

## **State Air Resources Board**

### **BUDGET NO. 3900**

### **REPORT NO. 1**

### **HEALTH AND SAFETY CODE**

#### **DIVISION 26. AIR RESOURCES [39000. - 44474.]**

*( Division 26 repealed and added by Stats. 1975, Ch. 957.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 2. New Motor Vehicles [43100. - 43213.]**

*( Chapter 2 added by Stats. 1975, Ch. 957. )*

#### **ARTICLE 1. General Provisions [43100. - 43108.]**

*( Article 1 added by Stats. 1975, Ch. 957. )*

#### **43105.5.**

(a) For all 1994 and later model-year motor vehicles equipped with on board diagnostic systems (OBD's) and certified in accordance with the test procedures adopted pursuant to Section 43104, the state board, not later than January 1, 2002, shall adopt regulations that require a motor vehicle manufacturer to do all of the following to the extent not limited or prohibited by federal law (the regulations adopted by the state board pursuant to this provision may include subject matter similar to the subject matter included in regulations adopted by the United States Environmental Protection Agency):

(1) Make available, within a reasonable period of time, and by reasonable business means, including, but not limited to, use of the Internet, as determined by the state board, to all covered persons, the full contents of all manuals, technical service bulletins, and training materials regarding emissions-related motor vehicle information that is made available to their franchised dealerships.

(2) Make available for sale to all covered persons the manufacturer's emissions-related enhanced diagnostic tools, and make emissions-related enhanced data stream information and bidirectional controls related to tools available in electronic format to equipment and tool companies.

(3) If the motor vehicle manufacturer uses reprogrammable computer chips in its motor vehicles, provide equipment and tool companies with the information that is provided by the manufacturer to its dealerships to allow those companies to incorporate into aftermarket tools the same reprogramming capability.

(4) Make available to all covered persons, within a reasonable period of time, a general description of their on board diagnostic systems (OBD II) for the 1996 and subsequent model-years, which shall contain the information described in this paragraph. For each monitoring system utilized by a manufacturer that illuminates the OBD II malfunction indicator light, the motor vehicle manufacturer shall provide all of the following:

(A) A general description of the operation of the monitor, including a description of the parameter that is being monitored.

(B) A listing of all typical OBD II diagnostic trouble codes associated with each monitor.

(C) A description of the typical enabling conditions for each monitor to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup.

(D) A listing of each monitor sequence, execution frequency, and typical duration.

(E) A listing of typical malfunction thresholds for each monitor.

(F) For OBD II parameters for specific vehicles that deviate from the typical parameters, the OBD II description shall indicate the deviation and provide a separate listing of the typical value for those vehicles.

(G) The information required by this paragraph shall not include specific algorithms, specific software code, or specific calibration data beyond that required to be made available through the generic scan tool in federal and California on board diagnostic regulations.

(5) Not utilize any access or recognition code or any type of encryption for the purpose of preventing a vehicle owner from using an emissions-related motor vehicle part with the exception of the powertrain control modules, engine control modules, and transmission control modules, that has not been manufactured by that manufacturer or any of its original equipment suppliers.

(6) Provide to all covered persons information regarding initialization procedures relating to immobilizer circuits or other lockout devices to reinitialize vehicle on board computers that employ integral vehicle security systems if necessary to repair or replace an emissions-related part, or if necessary for the proper installation of vehicle on board computers that employ integral vehicle security systems.

(7) All information required to be provided to covered persons by this section shall be provided, for fair, reasonable, and nondiscriminatory compensation, in a format that is readily accessible to all covered persons, as determined by the state board.

(b) Any information required to be disclosed pursuant to a final regulation adopted under this section that the motor vehicle manufacturer demonstrates to a court, on a case-by-case basis, to be a trade secret pursuant to the Uniform Trade Secret Act contained in Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code, shall be exempt from disclosure, unless the court, upon the request of a covered person seeking disclosure of the information, determines that the disclosure of the information is necessary to mitigate anticompetitive effects. In making this determination, the court shall consider, among other things, the practices of any motor vehicle manufacturer that results in the fullest disclosure of information listed in paragraph (4) of subdivision (a). In actions subject to this subdivision, the court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting a protective order in connection with discovery proceedings, holding an in-camera hearing, sealing the record of the action, or ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

(c) If information is required to be disclosed by a motor vehicle manufacturer pursuant to subdivision (b), the court shall allow for the imposition of reasonable business conditions as a condition of disclosure, and may include punitive sanctions for the improper release of information that is determined to be a trade secret to a competitor of the manufacturer. The court shall also provide for fair, reasonable, and nondiscriminatory compensation to the motor vehicle manufacturer for the disclosure of information determined by the court to be a trade secret and required to be disclosed pursuant to subdivision (b). The court shall provide for the dissemination of trade secret information required to be disclosed pursuant to subdivision (b)

through licensing agreements and the collection of reasonable licensing fees. If the court determines that disclosure of any of the information required to be disclosed under subdivision (b) constitutes a taking of personal property, a jury trial shall be held to determine the amount of compensation for that taking, unless waived by the motor vehicle manufacturer.

(d) The state board shall periodically conduct surveys to determine whether the information requirements imposed by this section are being fulfilled by actual field availability of the information.

(e) If the executive officer of the state board obtains credible evidence that a motor vehicle manufacturer has failed to comply with any of the requirements of this section or the regulations adopted by the state board, the executive officer shall issue a notice to comply to the manufacturer. Not later than 30 days after issuance of the notice to comply, the vehicle manufacturer shall submit to the executive officer a compliance plan, unless within that 30-day period the manufacturer requests an administrative hearing to contest the basis or scope of the notice to comply in accordance with subdivision (f). The executive officer shall accept the compliance plan if it provides adequate demonstration that the manufacturer will come into compliance with this section and the board's implementing regulations within 45 days following submission of the plan. However, the executive officer may extend the compliance period if the executive officer determines that the violation cannot be remedied within that period.

(f) If the motor vehicle manufacturer contests a notice to comply pursuant to subdivision (e) or the executive officer rejects the compliance plan submitted by the manufacturer, an administrative hearing shall be conducted by a hearing officer appointed by the state board, in accordance with procedures established by the state board. The hearing procedures shall provide the manufacturer and any other interested party at least 30 days notice of the hearing. If, after the hearing, the hearing officer appointed by the state board finds that the motor vehicle manufacturer has failed to comply with any of the requirements of this section or the regulations adopted by the state board, and the manufacturer fails to correct the violation within 30 days from the date of the finding, the hearing officer may impose a civil penalty upon the manufacturer in an amount not to exceed twenty-five thousand dollars (\$25,000) per day per violation until the violation is corrected, as determined in accordance with the hearing procedures established by the state board. The hearing procedures may provide additional time for compliance prior to imposing a civil penalty. If so, the hearing officer may grant additional time for compliance if he or she determines that the violation cannot be remedied within 30 days of the finding that a violation has occurred.

(g) The state board, in consultation with the Department of Consumer Affairs, shall, through the year 2009, report annually to the Legislature on the extent to which the implementation of this act enacted during the 2000 portion of the 1999–2000 Regular Session is effective in furthering the intent and policy of this act.

(h) Nothing in this section is intended to authorize the infringement of intellectual property rights embodied in United States patents, trademarks, or copyrights, to the extent those rights may be exercised consistently with any other federal laws.

*(Added by Stats. 2000, Ch. 1077, Sec. 4. Effective January 1, 2001.)*

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
AB-2454	Bates	Motor vehicles: pollution control	Introduced 02/24/2000	11/30/2000 - From committee	-	Yes	Majority

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
		devices.		without further action.			
SB-1146	Burton	Motor vehicles: pollution control devices.	Chaptered 09/30/2000	09/30/2000 - Chaptered by Secretary of State. Chapter 1077, Statutes of 2000. 09/30/2000 - Approved by Governor.	-		

**COMMENTS/RECOMMENDATIONS:**

The Motor Vehicle Service Information report was required annually through the year 2009. This reporting requirement has expired.

## REPORT NO. 2

### HEALTH AND SAFETY CODE

#### 44100 AND 44104.5

**DIVISION 26. AIR RESOURCES [39000. - 44474.]**

*( 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. - 44126.]**

*( 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 a report and 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. 2004, Ch. 644, Sec. 22. Effective January 1, 2005.)*

## Health and Safety Code

### **DIVISION 26. AIR RESOURCES [39000. - 44474.]**

*( 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. - 44126.]**

*( 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. )*

#### **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 scrapping 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.

(c) Not later than June 30, 1999, and every three years thereafter, if the programs receive adequate funding, the state board, in consultation with the department, shall evaluate the performance of the programs specified in Article 9 (commencing with Section 44090) and this article and, based on that evaluation, report to the Governor and Legislature. The report shall evaluate the overall performance of the program, including its cost-effectiveness in terms of dollars per ton of credited or reduced emissions, description of the methods and procedures to assure that the emission reductions are real, surplus, and quantifiable, the extent of the market for eligible vehicles, a recommendation for an appropriate allocation of expenditures between removal or repair of vehicles that reflects the relative cost-effectiveness of the options, and any other recommendation for improving the effectiveness of these programs. This report shall also contain all of the following:

(1) Identification of procedures for distinguishing the emission reductions attributed to scrapping for the purpose of generating emission reductions credits and scrapping that occurs or would have occurred as a result of the inspection and maintenance program managed by the Department of Consumer Affairs and other programs.

(2) A projection of the emissions reductions and cost-effectiveness that might be realized by scrapping or repairing light-duty vehicles through the year 2010, considering changes expected in the vehicle fleet and likely impacts of scrapping or repair on the mix and emissions of vehicles.

(3) A comparison of the effectiveness of scrappage, repair, or upgrade to other programs for light-duty vehicles.

(4) A recommended scrapping program, or other more cost-effective means, for continuing to achieve the emissions reductions required by the M-1 strategy of the 1994 State Implementation Plan, considering likely emission reductions in the attainment year costs, cost-effectiveness, issues of monitoring and verification, and status of the Environmental Protection Agency's approval of the state's 1994 SIP.

*(Amended by Stats. 2004, Ch. 644, Sec. 23. Effective January 1, 2005.)*

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
AB-1353	Matthews	Treated wood waste: disposal.	Chaptered 09/20/2004	09/20/2004 - Chaptered by Secretary of State - Chapter 597, Statutes of 2004. 09/20/2004 - Approved by the Governor.	-		

**COMMENTS/RECOMMENDATIONS:**

The Vehicle Retirement Program report is required every three years beginning in 1999 unless the program does not receive adequate funding. The California Air Resources Board recommends removing this report requirement because funding for the 1994 State Implementation Plan vehicle retirement measure was never appropriated.

## REPORT NO. 3

### HEALTH AND SAFETY CODE

#### DIVISION 26. AIR RESOURCES [39000. - 44474.]

( Division 26 repealed and added by Stats. 1975, Ch. 957. )

#### PART 2. STATE AIR RESOURCES BOARD [39500. - 39944.]

( Part 2 added by Stats. 1975, Ch. 957. )

#### CHAPTER 3.2. Goods Movement Emission Reduction Program [39625. - 39627.5.]

( Chapter 3.2 added by Stats. 2007, Ch. 181, Sec. 2. )

#### 39627.5.

The state board shall submit an annual report to the Legislature summarizing its activities related to the administration of this chapter with the Governor's proposed budget, on January 10, for the ensuing fiscal year. The summary shall, at a minimum, include a description of projects funded pursuant to this chapter, the amount of funds allocated for each project, the location of each project, the status of each project, and a quantitative description of the emissions reductions achieved through the project or program. The state board shall include in this report a description of any changes to the scope of grant agreements entered into to allocate funds to an applicant or changes to the award amounts described in a grant agreement.

(Amended by Stats. 2009, Ch. 483, Sec. 2. Effective January 1, 2010.)

Bill	Lead Authors	Subject	Latest Bill Version	Last History Action	Status	Fiscal Committee	Vote Required
AB-892	Furutani	Goods Movement Emission Reduction Program.	Chaptered 10/11/2009	10/11/2009 - Chaptered by Secretary of State - Chapter 483, Statutes of 2009.	Secretary of State-Chaptered	Yes	Majority
SB-88	Committee on Budget and Fiscal Review	Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006: implementation.	Chaptered 08/24/2007	08/24/2007 - Chaptered by Secretary of State. Chapter 181, Statutes of 2007.	Secretary of State-Chaptered	Yes	Two Thirds

#### COMMENTS/RECOMMENDATIONS:

The Goods Movement Emission Reduction Program report is required to be submitted to the Legislature on an annual basis by Jan 10. The California Air Resource Board recommends the elimination of this report because this report is already required to be submitted to the Department of Finance by Health and Safety Code 39625.02(f) and because this report is regularly posted on its Goods Movement Emission Reduction Program website ( <http://www.arb.ca.gov/bonds/gmbond/gmbond.htm>). The Legislature may choose to continue to require that this report be submitted to the Legislature on a yearly basis in addition to being submitted to the Department of Finance.