

State of California
Air Resources Board

Resolution 11-23

April 28, 2011

Agenda Item No.: 11-2-3

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 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, particulate matter, and reactive organic gases from qualifying sources in California;

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 California's air pollution control and air quality managements (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, regulations adopted by ARB, the United States Environmental Protection Agency, 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 for enabling ARB and the air districts to fulfill their obligations under the SIP, to attain

state and federal health-based 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 implementation of the Carl Moyer Program and related emission reduction incentive programs to ensure that the programs achieve the expected emission reductions and are implemented in a manner consistent with program guidelines and state law;

WHEREAS, in 2010 the Legislature enacted AB 1507 (Stats. 2010, Chapter 571), which directs ARB to revise the Carl Moyer Program Guidelines (Guidelines) by July 1, 2011, to allow for the combination of Carl Moyer Program funds with funds designed to reduce greenhouse gas emissions from federal programs or the Alternative and Renewable Fuel and Vehicle Technology Program, without including them in the cost-effective calculation for the Carl Moyer Program funds;

WHEREAS, it is necessary to revise the Guidelines to carry out the Legislature's directives in AB 1507, and to account for amendments to ARB regulations that have occurred since the last revision of the 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, it is important for ARB and air districts to increase opportunities for small businesses to participate in the Carl Moyer Program;

WHEREAS, in Resolutions 08-22, 09-47, and 10-19, the Board has delegated to the Executive Officer the authority to interpret or clarify, and to adopt changes to, the Carl Moyer program, 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 ten public workshops on the proposed revisions to the Carl Moyer Program guidelines; has consulted with potential grant fund applicants, equipment suppliers, and the public; and has complied with the requirements set forth in section 44287 of the Health and Safety Code;

WHEREAS, ARB staff held several work group meetings to improve and refine the Carl Moyer Program's administrative procedures, expand eligibility criteria for the on-road Voucher Incentive Program, develop an off-road Voucher Incentive Program, develop two new source categories (Emergency Equipment and Lawn and Garden Equipment Replacement), and to revise the methodology used to determine surplus emission reductions;

WHEREAS, ARB continues to conduct biannual Advisory Group meetings chaired by ARB 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 Guidelines are needed to effectively implement the Carl Moyer Program;
2. The proposed revisions to the Guidelines address new legislation, new and revised 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 Guidelines include an appropriate adjustment to the cost-effectiveness factors and threshold, as authorized in section 44283(i) of the Health and Safety Code;
4. The proposed revisions to the Guidelines properly include modifications that remove from cost effectiveness calculations additional public funds for projects designed to reduce greenhouse gas emissions provided from federal funding or the Alternative and Renewable Fuel and Vehicle Technology Program, addressing AB 1507, as incorporated in sections 44283 and 44287.2 of the Health and Safety Code;
5. The proposed revisions to the Guidelines create the Off-Road Voucher Incentive Program, which will assist small and medium off-road fleets with purchasing new, cleaner off-road heavy-duty equipment;
6. The proposed revisions to the Guidelines include two new source categories: Emergency Equipment and Lawn and Garden Equipment Replacement;
7. The proposed revisions to the Guidelines include a revised methodology to determine surplus emission reductions which will increase participant eligibility;
8. The proposed revisions to the Guidelines will clarify and streamline administrative procedures to ease implementation by the 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. The proposed revisions to the Guidelines will help increase program participation, increase funding eligibility, and be easily integrated into air districts' day-to-day operations;
10. The proposed revisions to the Guidelines is not a project subject to CEQA because there is no possibility that this activity may have a significant effect on the environment (Cal. Code Regs., tit. 14, § 15061(b)(3)). The activity is a revision to an incentive program whereby ARB and air districts provide money to applicants who purchase engines, vehicles and other motors to achieve emission reductions beyond what is required by existing regulations. This activity will not result in any significant adverse impact on the environment. 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;
11. Delegation of the authority to make changes to the Carl Moyer 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 Guidelines, as set forth in Attachments A-1 through A-4 hereto, with the modifications described in Attachment B hereto.

BE IT FURTHER RESOLVED that the provisions of the revised Carl Moyer Program Guidelines shall be used for all projects funded using fiscal year 2011-2012 (Carl Moyer Program Year 14) and subsequent years' funds.

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 United States 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 with regulatory programs and other incentive programs to provide clarity to stakeholders regarding 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 no later than 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 Program Guidelines that he or she deems necessary, in response to regulatory Board actions 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 shall 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.

I hereby certify that the above is a true and correct copy of Resolution 11-23, as adopted by the Air Resources Board.



Mary-Alice Morency, Clerk of the Board

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April 28, 2011

Identification of Attachments to the Resolution

- ATTACHMENT A-1: Proposed Carl Moyer Program Guidelines: Program Overview and Project Criteria Language as set forth in Part I to the Guidelines, released on March 10, 2011.
- ATTACHMENT A-2: Proposed On-Road Voucher Incentive Program Guidelines Language as set forth in Part II to the Guidelines, released on March 10, 2011.
- ATTACHMENT A-3: Proposed Off-Road Voucher Incentive Program Guidelines Language as set forth in Part II to the Guidelines, released on March 10, 2011.
- ATTACHMENT A-4: Proposed Agricultural Assistance Program Language as set forth in Part III to the Guidelines, released on March 10, 2011.
- ATTACHMENT B: Staff's Suggested Changes to the Original Proposal: Presented at the April 28, 2011 ARB public meeting.