

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
Division 33
Chapter 1

DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Consumer Assistance Program Incentive Increases

Articles/Sections Affected: California Code of Regulations (CCR), Title 16, Division 33, Chapter 1, Article 11, sections 3394.3, 3394.4, and 3394.6

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein. The Bureau did not make any changes to the Informative Digest or the Initial Statement of Reasons.

The Bureau noticed the regulation proposal on January 26, 2024, and gave the public forty-five (45) days to provide public comment ending on March 12, 2024, and the Bureau did not receive any comments.

The Bureau prepared modified text based on discussions with the Office of Administrative Law. On June 13, 2024, the Bureau issued a 15-day notice of availability of modified text containing the amendments discussed below. This comment period closed on June 28, 2024, and the Bureau did not receive any comments.

No public hearing was requested or conducted.

To-Be-Repealed Form Incorporated by Reference

The CAP/APP (Rev. 04/2020) form, which was incorporated by reference in section 3394.6(a) but (as discussed in the Initial Statement of Reasons) is being repealed in this rulemaking action, was available directly from the Bureau upon request.

Initial Statement of Reasons

In sections 3394.3(a)(2) and 3394.4(c)(4) the Bureau chose rounding the amount to the nearest \$50 because the Bureau determined that \$50 was an appropriate minimum amount that balances the administrative efficiency of processing whole numbers relative to capturing materially consequential changes in the value of the monetary benefit.

Underlying Data

The Bureau updated the Underlying Data documents to properly reflect what was listed in the Initial Statement of Reasons. In addition, the Bureau wants to make clear that item #1 listed under Underlying Data in the Initial Statement of Reasons is the website where items #2 and #3 were found.

Updated Statements Regarding Mailing

In the last sentence of the Statement of Service by Mail, the Bureau changed the word “ended” to “ends”. The Statement was signed prior to the ending date, so the revision makes the document grammatically correct.

Non-Substantive Changes

Changes throughout

1. In the notes sections, the Bureau capitalized “NOTE” and removed the word “cited” after “Reference”. This maintains consistency when referencing existing regulatory text.

Section 3394.3

2. In subdivision (a), the Bureau removed the word “each” (previously in strikethrough) from the 4th line down in the phrase “for each vehicle owners”. The word was inadvertently added and was not in the original text. This maintains consistency when referencing existing regulatory text.
3. In subdivision (c), the Bureau added “s-related” to “additional emissions-related repair services”. This was inadvertently omitted, and adding this maintains consistency when referencing existing regulatory text.
4. In subdivision (c), in the last line, the Bureau added a space between “subdivision” and “(b)”. This missing space was a typo, and adding the space maintains consistency when referencing existing regulatory text.

Section 3394.6

5. In subdivision (a), the Bureau removed the underline from “requirements pursuant to 3394.4 et seq. and submit a completed application”. This was inadvertently underlined. However, this is currently in regulation text and therefore should not be underlined.
6. In subdivision (b) the Bureau changed the “a” in “Application” to a lowercase. This is consistent with the rest of the regulation text.
7. In subdivision (b)(4)(A), the Bureau removed the comma after 7920.000 and added a parenthetical after seq. to read: “(Government Code Section 7920.000 et seq.)”. This maintains consistency with proper citation referencing.
8. In proposed subdivision (c), the Bureau is changing “he or she has” to “they have” in order to be inclusive for all genders.

Substantive Changes

Section 3394.3

9. At the end of subsection (a), the Bureau added the sentence: “The Bureau will amend the dollar value of the Vehicle Retirement and Repair Assistance

amounts specified in this section and section 3394.4(b)(4) and (b)(5) pursuant to subdivisions (a)(1), (a)(2), (c)(3), and (c)(4) of this section.” This was added to make it clear that the Bureau would amend the dollar amounts of the incentives in regulation as they are adjusted.

10. In subdivision (a)(1), the Bureau added “listed in subdivision (a)” to make it clear that the incentive amount being referred to is the amount in subdivision (a), and not some other number.
11. In subdivisions (a)(1)(A) and (c)(3)(A), the Bureau added “in the Governor’s January Proposed Budget” to make it clear where the appropriations reductions would be planned and when.
12. At the end of subdivisions (a)(1)(A) and (c)(3)(A), the Bureau added the sentence: “The Bureau will post the Vehicle Retirement expenditures for the prior fiscal year on its website annually by March 31.” The Bureau will post the percentage of the expenditures on its website to make it clear to consumers where to find the information. The Bureau chose March 31st to make sure there is enough time to gather and prepare the data.
13. In subdivisions (a)(1)(B) and (c)(3)(B), the Bureau added “year” and “to the last” to make it clear that the 10% increase is measured from the year prior to the last incentive.
14. At the end of subdivisions (a)(1)(B) and (c)(3)(B), the Bureau added the sentence: “The Average Annual CPI_{UCT} [MVMR] for the year prior to the potential adjustment and the year prior to the last adjustment will be used to determine if the 10% threshold is met.” This sentence clarifies at exactly what point the average CPI would be used to determine if it had increased.
15. At the end of subdivision (c)(4), the Bureau removed the word “planned” because once it is determined that the threshold for an adjustment is met, the adjustment will be made, it is no longer planned.

Section 3394.4

16. The Bureau added existing subdivisions (b)(4) and (b)(5) to the modified text and amended them. This is added and amended because current regulatory text contains the current amounts, which should have been updated in the originally proposed text to reflect the new amounts. Adding these subdivisions ensures that the regulation is consistent and that the amounts in this section match the proposed changes in section 3394.3.

Section 3394.6

17. In subdivision (a), the Bureau added “either via the Bureau’s Consumer Assistance Program website or via delivery to the Bureau’s headquarters office using U.S. mail or personal delivery”. This prevents any ambiguity with how and where an application may be submitted.
18. In subdivision (a), the Bureau added “on a form prescribed by the Bureau” so that there was no ambiguity on what document the information must be supplied.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

The Bureau has determined that no alternative it considered or that was otherwise 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 (in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific) 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 provision of law than the adopted regulation.

Set forth below are the alternatives the Bureau considered and the reason the Bureau rejected the alternatives:

Alternative 1:

The Bureau considered taking no action. However, with no action, participation in the Consumer Assistance program would likely remain at historically low levels and fewer motorists would receive assistance in complying with registration and Smog Check Program requirements. This would also result in a higher number of polluting vehicles on the road and contribute to pollution of the air.

Objections or Recommendations/Responses/Comments

There were no objections, recommendations, or comments regarding the proposed action.