air inhaled into the lungs. Recent evidence has, for the first time, linked the onset of asthma to exposure to elevated ozone levels in exercising children (McConnell, 2002). These levels of ozone also reduce crop and timber yields, damage native plants, and damage materials such as rubber, paints, fabric, and plastics."

Further, a study by the USEPA, *Estimating the National Public Health Burden Associated with Exposure to Ambient PM<sub>2.5</sub> and Ozone*, found that, "Ground-level ozone (O<sub>3</sub>) and fine particulate matter (PM<sub>2.5</sub>) are associated with increased risk of mortality... Using PM<sub>2.5</sub> and O<sub>3</sub> mortality risk coefficients drawn from the long-term American Cancer Society (ACS) cohort study and National Mortality and Morbidity Air Pollution Study (NMMAPS), respectively, we

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<sup>3</sup> [http://www.arb.ca.gov/research/health/fs/pm\\_ozone-fs.pdf](http://www.arb.ca.gov/research/health/fs/pm_ozone-fs.pdf)

estimate 130,000 PM2.5-related deaths and 4,700 ozone-related deaths to result from 2005 air quality levels. Among populations aged 65–99, we estimate nearly 1.1 million life years lost from PM2.5 exposure and approximately 36,000 life years lost from ozone exposure. Among the 10 most populous counties, the percentage of deaths attributable to PM2.5 and ozone ranges from 3.5% in San Jose to 10% in Los Angeles. These results show that despite significant improvements in air quality in recent decades, recent levels of PM2.5 and ozone still pose a nontrivial risk to public health.”

These recent studies suggest that, although California air quality has improved, additional reductions to smog-forming pollutants are necessary. Revising CAP’s eligibility requirements will help ensure that an additional 17,425 vehicles will receive emissions-related repairs in order to pass a Smog Check inspection and that an additional 7,221 vehicles will be retired. Further, these increases in RA and VR participation will increase the annual emissions reductions of Carbon Monoxide, Oxides of Nitrogen, and Hydrocarbons by 736.9, 68.6, and 60 tons respectively.

### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

This regulation would impact the following consumers:

1. All RA applicants: There will be no additional costs to consumers, businesses, or individuals as a result of the proposed amendments. Consumers applying for RA would now have 120 days from the time their vehicle’s registration expires to apply for CAP’s RA program.

CAP received 21,176 applications for RA from July 2012 through February 2013 of FY 2012-13. Of those, approximately 7,111 or 34 percent of the applicant vehicles were currently registered at the time of application, while 9,680 or 46 percent of applicant vehicles had registrations that were expired for no more than 120 days. Providing for an additional 120 days past the vehicle’s registration expiration date would increase the volume of consumer registration eligibility in RA by approximately 136 percent and align consumer participation with the current appropriation in the Governor’s Budget.

Over the current and previous two fiscal years, BAR has averaged a six percent decrease annually for applications received for RA based on the current consumer application trends, BAR estimates that approximately 37,143 applications will be received for RA during FY 2013-14. Of the estimated 37,143 applications that BAR projects to receive during FY 2013-14, BAR estimates that approximately 29,452 of these applicant’s vehicles will be currently registered or have a registration that has been expired for 120 or fewer days at the time of application.

Additionally, BAR estimates that of the 37,143 estimated applications that will be received during FY 2013-14 that 28,998 will be approved for participation based on a 78 percent average approval rate for all RA applications received over the previous three fiscal years. Of the 28,998, approximately 25,424 consumers will participate, based on an 88 percent average participation rate over the same period.

The average state contribution for CAP RA is currently \$457 per vehicle. Assuming there is no increase to the average repair cost, nor changes to the RA budget schedule, CAP would use \$11.6 million (25,424 x \$457 = \$11.6 million) out of the annual appropriation of \$11.786 million with an estimated annual savings of \$167,232.

2. All VR applicants: There will be no additional costs to consumers, businesses, or individuals as a result of the proposed amendments. Consumers applying for VR will now have 120 days from the time their vehicle's registration expires to apply for CAP's VR program.

CAP received 14,057 applications for VR from July 2012 through February 2013 of FY 2012-13. Of those, approximately 9,721 or 69 percent of the applicants' vehicles were currently registered at the time of application, while 2,511 or 18 percent additional applicant vehicles had registrations that were expired for no more than 120 days. Providing for an additional 120 days past the vehicle's registration expiration date would increase the volume of consumer participation in VR by approximately 26 percent and align consumer participation with the current appropriation in the Governor's Budget.

Over the current and previous two fiscal years, BAR has averaged a two percent decrease annually in the amount of VR applications received. Based on the current trend in consumer applications received, BAR estimates receiving approximately 27,393 in FY 2013-14. Of the estimated 27,393 applications that BAR projects to receive during FY 2013-14, BAR estimates that approximately 23,837 applicants vehicles will be currently registered or have a registration that has been expired 120 or fewer days at the time of application.

Additionally, BAR estimates that of the 27,393 estimated applications that will be received during FY 2013-14, 16,521 will be approved for participation based on a 60 percent average approval rate for all VR applications received over the previous three years. Of the 16,521, approximately 14,757 consumers will participate, based on an 89 percent average participation rate.

The average state contribution for CAP VR is currently \$1,471 for Income Eligible (69 percent of applicants) or \$1,001 for Non-Income (31 percent of applicants) per vehicle. Assuming there are no increases to the average retirement costs, nor changes to the VR budget schedule, CAP would disburse \$19.6 million (10,253 x \$1,471 = \$15.1 million [income eligible vehicles] and 4,504 x \$1,001 = \$4.5 million [non-income eligible]) out of the annual appropriation of \$20.221 million with an estimated annual savings of \$630,333.

## **EFFECT ON SMALL BUSINESS**

BAR has determined that the proposed regulations would affect small businesses. As stated in the "Impact on Jobs/Businesses" section of this document, affected businesses could collectively see additional revenues of approximately \$17.5 million annually. Because BAR estimates that 99 percent of the affected businesses are small business, small businesses could collectively realize an increase in revenue of \$17.3 million (\$17.5 million x 99 percent) annually.

## **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.”

Set forth below is the alternative that was considered and the reason for its rejection:

1. BAR considered taking no action. However, data suggests that CAP has seen a dramatic decrease in participation due, in great part, to overly restrictive application requirements. Further, taking no action would result in the current trend of consumers wishing to participate being turned away due to expired registrations. Lastly, this alternative is contrary to CAP’s mandate of alleviating the disproportionate burden of compliance with the State’s Smog Check Program for low-income consumers, many of whom may have difficulty repairing their vehicle to bring its emissions to within the tolerance levels of the State’s Smog Check Program and thus potentially impacting their ability to register the vehicle.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## **CONTACT PERSON**

**Inquiries or comments concerning the proposed administrative action may be addressed to:**

Vincent Somma  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, California, 95670  
Telephone: (916) 403-8560  
E-mail: [vincent.somma@dca.ca.gov](mailto:vincent.somma@dca.ca.gov)

**The backup contact person is:**

Mark Fernandez  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, California, 95670  
Telephone: (916) 403-8762  
E-mail: [mark.fernandez@dca.ca.gov](mailto:mark.fernandez@dca.ca.gov)

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10949 North Mather Blvd., Rancho Cordova, California, 95670.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

BAR has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

**AVAILABILITY AND LOCATION OF THE RULEMAKING FILE  
AND THE FINAL STATEMENT OF REASONS**

All the information upon which the proposed regulations are based is contained in the rulemaking file. Further, the express terms, Initial Statement of Reasons, and information upon which the proposed regulations are based is available for public inspection by contacting the contact persons named above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above or by accessing the Web site listed below.

**WEB SITE ACCESS**

Materials regarding this proposal can also be found on BAR's Web site at [www.smogcheck.ca.gov](http://www.smogcheck.ca.gov).