Air Resources Board

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TO: All Interested Parties

SUBJECT: CARL MOYER PROGRAM: CLARIFICATION ON FISCAL YEAR 2012-2013 GRANT PROVISIONS ON INFORMATION OWNERSHIP

This mail-out provides clarification to the agreements granting funds to Air Districts for use in the Carl Moyer Program Year 15 (Fiscal Year 2012-2013). The grant agreements include several new provisions to enable more consistency in agreements across multiple programs. Two air districts have inquired about the provisions on Ownership and Personally Identifiable Information in the Year 15 grant agreement. The provisions, the district concerns, and ARB staff's response are provided below.

*"**Ownership:** All information or data received or generated by the GRANTEE under this Grant Agreement shall become the property of ARB. No information or data received or generated under this Grant Agreement shall be released without ARB approval."*

The districts expressed the concern that this provision may impede the sharing of non-confidential information about its program for outreach purposes, and the use of data to build or alter local programs.

Air Resources Board (ARB) staff approves use and sharing of information or data obtained in the administration of the Carl Moyer Program that is not personal information. Personal information is specified in the next provision of the grant agreement, which also raised a district's concern.

*"**Personally Identifiable Information:** Information or data that personally identifies an individual or individuals is confidential in accordance with California Civil Code sections 1798, et seq. and other relevant State or Federal statutes and regulations. The GRANTEE shall safeguard all such information or data which comes into their possession under this Grant Agreement in perpetuity, and shall not release or publish any such information or data."*

A district expressed the concern that this provision may require changes in the handling of information in grant project files, which have historically been considered available to the public within the limitations of district public information request policy.

ARB staff believes that this provision should not require a general change in the handling of grant information. Note that the referenced provision of the California Civil Code includes a definition of personal information in section 1798.29:

"(g) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.
(2) Driver's license number or California Identification Card number.
(3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.
(4) Medical information.
(5) Health insurance information.

(h) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

Because districts do not collect the personal information listed in Civil Code 1798.29(g), ARB staff does not seek any specific change in district handling of Carl Moyer Program data, and concurs that data in project files and the CARL database should generally be treated as non-confidential, public information.

If you have questions or need further clarification, please contact Jennifer Kozumplik, Air Pollution Specialist, at (916) 445-3516 or via email at jkozumpl@arb.ca.gov.

Sincerely,

/s/

Annette Hebert, Chief
Mobile Source Control Division

cc: Jennifer Kozumplik
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