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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)

PART 5. VEHICULAR AIR POLLUTION CONTROL [43000 - 44299.91] (*Part 5 added by Stats. 1975, Ch. 957.*)

CHAPTER 5. Motor Vehicle Inspection Program [44000 - 44127] (*Chapter 5 added by Stats. 1982, Ch. 892, Sec. 2.*)

ARTICLE 10. Accelerated Light-Duty Vehicle Retirement Program [44100 - 44122] (*Article 10 added by Stats. 1995, Ch. 929, Sec. 7.*)

44100. The Legislature hereby finds and declares as follows:

(a) Emission reduction programs based on market principles have the potential to provide equivalent or superior environmental benefits when compared to existing controls at a lower cost to the citizens of California than traditional emission control requirements.

(b) Several studies have demonstrated that a small percentage of light-duty vehicles contribute disproportionately to the on-road emissions inventory. Programs to reduce or eliminate these excess emissions can significantly contribute to the attainment of the state's air quality goals.

(c) Programs to accelerate fleet turnover can enhance the effectiveness of the state's new motor vehicle standards by bringing more low-emission vehicles into the on-road fleet earlier.

(d) The California State Implementation Plan for Ozone (SIP), adopted November 15, 1994, and submitted to the Environmental Protection Agency, calls for added reductions in reactive organic gases (ROG) and oxides of nitrogen (NOx) from light-duty vehicles by the year 2010. One of the more market-oriented approaches reflected in the SIP, known as the M-1 strategy, calls for accelerating the retirement of older light-duty vehicles in the South Coast Air Quality Management District to achieve the following emission reductions:

	Emissions, TPD (tons per day)
Year	(ROG + NOx)
1999	9
2002	14
2005	20
2007	22
2010	25

(e) A program for achieving those and more emission reductions should be based on the following principles:

(1) If the program receives adequate funding, the first two years should include a thorough assessment of the costs and short-term and long-term emission reduction benefits of the program, compared with other emission reduction programs for light-duty vehicles, which shall be reflected in recommendations by the state board to the Governor and the Legislature on strategies and funding needs for meeting the emission reduction requirements of the M-1 strategy of the 1994 SIP for the years 1999 to 2010, inclusive.

(2) The program should first contribute to the achievement of the emission reductions required by the inspection and maintenance program and the M-1 strategy of the 1994 SIP, and should permit the use of mobile source emission reduction credits for other purposes currently authorized by the state board or a district. Remaining credits may be used to achieve other emission

reductions, including those required by the 1994 SIP, in a manner consistent with market-based strategies. Emission credits shall not be used to offset emission standards or other requirements for new vehicles, except as authorized by the state board.

(3) Participation by the vehicle owner shall be entirely voluntary and the program design should be sensitive to the concerns of car collectors and to consumers for whom older vehicles provide affordable transportation.

(4) The program design shall provide for real, surplus, and quantifiable emission reductions, based on an evaluation of the purchased vehicles, taking into account factors that include per-mile emissions, annual miles driven, remaining useful life of retired vehicles, and emissions of the typical or average replacement vehicle, as determined by the state board. The program shall ensure that there is no double counting of emission credits among the various vehicle removal programs.

(5) The program should specify the emission reductions required and then utilize the market to ensure that these reductions are obtained at the lowest cost.

(6) The program should be privately operated. It should utilize the experience and expertise gained from past successful programs. Existing entities that are authorized by, contracted with, or otherwise sanctioned by a district and approved by the state board and the United States Environmental Protection Agency shall be fully utilized for purposes of implementing this article. Nothing in this paragraph restricts the Department of Consumer Affairs from selecting qualified contractors to operate or administer any program specified pursuant to this chapter.

(7) The program should be designed insofar as possible to eliminate any benefit to any participants from vehicle tampering and other forms of cheating. To the extent that tampering and other forms of cheating might be advantageous, the program design shall include provisions for monitoring the occurrence of tampering and other forms of cheating.

(8) Emission credits should be expressed in pounds or other units, and their value should be set by the marketplace. Any contract between a public entity and a private party for the purchase of emission credits should be based on a price per pound which reflects the market value of the credit at its time of purchase. Emission reductions required by the M-1 and other strategies of the 1994 SIP shall be accomplished by competitive bid among private businesses solicited by the oversight agency designated pursuant to Section 44105.

(Amended by Stats. 2012, Ch. 728, Sec. 95. (SB 71) Effective January 1, 2013.)

44101. Not later than December 31, 1998, the state board shall adopt, by regulation, a statewide program to commence in 1999 that does all of the following:

(a) Provides for the creation, exchange, use, and retirement of light-duty vehicle mobile source emission reduction credits. The credits shall be fungible and exchangeable in the marketplace, and shall reflect the actual emissions of the vehicles that are retired or otherwise disposed of, by measurement, appropriate sampling, or correlations developed from appropriate sampling. The numerical value of credits may be constant over a defined lifetime, or may decline with age measured from the time of origination of the credits. In all cases, the numerical value of the credits shall reflect the useful life expectancies and the projected in-use emissions of the retired vehicles in a manner consistent with the assumptions used in determining the emissions inventory. The credits shall be fully recognized by the United States Environmental Protection Agency, the state board, and the districts.

(b) Sets out the criteria for retiring or otherwise disposing of high-emitting vehicles purchased for this program.

(c) Authorizes the issuance of those credits to private entities that purchase and properly retire high-emitting vehicles.

(d) Authorizes the resale of those credits to public or private entities to be used to achieve the emission reduction requirements of the 1994 state implementation plan, meet the requirements of the inspection and maintenance program, satisfy compliance with other emission reduction mandates, as determined by the district or the state board, create local growth allowances, or satisfy new or modified source emission offset requirements. Nothing in this article limits a district's authority to apply emission discount factors pursuant to district rules that regulate emissions banks, trades, or offsets.

(e) Provides for the retirement of those credits when used.

(f) Includes accounting procedures to credit emissions reductions achieved through vehicle scrappage to the M-1 strategy of the 1994 SIP and the inspection and maintenance program.

(g) Contains a program plan pursuant to Section 44104.5.

(h) Satisfies the attributes described in subdivision (e) of Section 44100.

(Amended by Stats. 1997, Ch. 802, Sec. 10. Effective January 1, 1998.)

44102. (a) The state board, the Department of Motor Vehicles, and the department shall harmonize the requirements and implementation of this program with the motor vehicle inspection program and other programs contained in this chapter, particularly

the provisions relating to gross polluters in Article 8 (commencing with Section 44080) and the repair or removal of high polluters in Article 9 (commencing with Section 44090).

(b) Insofar as practicable, these programs shall be seamless to the participants and the public.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44103. Notwithstanding any other provision of law, the program shall also do both of the following:

(a) Authorize the Department of Motor Vehicles, at the request of persons engaged in the purchase and retirement of vehicles under the program, to send notices to vehicle owners who are candidates for the sale of vehicles under the program describing the opportunity to participate in the program. The Department of Motor Vehicles may recover all costs of those notifications from the requesting party or parties.

(b) Allow the issuance of nonrevivable junk certificates for vehicles retired under the program, which shall allow program vehicles to be scrapped only for parts, except those parts identified pursuant to subdivision (a) of Section 44120.

(Amended by Stats. 1996, Ch. 1088, Sec. 12. Effective September 30, 1996.)

44104. (a) Funds shall be available to the state board from the High Polluter Repair or Removal Account created pursuant to subdivision (a) of Section 44091. Those funds shall be used to perform the rulemaking, vehicle testing, and other technical work necessary to achieve the objectives set forth in Sections 44101 and 44104.5. Those administrative expenditures shall not exceed a total of three million dollars (\$3,000,000) over the first three years of the program.

(b) Funds available to the state board pursuant to paragraph (1) of subdivision (d) of Section 44091 shall be used to purchase and retire mobile source emission reduction credits resulting from the retirement of light-duty vehicles pursuant to this article for the purpose of achieving the emission reductions required by the M-1 strategy of the 1994 SIP. If offers from authorized private scrapping entities are deemed, by the department, consistent with the criteria set forth in Section 44101, to be noncompetitive in cost-effectiveness, in terms of dollars per ton of emissions reduced, the department shall directly purchase vehicles from owners in order to achieve the greatest reduction in emissions at the least cost. If these purchases, in turn, are deemed by the department to be not cost-competitive, in terms of dollars per ton of emissions reduced, with other strategies identified by the state board, the department shall use the funds to pursue other more cost-effective strategies identified by the state board. All emission reduction credits purchased with the funds described in this paragraph shall be retired and credited to the M-1 strategy of the 1994 SIP.

(c) This article shall not create an obligation on the part of any state or local agency to expend money, incur substantial administrative costs, or purchase credits to meet the M-1 requirements of the 1994 State Implementation Plan until the Director of Finance certifies that there are sufficient funds in the High Polluter Repair or Removal Account for purposes of the article.

(d) This article shall not create an obligation to use existing funds that are currently used to meet other air quality mandates, including funds collected pursuant to Sections 44223, 44225, 44227, and 44243, for purchasing credits to satisfy the M-1 or other strategies of the 1994 SIP.

(e) The state board and the department shall seek federal funds to be deposited in the High Polluter Repair or Removal Account, and shall explore the availability of other funding sources, such as private contributions, the Petroleum Violation Escrow Account, and proceeds from fees, fines, or other penalties resulting from fuel specification violations.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44104.5. (a) The regulations adopted pursuant to subdivision (a) of Section 44101 shall include a plan to guide the execution of the first two years of the program, to assess the results, and to formulate recommendations. The plan shall also verify whether the light-duty vehicle scrapping program included in the state implementation plan adopted on November 15, 1994, can reasonably be expected to yield the required emissions reductions at reasonable cost-effectiveness. Scrapping of any vehicles under this program for program development or testing or for generating emission reductions to be credited against the M-1 strategy of the 1994 SIP may proceed before the state board adopts the regulations pursuant to subdivision (a) of Section 44101 or the plan required by this subdivision. The emission credits assigned to these vehicles shall be adjusted as necessary to ensure that those credits are consistent with the credits allowed under the regulations adopted pursuant to Section 44101. The plan shall include a baseline study, for the geographical area or areas representative of those to be targeted by this program and by measure M-1 in the SIP, of the current population of vehicles by model year and market value and the current turnover rate of vehicles, and other factors that may be essential to assessing program effectiveness, cost-effectiveness, and market impacts of the program.

(b) At the end of each of the two calendar years after the adoption of the program plan, if the program receives adequate funding, the state board, in consultation with the department, shall adopt and publish a progress report evaluating each year of the program. These reports shall address the following topics for those vehicles scrapped to achieve both the M-1 SIP objectives and those vehicles scrapped or repaired to generate mobile-source emission reduction credits used for other purposes:

(1) The number of vehicles scrapped or repaired by model year.

(2) The measured emissions of the scrapped or repaired vehicles tested during the report period, using suitable inspection and maintenance test procedures.

(3) Costs of the vehicles in terms of amounts paid to sellers, the costs of repair, and the cost-effectiveness of scrappage and repair expressed in dollars per ton of emissions reduced.

(4) Administrative and testing costs for the program.

(5) Assessments of the replacement vehicles or replacement travel by model year or emission levels, as determined from interviews, questionnaires, diaries, analyses of vehicle registrations in the study region, or other methods as appropriate.

(6) Assessments of the net emission benefits of scrapping in the year reported, considering the scrapped vehicles, the replacement vehicles, the effectiveness of repair, and other effects of the program on the mix of vehicles and use of vehicles in the geographic area of the program, including in-migration of other vehicles into the area and any tendencies to increased market value of used vehicles and prolonged useful life of existing vehicles, if any.

(7) Assessments of whether the M-1 strategy of the 1994 SIP can reasonably be expected to yield the required emission reductions.

(Amended by Stats. 2012, Ch. 728, Sec. 96. (SB 71) Effective January 1, 2013.)

44105. The regulations shall specify that the program shall be operated as a privately operated program under the oversight of a state agency to be designated by the Governor. In consultation with the districts and interested parties, the state oversight agency shall be responsible for the implementation of the program, including the following:

(a) Solicitation and analysis of public comments on the overall program goals, objectives, and design.

(b) Development of the program structure.

(c) Overall quality control, including verifying emission reductions and certification of the emission reduction credits.

(d) Definition of terms such as "high emitter," "collector interest vehicles," and "nonrevivable junk certificates."

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44106. The program shall include provisions for monitoring and preventing all forms of tampering or other forms of cheating, and shall effectively address "avoidance vehicles" such as nonregistered vehicles and vehicles lacking a sufficient inspection and maintenance history. If fraud is detected, the program shall include provisions for suspending all new transactions with the entity suspected of fraud until problems are corrected and revaluing all credits used to meet the emissions reduction requirements. Contracts with authorized entities shall include remedies in cases of fraud.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44107. The program shall discourage tampering and other forms of cheating, and effectively address "avoidance vehicles," such as nonregistered vehicles and vehicles lacking a sufficient inspection and maintenance history.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44109. The program shall include appropriate means to solicit vehicle owners, including mass mailings, media advertising, news coverage, and direct mail to owners of candidate vehicles, and may include high-emitting vehicles based on smog check or remote sensing or high-emitter profile information.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44115. The program shall ensure that vehicle purchase transactions are convenient to vehicle owners, including advance screening to reasonably assure that vehicles qualify for the program.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44120. Vehicle disposal under the program shall be consistent with appropriate state board guidance and provisions of the Vehicle Code dealing with vehicle disposal and parts reuse, and shall do both of the following:

(a) Allow for trading, sale, and resale of the vehicles between licensed auto dismantlers or other appropriate parties to maximize the salvage value of the vehicles through the recycling, sales, and use of parts of the vehicles, consistent with the Vehicle Code and appropriate state board guidelines.

(b) Set aside and resell to the public any vehicles with special collector interest. No emission reduction credit shall be generated for vehicles that are resold to the public. Vehicles acquired for their collector interest shall be properly repaired to meet minimum

established vehicle emission standards before reregistration, unless the vehicle is sold with a nonrepairable vehicle certificate or a nonrevivable junk certificate.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44121. The state board shall develop standards for the certification and use of emission reduction credits to ensure that the credits are real, surplus, and quantifiable after accounting for program uncertainties.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)

44122. Emission reductions achieved from retired vehicles shall be quantified as follows:

(a) Vehicle emissions shall be based on either direct testing, statistical sampling, or emission modeling methods. Sampling of a statistically significant portion of the vehicles may be used to estimate emission benefits or to develop and validate correlations for use in estimating emission benefits.

(b) A reasonably reliable mechanism shall be applied to estimate vehicle miles traveled and the remaining useful life of each purchased vehicle. The odometer reading shall be matched on each purchased vehicle with the records of the Department of Motor Vehicles and smog check records to verify driving history, or statistical data shall be used to estimate vehicle use.

(c) An annual survey shall be performed of a statistically meaningful number of participants to determine replacement vehicle and post-participation behavior and also to determine the extent, if any, of in-migration of low-cost vehicles due to price increases in the scrapping market area resulting from the scrap program.

(Added by Stats. 1995, Ch. 929, Sec. 7. Effective January 1, 1996.)