

State of California
AIR RESOURCES BOARD

**FUNDING AGRICULTURAL REPLACEMENT MEASURES FOR EMISSION
REDUCTIONS (FARMER) PROGRAM GUIDELINES**

Resolution 18-13

March 22, 2018

Agenda Item No.: 18-2-8

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB 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 39605 of the Health and Safety Code authorizes CARB to conduct public hearings and provide assistance to the air districts;

WHEREAS, Health and Safety Code section 44270 et seq. establishes the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (Assembly Bill (AB) 118; Chapter 750, Statutes of 2007), which creates the Air Quality Improvement Fund and the Alternative and Renewable Fuel and Vehicle Technology Fund and identifies eligible project types in Health and Safety Code sections 44272(e) and 44274(c);

WHEREAS, Government Code section 16428.8 created the Greenhouse Gas Reduction Fund (GGRF) as a special fund in the State Treasury to receive all moneys, except for fines and penalties, collected by CARB from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in sections 95800 to 96022, inclusive, of the California Code of Regulations, title 17;

WHEREAS, Health and Safety Code section 39712 requires that the moneys appropriated from GGRF shall only be used to further the regulatory purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code, consistent with law, and to facilitate the achievement of reductions of greenhouse gas (GHG) emissions in California and, where applicable and to the extent feasible, achieve additional co-benefits;

WHEREAS, Health and Safety Code section 39712 identifies potential investment areas for moneys appropriated from GGRF and Health and Safety Code section 38590.1(a) lists the Legislature's priorities for investing Cap-and-Trade auction proceeds;

WHEREAS, Health and Safety Code section 39716 requires the Department of Finance, on behalf of the Governor, and in consultation with CARB and any other relevant State entity, to develop and submit to the Legislature by May 14, 2013, a three-year investment plan, consistent with the requirements of Health and Safety Code section 39712, that identifies near-term and long-term GHG emission reduction goals and targets by sector, analyzes gaps in current State strategies for meeting GHG reduction goals by sector, and identifies priority investments that facilitate GHG reductions and that the investment plan be updated every three years;

WHEREAS, the Department of Finance, on behalf of the Governor, submitted to the Legislature the Cap-and-Trade Auction Proceeds Second Investment Plan: Fiscal Years 2016-17 through 2018-19, in January 2016, as required by Health and Safety Code section 39716, and the investment plan identifies the need for further investments in innovative technologies and pioneering strategies to lay the foundation for aggressively decarbonizing the State's transportation system and investments that support further reductions in criteria pollutants, air toxics, and short-lived climate pollutants from the transportation sector, including investments in agricultural trucks and equipment;

WHEREAS, Health and Safety Code section 39718 requires that moneys in GGRF shall be appropriated through the annual Budget Act consistent with the investment plan developed and submitted pursuant to Health and Safety Code section 39716;

WHEREAS, Health and Safety Code section 39715 requires CARB, in consultation with the California Environmental Protection Agency, to develop funding guidelines for administering agencies that receive appropriations from GGRF. CARB approved these guidelines on September 24, 2015, and published the Cap-and-Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments on December 21, 2015, and a supplement to these guidelines on December 30, 2016. CARB released a draft updated guidelines on August 4, 2017;

WHEREAS, Item 3900-101-3228 in Section 2.00 of the Budget Act of 2017 appropriates \$85 million from GGRF to CARB, item 3900-101-3117 in Section 2.00 of the Budget Act of 2017 appropriates \$35 million from the Alternative and Renewable Fuel and Vehicle Technology Fund to CARB, and item 3900-101-3119 in Section 2.00 of the Budget Act of 2017 appropriates \$15 million from the Air Quality Improvement Fund to CARB to be used to reduce agricultural sector emissions by providing grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations;

WHEREAS, CARB refers to the \$135 million collectively appropriated to CARB in the Budget Act of 2017 to reduce agricultural sector emissions by providing grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations

as the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program;

WHEREAS, CARB developed the FARMER Program consistent with the Legislature's direction to use each fund for the same purpose to reduce agricultural emissions and followed the usual requirements for GGRF, Air Quality Improvement Fund, and the Alternative and Renewable Fuel and Vehicle Technology fund to the extent they can be applied in the new FARMER context, while developing appropriate new requirements to further support the Legislature's intent;

WHEREAS, the proposed FARMER Program Guidelines, Attachment A, released on February 16, 2018, identify:

- Guiding principles;
- Program framework including the distribution of funds among the air districts that would administer the program;
- Eligible project categories;
- Reporting requirements;
- Project oversight and administration requirements; and
- Contingency provisions including delegating to the Executive Officer the authority to approve additional project categories and reallocate funding among districts if necessary to ensure timely expenditure of funds.

WHEREAS, CARB staff conducted five public workshops in developing the proposed FARMER Program Guidelines on January 24, 2018, January 26, 2018, January 30, 2018, February 2, 2018, and February 5, 2018, and released a discussion document with program guideline concepts on January 19, 2018, for public review and discussion at the public workshops;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed FARMER Program Guidelines are not a "project" subject to CEQA review because the FARMER Program Guidelines constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). The FARMER Program is a statewide program implemented by the local air districts. The districts receive grants from CARB but choose the projects to fund that best fit the needs of their community. Staff has further determined that even if the proposed FARMER Program Guidelines constituted a CEQA "project," CARB's approval of the FARMER Program Guidelines would be

exempt from CEQA review under the California Code of Regulations, title 14, section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed revisions may have a significant adverse impact on the environment; and

WHEREAS, in consideration of the proposed FARMER Program Guidelines, staff presentation, and public testimony and comments, the Board finds that:

1. The proposed FARMER Program Guidelines are consistent with statute and the provisions on the use of these funds identified Items 3900-101-3228, 3900-101-3117, 3900-101-3119 in Section 2.00 of the Budget Act of 2017;
2. The proposed eligible project types in the FARMER Program Guidelines are consistent with the uses of funds from GGRF, Air Quality Improvement Fund, and the Alternative and Renewable Fuel and Vehicle Technology Fund identified in Health and Safety Code sections 39712, 38590.1(a), 44272(e) and 44274(c), and the investment concepts identified in Cap-and-Trade Auction Proceeds Second Investment Plan: Fiscal Years 2016-17 through 2018-19;
3. The proposed FARMER Program Guidelines meet the requirements of the Cap-and-Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments established pursuant to Health and Safety Code section 39715;
4. The contingency plans in the proposed FARMER Program Guidelines provide necessary flexibility to ensure effective program implementation;
5. The proposed FARMER Program Guidelines are not a project subject to CEQA because substantial evidence in the record shows that the FARMER Program Guidelines constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). Even if the proposed FARMER Program Guidelines constituted a CEQA "project," CARB's approval of the FARMER Program Guidelines would be exempt from CEQA review under the California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposed revisions may have a significant adverse impact on the environment; and
6. No public comments were received to indicate that the proposed revisions to the FARMER Program Guidelines would cause any significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed FARMER Program Guidelines as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to enter into grant agreements with air districts for the funding amounts specified in the approved FARMER Program Guidelines.

I hereby certify that the above is a true and correct copy of Resolution 18-13 as adopted by the Air Resources Board.

Rana McReynolds, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program Guidelines, released on February 16, 2018.