

**TITLE 16. BUREAU OF AUTOMOTIVE REPAIR  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled.

**Subject Matter of Proposed Regulations:** Consumer Assistance Program Incentive Increases

**Section(s) Affected:** 3394.3, 3394.4, and 3394.6 of Division 33 of Title 16 of the California Code of Regulations (CCR)

**Background/Statement of the Problem:**

The Bureau of Automotive Repair (Bureau/BAR), within the Department of Consumer Affairs, is the state agency charged with implementation and administration of the Smog Check Program. The Program is designed to reduce air pollution from mobile sources, such as passenger vehicles and light-duty trucks.

In order to assist vehicle owners in complying with the provisions of the Smog Check Program, the Bureau is also charged with administering the Consumer Assistance Program (CAP) pursuant to Health and Safety Code (HSC) sections 44062.1 and 44062.3. CAP has two components: Vehicle Retirement Program (VR) and Repair Assistance Program (RA).

Through VR, a vehicle owner can currently retire a failing vehicle for either \$1,000 or \$1,500, if they meet income eligibility requirements. Through RA, a low-income vehicle owner who meets CAP's eligibility requirements and chooses to repair a vehicle after it fails a biennial Smog Check inspection may receive up to \$900 toward emission related repairs on a 1995 and older vehicle and up to \$1,200 toward emissions-related repairs on a 1996 and newer vehicle at a STAR-certified test-and-repair station operating under an agreement with the Bureau. Both programs reduce air pollution and assist vehicle owners whose vehicles fail the Smog Check inspection.

Over the past four years, inflation increases have reduced participation in the VR program and reduced the scope of repairs that can be made within the RA program. This proposal seeks to restore incentives and contributions to their prior value, preserving the viability of these important air pollution control programs.

*Inflation and its Impact on Used Vehicle Prices*

Since 2011, general inflation as measured by the Consumer Price Index for All Urban Consumers-All Items (CPI-U) increased by 30%.

From 2010 through 2019 used vehicle prices remained relatively flat and the CPI for Used Cars and Trucks (CPI<sub>UTC</sub>) was around the same as it was in 2010. This changed in 2020.

Between July of 2020 and July of 2021, used vehicle prices caught up with general inflation. During this period CPI<sub>UTC</sub> increased abruptly by over 40%. Although used vehicle price increases have begun to moderate, it is unlikely that prices will decrease to 2011 levels.

### *Impact of Rising Used Car Prices on Vehicle Retirement Programs*

While used vehicle prices remained flat during 2010-2019, demand for vehicle retirement exceeded program funding. After used prices started increasing in 2020, vehicle retirements began to decline.

Between July of 2020 and July of 2023, annual CAP vehicle retirements decreased by over 60%. Many motorists find the current incentive is insufficient to assist with the purchase of a replacement vehicle; others find they can sell their vehicle for more than the incentive amount.

### *Proposal to Raise Incentives and Restore Participation in Vehicle Retirement*

Raising incentive amounts is a reasonable option for restoring participation, and it is in keeping with BAR's statutory authority. Restored participation will support the goal of removing older high-polluting vehicles from California roadways. It will also provide necessary support for the Smog Check Program by assisting consumers to replace failing vehicles.

This proposal will raise the incentive amount based upon the change in the CPI<sub>UTC</sub> from January 2011 through December 2022. It also provides a process for inflation adjustment every three years beginning in 2028.

### *Impact of Rising Maintenance and Repair Costs on the Repair Assistance Program*

RA helps low-income vehicle owners by making relatively low-cost repairs to vehicles that fail the Smog Check inspection. Many failing vehicles are mechanically sound and can be cost-effectively repaired for far less than the cost of replacing a vehicle. Proper repairs can result in a significant reduction in harmful vehicle emissions and allow owners to register their vehicles with DMV with valid Smog Check certifications.

Repair Assistance contributions were last raised in August 2020. Since that time the Consumer Price Index for Motor Vehicle Maintenance and Repair (CPI<sub>MVMR</sub>) has increased by 22%, which reduces the repairs possible within the repair assistance contribution.

### *Proposal to Increase Contributions to Ensure the Continued Effectiveness of RA*

This proposal restores Repair Assistance contributions to their 2020 value and provides a process for inflation adjustments every three years beginning in 2028.

The Bureau proposes to amend sections 3394.3, 3394.4, and 3394.6 of Article 11 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations (CCR).

Section 3394.3 will:

- Increase Vehicle Retirement program incentives for low-income motorists from \$1,500 to \$2,000.
- Increase Vehicle Retirement program incentives for other motorists from \$1,000 to \$1,350.
- Increase Repair Assistance program contributions to from \$900 to \$1,100 for 1995 and older vehicles and from \$1,200 to \$1,450 for 1996 and newer vehicles.
- Allow BAR to increase Vehicle Retirement incentives once every three years, provided Vehicle Retirement expenditures for the fiscal year preceding the adjustment were less than 90% of that year's appropriation to the Vehicle Retirement Schedule of the High Polluter Repair or Removal Fund, no appropriation reductions are planned for the fiscal year of the adjustment, and there has been a 10% increase in the related series of the Bureau of Labor Statistics consumer price index since the last adjustment.
- Allow BAR to increase Repair Assistance contributions once every three years, provided Repair Assistance expenditures for the fiscal year preceding the adjustment were less than 90% of that year's appropriation to the Repair Assistance Schedule of the High Polluter Repair or Removal Fund, no appropriation reductions are planned for the fiscal year of the adjustment, and there has been a 10% increase in the related series of the Bureau of Labor Statistics consumer price index since the last adjustment.

Section 3394.4 will:

- Remove the eligibility restriction preventing motorists from participating more than once in the Repair Assistance Program.

Section 3394.6 will:

- Unincorporate the CAP application and list the application requirements in regulation.

### **Anticipated benefits from this regulatory action:**

The amendment to Section 3394.3 will adjust VR incentives and RA contributions for inflation, restoring their value to that which was provided at the time of their last increases in 2011 and 2020 respectively. This will increase program participation and in

VR and ensure continued participation in RA. This will also contribute to the continued pollution reduction benefits of both programs.

The amendment provides a mechanism to periodically increase incentive amounts in order to keep the value of retirement incentives and repair assistance contributions constant, stabilizing program participation. This mechanism will decrease the need for unnecessary regulatory filings.

This proposal will allow the Bureau to evaluate and adjust VR incentives and RA contribution amounts once every three years, beginning in July 2028, based upon inflation, program expenditures, and the stability of VR and RA appropriation. It will compensate for any significant price inflation (over 10%) as measured from the time of the last adjustment. If that measurement is under 10% on the designated date, there would be no change in incentive amount for the next three years.

The three-year period has been chosen to coincide with the timing of BAR's dismantler contracts which expire every three years. This will reduce the costs of implementing the adjustments.

The adjustment will be made based upon the changes in annual  $CPI_{UTC}$  and  $CPI_{MVMR}$  indexes between the year prior to the adjustment and the year prior to the last adjustment. This should mitigate the impact of any short-term index volatility.

The amendment to Section 3394.4 will help additional low-income motorists repair their vehicles to pass their biennial Smog Check. It reduces air pollution while allowing low-income participants to meet vital transportation needs.

Currently, many of the individuals who need this program the most are excluded because they previously participated in the RA program with the same vehicle. This restriction no longer serves a purpose and removing the restriction will encourage additional participation in the program, and eliminate pollution caused by vehicles needing multiple repairs but were otherwise ineligible for the program.

This proposal would eliminate the RA program eligibility restriction and allow low-income motorists to participate more than once with the same vehicle.

The number of times a low-income person or vehicle may participate in the RA program is not limited by statute.

Section 3394.6 will establish the required information in regulation for those applying for Vehicle Retirement, the Bureau is providing a more straightforward and transparent application process.

**Specific purpose of, and rationale for, each adoption, amendment, or repeal:**

- (1) **Amend section 3394.3, Vehicle Retirement and Repair Assistance Payment Limits.**

The Bureau proposes to amend the existing language to provide: “ An applicant determined to be eligible under the Consumer Assistance Program may receive the following assistance subject to the availability of appropriated funds:”

Purpose: The addition to this section “subject to the availability of funds” clarifies that an applicant may only receive funds if they are available.

Rationale: The statement clarifies that if funds are not available, the applicant may not receive assistance, even if they are determined to be eligible. If funding is not available, no funds will be distributed.

### **Subdivision (a)**

The Bureau proposes to amend the existing language to provide: “Under the Vehicle Retirement option, vehicle owners who meet income eligibility requirements set forth in section 3394.6(c) shall receive up to two thousand dollars (\$2,000) for each vehicle retired from operation. All other vehicle owners shall receive up to one thousand three hundred fifty dollars (\$1,350) for each vehicle retired from operation. All vehicles shall be retired from operation at a dismantler operating under contract with the Bureau.”

Purpose: The amendments to this section increase the amount of money a vehicle owner may receive for retiring their vehicle through CAP.

Rationale: Participation in the VR program has decreased due to the impacts of inflation. This proposal seeks to restore vehicle retirement incentives to their January 2011 value and restore participation in this important air pollution control program.

### **Subdivision (a)(1)**

- (1) The Bureau proposes to add subdivision (a)(1) to provide “Incentive amounts shall be adjusted for increases in inflation once every three years beginning July 1, 2028, as follows, provided all conditions below are met.”

Purpose: This allows the Bureau to adjust the amount of money a vehicle owner may receive every three years.

Rationale: Providing a mechanism to periodically increase incentive amounts will keep the value of retirement incentives constant and stabilize program participation. This in turn will encourage additional participation in the program and help to eliminate pollution.

The three-year period has been chosen to coincide with the timing of BAR’s dismantler contracts which expire every three years. This will reduce the costs of implementing the adjustments.

- (2) The Bureau proposes to add subdivision (a)(1)(A) to provide: Vehicle Retirement expenditures for the fiscal year preceding the adjustment were

less than 90% of that year's appropriation to the Vehicle Retirement Schedule of the High Polluter Repair or Removal Fund and no appropriation reductions are planned for the fiscal year of the adjustment.

Purpose: This subdivision promotes cost effective expenditure of funds by allowing automatically triggered incentive increases only when necessary to maximize participation within the budgetary appropriation. It also prevents operational difficulties and conflict with legislative budgetary priorities by preventing automatically triggered incentive increases when fund appropriations are scheduled to decrease.

If over 90% of the funds were expended in the previous year, the vehicle retirement incentive amounts will remain the same until the next re-evaluation.

In addition, if any appropriation reductions are planned for the fiscal year of the adjustment, the Vehicle Retirement incentive amounts will remain the same until the next re-evaluation.

Rationale: Prevents the automatic triggering of unnecessary and counterproductive incentive increases. If the program is already expending over 90% of its funds, any significant incentive increase will likely decrease the number of individuals being served, the number of vehicles retired, and the air quality benefits of the program. If program expenditures are less than 90% of the appropriated amount, it is an indicator that incentives are not high enough to encourage full consumer participation, and it is appropriate to allow incentive increases that compensate for significant price inflation.

Incentive increases should not be automatically triggered in a year that appropriation reductions are planned because doing so would likely cause operational difficulties and unexpected program suspensions. It might also conflict with the legislative intent of the scheduled appropriation reduction.

- (3) The Bureau proposes to add subdivision (a)(1)(B) to provide: "The Bureau of Labor Statistics Consumer Price Index (CPI) for Used Cars and Trucks, Series CUUR0000SETA02, (hereinafter referred to as CPI<sub>UCT</sub>) has increased by at least 10% since the prior incentive increase."

Purpose: This will allow the Bureau to evaluate and adjust incentive amounts once every three years, beginning in July 2028, to compensate for any significant price inflation (10% or over) as measured from the time of the last adjustment. If that measurement is under 10% on the designated date, there would be no change in incentive amount for the next three years.

Rationale: Increasing the incentive amount will encourage additional participation in the program and help to eliminate pollution.

However, if the CPI<sub>UCT</sub> has not increased by at least 10%, the increase amount of the Vehicle Retirement incentive will be so minimal that it would not be worth changing the regulation at that time. Balancing the administrative costs of evaluating the CPI<sub>UCT</sub> annually, implementing the change that is likely to be minimal yearly versus the administrative costs of conducting the review every three years and making adjustments then, the Bureau has determined that if the CPI<sub>UCT</sub> has not increased by at least 10%, the increase amount of the Vehicle Retirement Contribution coupled with the practical administrative burdens and effects on public participation will be so minimal that it would not be worth changing the amount. As such, the CPI<sub>UCT</sub> shall be evaluated every three years, but the amount shall not be adjusted unless the increase in CPI<sub>UCT</sub> is 10% or greater.

- (4) The Bureau proposes to add subdivision (a)(2) to provide: “The amount of the increase shall be the prior incentive amount multiplied by the percentage increase in the CPI<sub>UCT</sub>, with the result rounded to the nearest \$50. In making this calculation, the Bureau shall use the Average Annual CPI<sub>UCT</sub> for the year prior to the adjustment and the year prior to the last adjustment.”

Purpose: The adjustment will be made based upon the changes in annual CPI<sub>UTC</sub> averages for the year prior to the adjustment and the year prior to the last adjustment. This should mitigate the impact of any short-term index volatility.

Rationale: Between 2011 and the end of 2022, the CPI<sub>UTC</sub> increased by over 30%. Between 1982 and 2011 the CPI<sub>UTC</sub> increased by over 50%. Additional inflationary increases in used car prices will likely occur over time. This adjustment methodology allows will allow the bureau to accurately adjust for any significant inflationary increases, keeping VR program benefits and participation stable. It also minimizes the number of regulatory filings necessary to deal with these routine adjustments.

### **Subdivision (c)**

The Bureau proposes to amend subdivision (c) to provide “If the STAR test-and-repair station requests emissions-related repairs in excess of \$500, and after evaluating the criteria listed in subdivision (b)(1) through (b)(7) the Bureau concurs that those repairs are necessary to pass the Smog Check inspection and are cost effective as specified in Health and Safety Code section 44062.1, then the total emission related repair services received by the vehicle owner shall be revised from the amount listed in paragraph (b) up to the following amounts:

- (1) One thousand hundred dollars (\$1,100) for model year 1976 through 1995 vehicles, and
- (2) One thousand four hundred and fifty hundred dollars (\$1,450) for model year 1996 or newer vehicles.”



Purpose: The amendments to this section increase the amount of assistance a vehicle owner may receive for repairing vehicle through CAP. The wording is changed from describing the amount additional to subdivision (b) to describing the total new amount of the contribution. This is done to facilitate the calculations included in subdivision (c)(3)

Rationale: Vehicle repair costs, as measured by the CPI<sub>MVMR</sub>, have increased 22% since the last contribution increase in August of 2020. This has reduced the number and type of repairs possible within the contribution amount, decreasing air quality benefits and program effectiveness.

### **Subdivision (c)(3)**

- (1) The total emission related repair service amounts listed in subdivisions (1) and (2) shall be adjusted for inflation increases once every three years beginning July 1, 2028, as follows provided all conditions below are met.

Purpose: This allows the Bureau to adjust the amount of assistance a vehicle owner may receive every three years.

Rationale: Providing a mechanism to periodically increase assistance amounts will keep the value of repair assistance contributions constant and stabilize program participation.

The three-year period has been chosen to coincide with the timing of BAR's dismantler contracts which expire every three years. Coordinating changes between VR and RA will minimize the number of changes to the program application and reduce the costs of implementing the adjustments.

- (2) The Bureau proposes to add subdivision (c)(3)(A) to provide: "Repair Assistance expenditures for the fiscal year preceding the adjustment were less than 90% of that year's appropriation to the Repair Assistance Schedule of the High Polluter Repair or Removal Fund and no appropriation reductions are planned for the fiscal year of the adjustment."

Purpose: This subdivision promotes cost effective expenditure of funds by allowing automatically triggered contribution increases only when necessary to maximize participation within the budgetary appropriation. It also prevents operational difficulties and conflict with legislative budgetary priorities by preventing automatically triggered contribution increases when fund appropriations are scheduled to decrease.

If over 90% of the funds were expended in the previous year, the Repair Assistance contribution amounts will remain the same until the next re-evaluation.

In addition, if any appropriation reductions are planned for the fiscal year of the adjustment, the Repair Assistance contribution amounts will remain the same until the next re-evaluation.



Rationale: Prevents the automatic triggering of unnecessary and counterproductive contribution increases. If the program is already expending over 90% of its funds, any significant contribution increase will likely decrease the number of individuals being served, the number of vehicles repaired, and the air quality benefits of the program. If program expenditures are less than 90% of the appropriated amount, it is an indicator that contributions are not high enough to encourage full consumer participation, and it is appropriate to allow contribution increases that compensate for significant price inflation.

Repair contribution increases should not be automatically triggered in a year that appropriation reductions are planned because doing so would likely cause operational difficulties and unexpected program suspensions. It might also conflict with the legislative intent of the scheduled appropriation reduction.

- (3) The Bureau proposes to add subdivision (c)(3)(B) to provide: “The Bureau of Labor Statistics Consumer Price Index for Motor Vehicle Maintenance and Repair, Series CUUR0000SETD, (hereinafter referred to as CPI<sub>MVMR</sub>) has increased by at least 10% since the prior increase.”

Purpose: This will allow the Bureau to evaluate and adjust incentive amounts once every three years, beginning in July 2028, to compensate for any significant price inflation (over 10%) as measured from the time of the last adjustment. If that measurement is under 10% on the designated date, there would be no change in incentive amount for the next three years.

Rationale: Increasing the incentive amount will encourage additional participation in the program and help to eliminate pollution.

However, if the CPI<sub>MVMR</sub> has not increased by at least 10%, the increase amount of the Vehicle Retirement incentive will be so minimal that it would not be worth changing the regulation at that time. Balancing the administrative costs of evaluating the CPI<sub>MVMR</sub> annually, implementing the change that is likely to be minimal yearly versus the administrative costs of conducting the review every three years and making adjustments then, the Bureau has determined that if the CPI<sub>MVMR</sub> has not increased by at least 10%, the increase amount of the Repair Assistance Contribution coupled with the practical administrative burdens and effects on public participation will be so minimal that it would not be worth changing the amount. As such, the CPI<sub>MVMR</sub> shall be evaluated every three years, but the amount shall not be adjusted unless the increase in CPI<sub>MVMR</sub> is 10% or greater.

- (4) The Bureau proposes to add subdivision (c)(4) to provide: “The amount of the increase shall be the maximum repair services amount listed in subdivisions (1) and (2) multiplied by the percentage increase in the CPI<sub>MVMR</sub>, with the result rounded to the nearest \$50. In making this

calculation, the Bureau shall use the Average Annual CPI<sub>MVMR</sub> for the year prior to the planned adjustment and the year prior to last adjustment.

Purpose: The adjustment will be made based upon the changes in annual CPI<sub>MVMR</sub>, averages for the year prior to the adjustment and the year prior to the last adjustment. This should mitigate the impact of any short-term index volatility.

Rationale: Repair costs increase based upon a variety of factors, some related solely to the automotive industry, such as parts costs, and others related to the general economy such as the cost of commercial leases.

The automotive repair industry has seen significant cost increases over the last 30 years. The CPI<sub>MVMR</sub> increased 22% since August of 2020. Between 1994 and 2020 the CPI<sub>MVMR</sub> increased 100%. It is likely that inflationary pressures will continue in the future. Providing a mechanism to periodically increase repair assistance amounts will keep the value of repair assistance constant and stabilize program participation.

For consistency, the method used to calculate repair assistance increases and vehicle retirement increases are similar.

## **(2) Amend section 3394.4, Eligibility Requirements.**

### **Subdivision (a)(2)**

The Bureau proposes to delete the existing subdivision (a)(2): “The applicant must not have previously participated in the Repair Assistance option for the same vehicle.” and subsequently renumber the remainder of the section. This renumbering is non-substantive and accounts for the deleted section and simplifies the section numbering format. The changes are necessary to avoid confusion due to the deleted sections.

Purpose: This deletion of subdivision (a)(2) is necessary because currently, many of the individuals who need this program the most are excluded because they previously participated in the RA program and this restriction no longer serves a purpose.

Rationale: The restriction on prior participation was implemented in 2010. It was one of several measures taken to reduce participation, as the program was over-subscribed and regularly used all appropriated funds before the end of the fiscal year. At the time, the RA program was open to motorists of all income levels and repaired more than 50,000 vehicles per year.

The reason for the 2010 regulatory change implementing this restriction explained that 3,800 of 45,000 RA program participants in 2008 had previously participated in the program. It also explained that resources were limited, and the program often ran out of funds before the end of the year. It contended that motorist participating multiple times

with the same vehicle displaced other motorists that had never applied before. It also argued it was an inefficient use of resources to repair a vehicle multiple times.

In 2011, regulations adopted restricted RA program participation to low-income motorists. This drastically reduced program participation. Over time participation reduced from 50,000 vehicles per year in 2010 to less than 2,000 in 2019.

Now that participation is limited to low-income motorists, the one-time prior-participation restriction is no longer a necessary control on fund expenditures. The RA program repaired only 3,698 vehicles last fiscal year, and funds were available to help many more individuals.

Allowing an applicant to participate multiple times with the same vehicle will reduce unnecessary hardship for low-income motorists and it will ensure emission reductions on vehicles that might otherwise be driven without registration.

**(3) Amend section 3394.6, Application and Documentation Requirements for the Consumer Assistance Program.**

**Subdivision (a)**

The Bureau proposes to amend the existing language to provide: “In order to participate in the Consumer Assistance Program, the applicant shall meet the requirements pursuant to 3394.4 et seq. and submit a completed application that provides all the following required information:”

Purpose: The Bureau proposes to reorganize the regulation to separately identify each component of the application an individual is required to submit to the Bureau for participation in CAP.

Rationale: Separately identifying each component of the application allows the Bureau to unincorporate the current application. Unincorporating the application and adding the application requirements in regulatory text would permit the Bureau to make non-substantive application updates as needed without having to go through the formal regulatory process, including non-substantive formatting changes and the addition of detailed instructions, to enhance ease of use for applicants.

**Subdivision (a)(1)**

The Bureau proposes to adopt subdivision (a)(1) to provide “Indicate the program option requested: Vehicle Retirement or Repair Assistance.”

The purpose of this subdivision is to establish which Consumer Assistance Program the applicant is applying to participate in: VR or RA. The Bureau needs this information for determining eligibility.

## **Subdivision (a)(2)**

The Bureau proposes to adopt subdivision (a)(2) to provide “The following identifying-information:”

The purpose of this subdivision is to introduce the required identifying information to be submitted by an applicant to participate in Consumer Assistance Program.

- (1) Subdivision (a)(2)(A), The legal name of the applicant. The legal name of the applicant/registered owner. The registered owner must apply using their full legal name: (Last Name) (First Name) (Middle Name) and/or (Suffix) and provide the document number from a government issued driver license or identification card.

This information is necessary to identify the true and correct identity of the applicant, and will be checked against DMV records to ensure that the applicant(s) owns the vehicle.

- (2) Subdivision (a)(2)(B), Applicant’s mailing address.

This item is necessary so the Bureau can communicate with the applicant about their application and transmit notices, mailings, and other communications.

- (3) Subdivision (a)(2)(C), Applicant’s telephone number.

This item is necessary so the Bureau can communicate with the applicant by telephone.

- (4) Subdivision (a)(2)(D), Applicant’s email address.

This item is necessary so the Bureau can communicate with the applicant about their application and transmit electronic notices, mailings, and other communications.

- (5) Subdivision (a)(2)(E), If there is a joint registered owner, the full legal name of the joint registered owner: (Last Name) (First Name) (Middle Name) and/or (Suffix) and provide the document number from a government issued driver license or identification card.

This information is necessary to identify the true and correct identity of the joint registered owner, and will be checked against DMV records to ensure that the applicant(s) owns the vehicle.

- (6) Subdivision (a)(2)(F), Vehicle information: year, make, model, vehicle identification number, and California license plate number.

This information is necessary to identify the vehicle either being retired or participating in repair assistance.

- (7) Subdivision (a)(2)(G), Income verification: number of people, including the applicant, living in the household and the gross household income.

This information is necessary to determine the payment amount for vehicle retirement, as the payment amount is based on the vehicle owner's income.

**Subdivision (a)(3)**

The Bureau proposes to adopt subdivision (a)(3) to provide "A statement signed by the applicant under penalty of perjury acknowledging:"

This subdivision is necessary to list what the applicant is acknowledging with the submittal of the application.

- (1) Subdivision (a)(3)(A), The information provided on the application is true and submitting false information may result in a criminal conviction in addition to civil penalties.

The purpose of this subdivision is to require the applicant to sign under penalty of perjury that the information provided on the application is true and correct.

BPC section 9884(b)(5) requires an application to include this statement. This subdivision is necessary because certifications under penalty of perjury help to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications under penalty of perjury: "The whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith."].) Accordingly, certification under penalty of perjury is necessary to ensure that applicants submit truthful and accurate information to the Bureau.

In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Bureau (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Bureau with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete or accurate. "The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true." (*In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.].)

- (2) Subdivision (a)(3)(B), The information provided on the application will be used to assess and verify the applicant's eligibility for assistance.

The purpose of this subdivision is let the applicant know that the information provided will be used to assess and verify their eligibility for CAP.

- (3) Subdivision (a)(3)(C), Upon request, the applicant may be required to provide documentation to the Bureau verifying household income.

The applicant may be required to provide documentation verifying household income to determine if they qualify as a low-income individual or not, as assistance limits are based on income.

- (4) Subdivision (a)(3)(D), The applicants signature gives consent for this information to be shared with other government agencies.

The purpose of this subdivision is to confirm that the applicant gives consent for their information to be shared with other government agencies for purposes of verifying income or Government Assistance status.

- (5) Subdivision (a)(3)(E), If the vehicle does not meet all program eligibility requirements, it will not be allowed into the Consumer Assistance Program.

The purpose of this subdivision is let the applicant know that if the vehicle does not meet the requirements, the owner will not receive CAP assistance.

### **Subdivision (b)**

The Bureau proposes to adopt subdivision (b) to provide “The Consumer Assistance Program Application shall also include a Notice on Collection of Personal Information that states the following:”

- (1) Collection and Use of Personal Information: The Bureau of Automotive Repair of the Department of Consumer Affairs collects the personal information requested on this form as authorized by Health and Safety Code sections 44002 and 44094, and California Code of Regulations, title 16, sections 3394.4 and 3394.6. The Bureau of Automotive Repair uses this information principally to identify and evaluate applicants for assistance under the Consumer Assistance Program.
- (2) Providing Personal Information is Voluntary: You do not have to provide the personal information requested. However, if you do not provide the requested personal information, we may be unable to process your application for assistance.
- (3) Access to Personal Information: You may review the records maintained by the Bureau of Automotive Repair that contain your personal information, as permitted by the Information Practices Act. See below for contact information.
- (4) Possible Disclosure of Personal Information: The Bureau of Automotive Repair makes every effort to protect the personal information you provide us. The information you provide, however, may be disclosed in the following circumstances:

- (A) In response to a Public Records Act (PRA) request (Government Code Section 6250 et seq.), as allowed by the Information Practices Act (Civil Code Section 1798 et seq.);
  - (B) To another government agency as required by State or Federal law; or,
  - (C) In response to a court or administrative order, a subpoena, or a search warrant.
- (5) Contact Information: For questions about this notice or access to your records, you may contact the Bureau of Automotive Repair PRA Unit at 10949 North Mather Boulevard, Rancho Cordova, CA 95670, by phone at (855) 735-0465, or by email at [bar.pra@dca.ca.gov](mailto:bar.pra@dca.ca.gov).

For questions about the Department's Privacy Policy, you may contact the Department of Consumer Affairs at 1625 North Market Boulevard, Sacramento, CA 95834, by phone at (800) 952-5210, or by email at [dca@dca.ca.gov](mailto:dca@dca.ca.gov).

For questions about the Information Practices Act, you may contact the Office of the Attorney General, California Department of Justice - Attention: Public Inquiry Unit, PO Box 944255, Sacramento, CA 94244, by phone at (800) 952-5225, or online at [www.privacy.ca.gov](http://www.privacy.ca.gov).

**Purpose:** The Notice on Collection of Personal Information informs the applicant that the collection of the information requested on the application is authorized by the Health and Safety Code, submission is voluntary, and is used to identify and evaluate applicants for CAP assistance. The information submitted by the applicant that is maintained by the Bureau may be reviewed by the applicant and the information may be disclosed: in response to a Public Records Act request, as allowed by the Government and Civil Codes, to another government agency, and/or in response to a court or administrative order, a subpoena, or a search warrant. Lastly, the Notice provides contact information for the Bureau, Department of Consumer Affairs, and the Office of the Attorney General.

**Rationale:** Civil Code section 1798 *et seq* (the Information Practices Act) requires collection of personally identifying information to be made in compliance with a series of requirements. The first paragraph of this Notice informs the applicant the information is collected under the authority of HSC sections 44002 and 44094, and CCR sections 3394.4 and 3394.6.

- (1) Civil Code section 1798.17(f) requires the form to include “the principal purpose or purposes within the agency for which the information is to be used.” This is satisfied by the statement in the first paragraph indicating “The Bureau of Automotive Repair uses this information principally to identify and evaluate applicants for assistance under the Consumer Assistance Program.”



Civil Code section 1798.17(a) requires the name of the agency and the division within the agency that is requesting the information. This requirement is met with the portion of the first paragraph of the Notice stating “The Bureau of Automotive Repair of the Department of Consumer Affairs collects...”

- (2) Civil Code section 1798.17(d) requires “With respect to each item of information, whether submission of such information is mandatory or voluntary.” The Notice on Collection satisfies this requirement with paragraph two, stating: “Providing Personal Information is Voluntary: You do not have to provide the personal information requested.”
- (3) Civil Code section 1798.17(h) requires the form to state, “the individual’s right of access to records containing personal information which are maintained by the agency.” This is accomplished through paragraph 3, stating “Access to Personal Information: You may review the records maintained by the Bureau of Automotive Repair that contain your personal information...”
- (4) Civil Code section 1798.17(g) requires a statement of “Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.” This is stated in paragraph 4 of the Notice.
- (5) Civil Code section 1798.17(b) requires “the title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.” This requirement is met with the final paragraph of the Notice, entitled “Contact Information,” which sets out not only the contact information for questions about the Notice and to access records, but also the address and contact information of the Bureau for issues regarding the Public Records Act requests, the Department’s Privacy Policy, and the Information Practices Act. This disclosure covers the strict requirements of the Information Practices Act but also provides applicants with a variety of options for obtaining information from the Bureau, the Department of Consumer Affairs, and the Office of the Attorney General on issues directly related to the collection of the information, or of broader concerns.

### **Subdivision (c)**

The Bureau proposes amend “he or she has” to “they have”. This is revised for gender neutrality to promote equality.

### **Underlying Data:**

1. Consumer Price Index website: <https://data.bls.gov/cgi-bin/srgate> (Used Cars and Trucks, Series CUUR0000SETA02 and Motor Vehicle Maintenance and Repair, Series CUUR0000SETD)

2. Printout and Graph CPI<sub>UTC</sub> 1982 through 2022 from Consumer Price Index website: <https://data.bls.gov/cgi-bin/srgate>
3. Printout and Graph CPI<sub>MVMR</sub> 1982 through 2022 from Consumer Price Index website: <https://data.bls.gov/cgi-bin/srgate>
4. High Polluter Repair or Removal Account Projections

### **Business Impact:**

BAR made the initial determination that the proposed regulations will not have statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on that fact that this proposal is designed to increase the number of participants in the Consumer Assistance Program. If anything, this proposal will provide a minor increase in business revenue due to allowing the same vehicle to participate in the Program more than once.

### **Economic Impact Assessment:**

This regulatory proposal is intended to increase financial incentives for individuals to participate in the CAP and may increase revenues for business providing these services.

The regulations will increase incentives per vehicle as follows:

### **Vehicle Retirement:**

- Low Income: Increase from \$1,500 to \$2,000
- All Others: \$1,000 to \$1,350
- Includes Consumer Price Index escalator beginning 2028

### **Repair Assistance:**

- Model Year 1976-1995 Vehicles: Increase from \$900 to \$1,100
- Model Year 1996 or newer Vehicles: Increase from \$1,200 to \$1,450
- Includes Consumer Price Index escalator beginning 2028
- Removes prohibition of previous participants from re-applying

The following chart displays previous actual expenditures and projected expenditures resulting from this proposal:

Bureau of Automotive Repair - Consumer Assistance Program Vehicle Retirement & Repair Assistance Expenditures (Actuals & Projected)									
Program	2019-20*	2020-21*	2021-22*	2022-23*	2023-24**	2024-25**	2025-26**	2026-27**	2027-28**
Vehicle Retirement	\$28,194,743	\$31,720,771	\$16,465,814	\$10,479,437	\$11,715,727	\$34,721,986	\$34,721,986	\$34,721,986	\$34,721,986
Repair Assistance	\$800,150	\$2,665,205	\$2,986,798	\$3,824,067	\$4,279,459	\$5,940,860	\$6,188,396	\$6,446,245	\$6,714,839
<b>Totals:</b>	<b>\$28,994,893</b>	<b>\$34,385,976</b>	<b>\$19,452,612</b>	<b>\$14,303,504</b>	<b>\$15,995,186</b>	<b>\$40,662,846</b>	<b>\$40,910,382</b>	<b>\$41,168,231</b>	<b>\$41,436,825</b>

BAR has determined that this regulatory proposal will have the following effects:

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not create or eliminate jobs or create new business or eliminate existing businesses within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not affect the expansion of businesses currently doing business within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not create new business or eliminate existing businesses within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not affect the expansion of businesses currently doing business within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- This regulatory proposal benefits the health and welfare of California citizens because it will reduce the number of polluting cars on California roads and highways. Also, applicants will know what will be requested on the application.
- This regulatory proposal does not affect worker safety because it is not relevant to worker safety.
- This regulatory proposal has a positive affect the State’s environment because it will reduce the number of polluting cars on California roads and highways.

**Specific Technologies or Equipment:**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective 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 is the alternative that was considered and the reason the alternative was rejected:

**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.