

State of California  
Air Resources Board

Resolution 10-19

March 25, 2010

Agenda Item No.: 10-3-4

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 39602 of the Health and Safety Code designates ARB as the air pollution control agency for all purposes set forth in federal law and gives ARB the responsibility for preparing the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards, and to coordinate the activities of the local air pollution control and air quality management districts (air districts); as necessary to comply with the federal Clean Air Act (42 U.S.C. section 7401 et seq.);

WHEREAS, section 39605 of the Health and Safety Code authorizes ARB to conduct public hearings and to provide assistance to the air districts;

WHEREAS, sections 44275 through 44299.2 of the Health and Safety Code establish the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen (NOx), particulate matter (PM), and reactive organic gases (ROG) from qualifying sources in California;

WHEREAS, sections 44299.90 through 44299.91 of the Health and Safety Code continue the Lower-Emission School Bus Program for the current funding cycle to help facilitate the replacement of older school buses and the retrofit of diesel particulate filters on applicable school buses;

WHEREAS, section 44287 of the Health and Safety Code requires ARB to establish grant criteria and guidelines for the Carl Moyer Program in consultation with the air districts and to revise the guidelines as necessary to improve the ability of the program to achieve the maximum amount of emission reductions feasible;

WHEREAS, section 44299.901 of the Health and Safety Code requires ARB to equitably distribute funds and adopt guidelines for the Lower-Emission School Bus Program;

WHEREAS, regulations adopted by ARB and the air districts are the primary mechanism to reduce emissions and achieve ambient air quality standards in California;

the Carl Moyer Program complements the regulatory strategy by providing monetary incentives to obtain surplus emission reductions earlier than required by rules and regulations;

WHEREAS, the emission reductions resulting from the Carl Moyer Program are critical to enable ARB and the air districts to fulfill their obligations under the SIP, to attain state and federal ambient air quality standards, and to reduce exposure to toxic air pollutants;

WHEREAS, the Health and Safety Code charges ARB with oversight responsibility and authority to audit the air districts' implementation of the Carl Moyer and Lower-Emission School Bus Programs and related emission reduction incentive programs to ensure that district programs achieve the expected emission reductions and are implemented in a manner consistent with program guidelines;

WHEREAS, recent legislation and regulations make it necessary to revise the State's incentive program Guidelines;

WHEREAS, section 44283(i) of the Health and Safety Code authorizes the Board to adjust the cost-effectiveness factors and threshold of the Carl Moyer Program to account for inflation;

WHEREAS, SBX2\_3 (Stats. 2009, ch. 1) added section 44282.5 of the Health and Safety Code, which directs ARB to revise the Carl Moyer Program guidelines to provide farm equipment with a project life of ten years and funding eligibility up to a regulatory compliance date;

WHEREAS, it is important for ARB and local districts to increase opportunities for small businesses to participate in the Carl Moyer Program;

WHEREAS, in Resolutions 08-22 and 09-47, the Board delegated to the Executive Officer the authority to interpret or clarify, and to adopt changes to the Carl Moyer and Lower-Emission School Bus programs, provided that such changes are consistent with statute and the goals established by the Board;

WHEREAS, ARB staff has consulted with the air districts at numerous meetings; has held five public workshops on the proposed revisions to the Carl Moyer Program guidelines; has consulted with potential grant fund applicants, equipment suppliers, and the public; has complied with the requirements set forth in section 44287 of the Health and Safety Code; and has held one public workshop on the proposed revisions to the Lower-Emission School Bus Program guidelines;

WHEREAS, ARB staff held several work group meetings to refine the Carl Moyer Program's administrative procedures, expand eligibility criteria for the on-road Voucher Incentive Program (VIP), expand eligibility for the off-road equipment replacement program, continue flexibility for off-road retrofits, and extend project life for farm equipment;

WHEREAS, ARB continues to conduct biannual Advisory Group meetings, chaired by Board Member Sandra Berg, to address emerging policy issues relating to incentive programs;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, in consideration of the staff report and the oral and written comments received from the air districts, interested parties and the public, the Board finds that:

1. Changes to the programs guidelines, that are consistent with statute and the goals established by the Board, are needed to enable effective implementation of the programs;
2. The proposed revisions to the guidelines incorporate new legislation, new State regulations, and programmatic recommendations received in consultation with air districts to ensure that cost-effective emission reductions from funded projects continue to be real, surplus, quantifiable, and enforceable;
3. The proposed revisions to the Carl Moyer Program Guidelines correctly include an adjustment to the cost-effectiveness factors and threshold, as authorized by section 44283(i) of the Health and safety Code;
4. The proposed revisions to the Carl Moyer Program Guidelines properly include modifications to the project criteria affecting farm equipment, addressing SBX2\_3, as incorporated in section 44282.5 of the Health and Safety Code;
5. The proposed revisions to the Carl Moyer Program Guidelines expand eligibility criteria to the Voucher Incentive Program, which will assist small fleets with on-road heavy-duty vehicles;
6. The proposed revisions to the Carl Moyer Program Guidelines properly include updates to project criteria for existing source categories to reflect updated and corrected emission rates;
7. The proposed revisions to the Carl Moyer Program Guidelines allow the continued flexibility to provide applicants of off-road compression-ignition equipment not subject to an in-use regulation to waive the requirement for installing a retrofit device;
8. The proposed revisions to the Carl Moyer Program Guidelines will clarify and streamline administrative procedures to ease use by the implementing air districts, while at the same time maintaining the program's core principles of achieving emission reductions that contribute to the attainment of ambient air quality standards and are creditable in the SIP;

9. A tiered transaction funding option in the Carl Moyer Program, in coordination with the Proposition 1B: Goods Movement Emission Reduction Program, will help small fleet owners in NOx exempt areas upgrade their older vehicles with cleaner vehicles;
10. The proposed revisions to the Carl Moyer Program Guidelines will increase program participation, increase funding eligibility, and be easily integrated into air districts' day-to-day operations;
11. The proposed revisions to the Lower-Emission School Bus Program Guidelines will accommodate the limited number of school buses being manufactured and certified at or below the 0.2 grams per brake horsepower-hour NOx emission level, streamline the disbursement process, and extend the retrofit funding deadline;
12. No significant adverse environmental impacts will occur from the proposed action; rather, this action will have a beneficial impact on the environment by supplementing the regulatory programs of ARB and the air districts to deliver emission reductions of criteria and toxic air pollutants that would not otherwise have occurred; and
13. Delegation of the authority to make changes to the Carl Moyer Program Guidelines and the Lower-Emission School Bus Program Guidelines that are consistent with statute and the goals established by the Board, to the Executive Officer or his or her designee, is necessary to provide a rapid response to changes in the economy, technology and regulatory environment and ensure effective implementation of the programs.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the revised Carl Moyer Program and Lower Emission School Bus Program Guidelines, as set forth in Attachment A hereto, with the modifications described in Attachment B hereto.

BE IT FURTHER RESOLVED that the applicable provisions of the revised guidelines shall immediately apply and be incorporated into contracts executed after Board approval date of these guideline revisions.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue coordinating ARB efforts with the air districts, grantees, and other interested persons to effectively implement ongoing and future projects.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the U.S. Environmental Protection Agency to ensure that emission reductions from projects funded by the Carl Moyer Program are credited in California's SIP.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to coordinate the Carl Moyer Program and Lower-Emission School Bus Program with

regulatory programs and other incentive programs to provide clarity to the Board and stakeholders of how regulatory actions impact financial incentives.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to update the cost-effectiveness factors and threshold annually, based on the Consumer Price Index and United States Treasury securities, once annual data is available, but no later than April 1 of each year, with implementation of the updated factors beginning July 1 of each year.

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer, or his or her designee, the authority to adopt changes to the Carl Moyer and Lower-Emission School Bus Program Guidelines that he or she deems necessary and consistent with Statute and the goals established by the Board, including incorporating a tiered transaction funding option for on-road vehicles into the Carl Moyer Program, and to ensure that the Guidelines remain effective and up-to-date, pursuant to section 44287 of the Health and Safety Code. The Executive Officer is directed to identify changes made under this authority when the Board considers the next comprehensive update to the Program Guidelines.

BE IT FURTHER RESOLVED that the Board extends its appreciation to the air districts, environmental groups, industry groups and other interested parties that have worked with ARB staff to propose revisions to the guidelines and improve the Carl Moyer Program and the Lower-Emission School Bus Program.

I hereby certify that the above is a true and correct copy of Resolution 10-19, as adopted by the Air Resources Board.

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Sandra Bannerman, Clerk of the Board

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Identification of Attachments

ATTACHMENT A: 1) Summary of Proposed Revisions; 2) Proposed Lower Emission School Bus Program Language; 3) Proposed Voucher Incentive Program Guideline Language; 4) Proposed Carl Moyer Program Guideline Language; 5) Proposed Locomotive Revisions

ATTACHMENT B: Staff's Suggested Changes to the Original Proposal