State of California
Air Resources Board

Resolution 08-22

March 27, 2008

Agenda Item No.: 08-3-3

WHEREAS, sections 44275 through 44299.2 of the Health and Safety Code establish the Carl Moyer Memorial Air Quality Standards Attainment 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, section 44287 of the Health and Safety Code requires the Air Resources Board (ARB or Board) to establish grant criteria and guidelines for the Carl Moyer Program in consultation with California's air pollution control and air quality management districts (air districts or 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, it is necessary to make revisions to the Carl Moyer Program Guidelines due to recent legislation, new State regulations, and programmatic recommendations made by the Department of Finance and the Bureau of State Audits;

WHEREAS, section 39600 of the Health and Safety Code directs the ARB to do such acts as may be necessary to carry out its powers and duties and section 39605 of the Health and Safety Code authorizes the ARB to conduct public hearings and to provide assistance to the air districts;

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

WHEREAS, the California Clean Air Act, in section 40910 et seq. of the Health and Safety Code, requires the ARB and the air districts to adopt and implement plans to achieve the state ambient air quality standards by the earliest practicable date;

WHEREAS, section 43018 of the Health and Safety Code directs the ARB to achieve the maximum degree of emission reduction possible from motor vehicles and other mobile sources;

WHEREAS, section 43023.5 of the Health and Safety Code requires the expenditure of a specified portion of funds under the Carl Moyer Program in higher-risk communities;

WHEREAS, the Health and Safety Code provides ARB with oversight responsibility and authority to audit Carl Moyer 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, the Board has identified a number of reactive organic gases emitted from motor vehicles or engines and the PM from diesel fueled engines as toxic air contaminants;

WHEREAS, the Board has approved several risk-reduction plans, guidelines, and strategies for reducing inhalable PM and ozone-precursors and considers the reduction of diesel PM an urgent priority;

WHEREAS, while ARB and air district regulations 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 they are required by rules and regulations;

WHEREAS, Governor Schwarzenegger has directed ARB to work with ports, railroads, other goods movement facilities, air districts, local communities, and the U.S. Environmental Protection Agency to develop an innovative program, including financial and regulatory incentives, to reduce air pollution at ports;

WHEREAS, SB 467 (Stats. 2005 ch 209 § 2), in section 44287.1 of the Health and Safety Code, directs the ARB to revise the Carl Moyer Program guidelines to facilitate projects for the exchange of equipment powered by internal combustion engines to equipment utilizing zero-emission technologies to the extent the emission reductions are surplus, real, quantifiable, and enforceable;

WHEREAS, section 44283(i) of the Health and Safety Code authorizes the Board to adjust the cost-effectiveness limit of the program to account for inflation;

WHEREAS, the Goods Movement Emission Reduction Program is a $1 billion bond program created by voter-approved Proposition 1B in 2006 and clarified by SB 88 (Stats. 2007 ch 181) that provides funding for source categories that overlap with source categories eligible for Carl Moyer Program funds;

WHEREAS, on February 28, 2008 the Board adopted the first set of Guidelines for implementation of the Goods Movement Emission Reduction Program as well funding targets for the allocation of the incentive funds;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project or activity that may have a significant adverse impact on the environment may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, the ARB has consulted with the air districts at numerous meetings; has held three series of public workshops on the proposed revisions to the Carl Moyer Program guidelines; has consulted with potential grant fund applicants, engine manufacturers, equipment suppliers, utilities, and the public; and has complied with the requirements set forth in section 44287 of the Health and Safety Code;

WHEREAS, the ARB held monthly work group meetings to refine the Carl Moyer Program's administrative procedures and to develop criteria for off-road equipment replacement, as well as two Advisory Group meetings chaired by Board Member Sandra Berg;

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. The emission reductions resulting from the Carl Moyer Program are critical for enabling the ARB and the air districts to fulfill their obligations under the State Implementation Plan, to attain state and federal health-based air quality standards, and to reduce exposure to toxic air pollutants.

2. Vehicles subject to Smog Check and the motor vehicle registration fee emit NOx and ROG, which combine in the atmosphere to form ozone and PM10; tires also emit PM10.

3. Ozone is a powerful oxidant that can damage the respiratory tract causing inflammation and irritation and inducing symptoms such as coughing, chest tightness, shortness of breath and the worsening of asthma symptoms.

4. Strong links have been demonstrated between elevated fine particulate levels and premature deaths, hospital admissions, emergency room visits, and asthma attacks.

5. It is appropriate that the Guidelines be revised to incorporate new legislation, new State regulations, and programmatic recommendations made by the Department of Finance and the Bureau of State Audits, and to ensure that cost-effective emission reductions from funded projects continue to be real, surplus, quantifiable and enforceable.

6. It is necessary and appropriate for ARB to exercise oversight over local air district administration of the Carl Moyer Program and the additional $2 motor vehicle registration fee surcharge authorized by Assembly Bill 923.

7. It is important to encourage the maximum technologically feasible and cost-effective emission reductions for each Carl Moyer Program project.

8. It is important for ARB and local districts to increase opportunities for small businesses to participate in the Carl Moyer Program.

9. It is important for ARB to conduct audits of districts to ensure proper program implementation.

10. The proposed Guidelines properly include provisions to direct some projects that are eligible for the Goods Movement Emission Reduction Program to bond funding first, and provide the opportunity for Carl Moyer Program funding only if bond funding is not available.

11. The Goods Movement Emission Reduction Program and Carl Moyer Program are complementary programs and, as designed, funding is not intended to be accretive by combining available funds from each program;

12. The proposed Guidelines, once formally adopted by the Board, shall be used for all projects funded using fiscal year 2008-2009 (Carl Moyer Program Year 11) and subsequent years' funds.

13. The proposed Guidelines properly include a new source category and project criteria for off-road equipment replacement, making these pieces of equipment eligible for Carl Moyer Program funding and addressing the zero-emission projects authorized by SB 467, as incorporated in section 44287.1 of the Health and Safety Code.

14. The determination of project criteria for replacement of off-road agricultural equipment, and specifically the ability to adjust project life, should remain at the discretion of the Executive Officer

15. The proposed Guidelines properly include new project criteria for existing source categories such as zero-emission shore side power projects (also known as cold ironing) and project eligibility for large spark-ignited equipment and non-engine agricultural projects.

16. The proposed Guidelines properly include updates to project criteria for existing source categories to reflect new regulatory requirements and emission rates.

17. The proposed Guidelines properly include an option, effective upon Board approval of the Guidelines, that provides flexibility to applicants for off-road compression-ignition equipment to waive for one year the requirement for installing a retrofit device.

18. To account for inflation, the proposed Guidelines correctly include an adjustment to the cost-effectiveness threshold to $16,000 per weighted ton of emission reductions.

19. The proposed Guidelines streamline the application and review process by setting incremental cost as a percentage of total project cost instead of requiring a price quote to establish the baseline cost.

20. The proposed Guidelines include clarified and streamlined 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 State Implementation Plan.

21. While the statutory focus of the Carl Moyer Program has been on achieving reductions of criteria and toxic pollutants, the program has a beneficial impact on greenhouse gas emissions as well - especially by funding new, more efficient engines and electric projects;

22. No significant adverse environmental impact will occur from the proposed action; rather, this action will have a beneficial impact on the environment by supplementing the regulatory programs of the ARB and the air districts to deliver emission reductions of criteria and toxic air pollutants that would not otherwise have occurred.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the revised Carl Moyer Program guidelines, as set forth in Attachment A hereto;

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 State Implementation Plan.

BE IT FURTHER RESOLVED, that the Board directs ARB staff to conduct audits of a sufficient number of districts each year, to ensure proper program implementation, commensurate with approximately 10 percent of annual program funds.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to conduct bi-annual Advisory Group meetings to address emerging policy issues relating to incentive programs.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to, within one year of Board approval of these Guidelines, reevaluate the need for retaining the retrofit flexibility provision for off-road compression-ignition equipment and modify this exemption as appropriate.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to reevaluate and modify as necessary the maximum allowable project life for off-road equipment replacement of agricultural equipment and to consider any new relevant data in this reevaluation within one year of Board approval of these Guidelines,.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to coordinate the Carl Moyer Program with regulatory programs and other incentive programs to provide clarity to the Board and stakeholders of how regulatory actions impact incentive-based programs.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to develop technical amendments to the Guidelines (known as Program Advisories) as appropriate to ensure that the Guidelines remain up-to-date, and to return to the Board every four years with revisions to the 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.

I hereby certify that the above is a true and correct copy of Resolution 08-22, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board