

DEPARTMENT OF CONSUMER AFFAIRS
Title 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
Division 33.
BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

Consumer Assistance Program Incentive Increases

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair (Bureau/BAR) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, 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 **Tuesday, March 12, 2024, by 5:00 p.m.**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 9882 and Health and Safety Code (HSC) sections 44001.5, 44002, 44062.3, 44091, and 44094, and to implement, interpret and make specific HSC sections 44001.3, 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, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Article 11.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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_{UTC}) 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_{UTC} 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_{UTC} from January 2011 through the first half of 2023. 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_{MVMR}) 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 OF THE PROPOSED REGULATION

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.

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.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

None.

FISCAL IMPACT ESTIMATES

The proposed regulations are intended to increase financial incentives for individuals to participate in the CAP.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Bureau anticipates the proposed regulatory action will result in program expenditures beginning in 2024-25 as follows:

- Vehicle Retirement:
 - 2024-25 through 2027-28 – \$34.7 million annually
- Repair Assistance:
 - 2024-25 through 2027-28 – \$5.9 to \$6.7 million annually

Because the Bureau is currently administering the CAP, the regulations do not result in additional workload or costs related to the implementation, administration, and enforcement of the proposed regulatory changes.

BAR does not have an estimate of costs related to future CPI adjustments at this time, but notes, the CPI adjustments are intended to sustain the CAP as a viable option for Californians against escalating prices for used vehicles.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Effect on Housing Costs: None

Business Impact:

BAR has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. The initial determination is based on the fact that this proposal is designed to increase the number of participants in the CAP. If anything, this proposal will provide a minor increase in business revenue due to increasing incentive amounts and allowing the same vehicle to participate in the CAP more than once.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Business Reporting Requirements:

The regulatory action does not require businesses to file a report.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

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 \$1200 to \$1,450
- Includes Consumer Price Index escalator beginning 2028
- Removes prohibition of previous participants from re-applying

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.

EFFECT ON SMALL BUSINESS

These proposed regulations will likely increase revenue for STAR Test and Repair stations, which are typically small businesses due to increased RA participants.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), BAR must determine that no reasonable alternative to this proposed regulatory action it considered, 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.

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

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair, 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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, which is available for public inspection by contacting the person 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 website listed below.

CONTACT PERSON

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

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10949 North Mather Blvd.
Rancho Cordova, CA 95670 Telephone:
(916) 403-8600
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The backup contact person is:

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WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's Web site at <https://bar.ca.gov/regulatory-actions>.