CAPCOA
CALIFORNIA AIR POLLUTION CONTROL OFFICER'S ASSOCIATION

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April 5, 2011

James Goldstene
Executive Officer
**California Air Resources Board**
1001 I Street
Sacramento, CA 95814

Dear Mr. Goldstene,

I am writing to provide you with the California Air Pollution Control Officers Association (CAPCOA) comments regarding proposed revisions to the guidelines for the Carl Moyer and California Goods Movement Bond programs (State grants programs). CAPCOA welcomes a number of the revisions and actions taken relative to the proposed guidelines, specifically the following:

***Alignment of "Surplus" Provisions:*** CAPCOA applauds California Air Resources Board (ARB) staff for their proposed changes to the definition of "surplus" emissions in the Carl Moyer Program. This is a positive change that increases the number of eligible projects and aligns surplus definition more closely with the Goods Movement Bond Program.

***Increasing Fleet Size in the on-road Voucher Incentive Program (VIP):*** As part of the proposed revisions, ARB has increased the fleet size eligible to participate in the VIP to 10 vehicles. While CAPCOA still has concerns about the effectiveness of this program, the inclusion of the fleet provision increases the number of eligible projects in line with the true makeup of small trucking fleets in the State of California.

***Improvements in Communication:*** CAPCOA would like to acknowledge that ARB staff has made significant improvements in communication regarding the revision of the Carl Moyer guidelines in the last month. ARB has responded clearly to air districts on the changes that they are considering for the proposed guideline revisions and has engaged positively in solving many of the issues raised. CAPCOA's Mobile Sources and Grants Committee provides a good forum for ARB to communicate with air districts in an open and constructive manner. We encourage ARB to bring forward new policy and guideline changes to this group in a timely fashion so that issues can be resolved and input can be provided.

***Shelving of the regulatory proposal for the Carl Moyer Program:*** CAPCOA believes that ARB's recent action to shelve the proposal to make the Carl Moyer Program guidelines into a regulation as a welcome development and a direct result of good communication between local air districts and ARB staff.

CAPCOA understands that this proposal was originally devised to address an issue in the on-road VIP but believes that issue can be addressed more efficiently by the implementation or modification of other existing programmatic safeguards. CAPCOA offers to assist ARB in investigating potential safeguards for the grants programs but remains strongly opposed to the regulatory route for State grants.

While CAPCOA supports the proposed changes and actions taken as listed above, we still have a number of concerns regarding how ARB has communicated with air districts on the proposed guideline changes and a number of the changes themselves. CAPCOA believes that significant further discussion needs to occur on the following topics:

REVISION PROCESS

***Timing:*** CAPCOA is concerned that the upcoming meeting of the State Grants Program Advisory Group (Advisory Group) headed by ARB Board member Sandra Berg is being held only weeks before ARB is due to act on these guidelines. CAPCOA believes the function of this group is to provide recommendations on topics such as guideline changes. This group has provided immense benefit in terms of guidance on program streamlining and balancing oversight needs with end-user experience. Therefore, CAPCOA would suggest that meetings be held well in advance of any proposed guideline changes. This will allow for substantive dialogue on proposed changes with the public, regulated industry and air districts that can be used to produce better quality and more user-friendly program guidelines.

OPERATIONAL

***VIP versus Fleet Modernization:*** ARB's guidelines, as they currently stand, propose to include both a fleet modernization program and VIP as options for air districts seeking to reduce emissions from on-road trucks under the Carl Moyer Program. Having surveyed its members, CAPCOA believes that no substantial difference exists between the information and documentation gathered from both of these programs except for a compliance check, contract signing, and annual reporting requirements all of which occur under the fleet modernization program.

Based on this analysis, CAPCOA must question the wisdom of having two programs that are virtually identical competing for emissions reductions under a single State offering. CAPCOA proposes that these programs be hybridized to take the best of both to present a new option to participants in the Carl Moyer Program. This proposal is in direct response to ARB Board member Berg's request for CAPCOA to suggest a "product" (similar to a banking institution) that would be most palatable to an end-user. Additionally, this hybridized approach would address ARB's concerns regarding program surety and negate the necessity to impose regulations on the Carl Moyer Program. CAPCOA invites ARB to form a joint workgroup which could draft and propose such a program for a subsequent round of the Carl Moyer Program guideline changes.

***Proposal for an Off-road VIP:*** CAPCOA is very pleased that ARB is proposing to expand vouchers as part of the Carl Moyer Program. However, local air districts operating their off-road equipment replacement programs believe that an off-road VIP would again compete with the equipment replacement program under the same State offering. Additionally, based on air districts' experience in operating the on-road VIP, CAPCOA believes the program as currently proposed will not be successful due to the complexity of the proposed funding tables and low dollar amount offered to grantees.

Again, similar to what is being proposed for on-road VIP, CAPCOA recommends that ARB takes the best portions of the voucher program and integrate them with the existing off-road equipment replacement program to produce a hybrid program. This hybrid would provide a structure that would fund off-road equipment at the same levels as current equipment replacement programs but would have the convenience of a voucher. Again, CAPCOA invites ARB to form a joint workgroup to draft and propose such a program for the next round of the Carl Moyer Program guideline changes.

Also, it must be noted that the ARB intends to use multi-district funding to launch this program. As an alternative proposal, CAPCOA would like to offer two suggestions on how multi-district funding could be better utilized. These are as follows:

*Multi-District Rail Projects:* Over the past number of years, many local air districts have been approached to fund rail projects that span multiple jurisdictions. In order to complete these projects, air districts have had to cobble together Carl Moyer funds and other local funds via multiple contracts in separate air districts. By applying multi-district funding to these type projects, large emissions benefits could be achieved with less administrative burden on grantees and air districts.

*Additional Funding of On-road Truck Projects:* Many air districts are currently struggling to meet demand from the trucking industry for retrofits and replacements. CAPCOA suggest that multi-district funding could be utilized to support existing on-road fleet modernization programs in order to meet this need. Additionally, this funding would help to achieve emissions reductions from on-road vehicles in lieu of the statewide regulatory measures recently amended by ARB.

***Funding for Drayage Trucks:*** As a result of ARB action in December 2010, CAPCOA believes that applicability of the drayage truck rule has been expanded to include a significant number of new heavy-duty trucks. This is based on the amended regulatory definition that considers any truck hauling cargo from a California port or intermodal facility that has not been "broken down," subject to the drayage truck regulation. This means many truckers that had been preparing to comply with the on-road regulation are now also subject to this drayage rule.

CAPCOA is concerned that many of these truckers have not been informed of this regulatory deadline that they are now subject to nor have they been allowed to compete for State grant on the basis of an impending regulatory deadline. Therefore, CAPCOA encourages ARB to make Carl Moyer (and therefore AB 923) funding available to operators these trucks. This can be accomplished by changing the Carl Moyer guidelines to allow the same surplus provisions that are currently in place for on-road vehicles to apply to "new"

drayage trucks (those not already in the drayage truck registry). CAPCOA would encourage ARB to make this change as part of the upcoming revision to its guidelines in April.

***Funding for Lawn and Garden Equipment:*** As part of the new proposed lawn and garden equipment program, ARB has set a cap of $145 per lawnmower replacement. This guideline section also includes a provision that does not allow air districts to match this funding with local monies. This restriction is based on ARB's determination that matching funds provided by an air district from local sources are "public funds" and that those funds need to be counted against a projects overall cost effectiveness. As the $145 cap represents the maximum cost-effectiveness for a lawnmower project under the new guidelines, no additional local funds may be added to incentivize the purchase of this equipment.

Many air districts believe that a $145 incentive will not be enough to encourage the public to retire their higher emitting lawnmower equipment. Therefore, CAPCOA encourages ARB to review the definition of "public funds" to ensure that this section has been correctly interpreted and so as not to impede emissions reductions achieved by programs currently in place in a number of local air districts.

***Guideline Update Process:*** During the March 3, 2011 Draft Moyer Guideline meeting between ARB and air district staff, ARB stated that they will initiate a new method of guideline updating. CAPCOA applauds ARB's stated goal of posting on-line versions of these Guidelines that is truly current at any given time.

CAPCOA believes this change is critical to streamlining the program, improving its integrity, and overcoming the following challenges of the previous method:

1. ***Complex Guidelines:*** Potential applicants, vendors, or other interested parties who access the "Current Guidelines" website may:
    a. Inadvertently miss the fact that there are advisories/mail-outs that alter the "Current Guidelines" thus limiting their understanding of current eligibility, etc.
    b. Be overwhelmed and or intimidated by the challenge of finding the applicable guideline conditions for their project within all of the advisories and mail-outs to the "Current Guidelines" and give up on completing an application.
2. ***Unnecessary Overhead:*** ARB and air districts have expended significant resources trying to understand the integration and implications of the various mail-outs into the Guidelines.
3. ***Administration Errors:*** Since the mail-outs are not currently integrated into the Guidelines, the resulting complexity provides ample opportunities for errors to occur in the program.

CAPCOA offers the following recommendations for ARB to consider as they implement the change to the on-line, current version of the Moyer and other incentive program Guidelines:

1. *Incorporate Mail-out changes directly into the Guidelines* using MS Word's Track Changes tool;
2. *Post two versions of the Current Guidelines on the program's Current Guidelines webpage* – a Red Line/Strike Out version and a clean version. In the Red Line version, tag a change to its respective Mail-out with a comment; and
3. *Create a Guideline Archive:* When new mail-outs happen, ARB archives these old Current Guideline files on the web so that there is an easy history of what the Guidelines said at any given time. The Mail-out that is associated with each archive should be referenced.

CAPCOA believes that these changes will help the incentive programs run more smoothly and would be happy to discuss its recommendations further with ARB staff.

CAPCOA wishes to thank the ARB for its willingness to consider these comments and believes that they will result in better State grants programs that ensure improved air quality for California residents. I look forward to your responses on this matter and please feel free to contact Damian Breen (415-749-5041, dbreen@baaqmd.gov) of the Bay Area Air Quality Management District who is the Committee chair of the Mobile Source and Grants Committee with any questions you may have.

Sincerely,

Thomas J. Christofk

Thomas J. Christofk
President