



Linda S. Adams  
Secretary for  
Environmental Protection

## Air Resources Board

Mary D. Nichols, Chairman  
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Arnold Schwarzenegger  
Governor

August 27, 2007

Mr. Jack Broadbent  
Executive Officer  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

Dear Mr. Broadbent:

Thank you for your response to the 2007 audit of the Bay Area Air Quality Management District's (BAAQMD) implementation of the Carl Moyer Program. This letter transmits the complete report of the Air Resources Board (ARB) 2007 audit of the BAAQMD's Carl Moyer Program and the Lower Emission School Bus Program, including the District's response, and ARB's comments on the BAAQMD's response to the audit. We believe additional comments from the ARB were necessary to clarify the required actions and timing of these actions.

I would also like to take this opportunity to provide information regarding the first on-site quarterly progress review. We anticipate conducting this review in October, and will work with your staff to determine the timing of this site visit. Since the BAAQMD has recently approved over \$21 million in new Carl Moyer Program projects, a review of these projects will be our main focus. As the projects account for nearly 60% of the total funds granted to the District throughout the 9 years of the Carl Moyer Program, this review is necessary to ensure the appropriate expenditure of State funds.

Thank you for your partnership in implementing the Carl Moyer Program and Lower-Emission School Bus Programs. We look forward to working cooperatively with you to ensure a successful program to improve air quality. Should you have questions or comments, please contact me at (916) 322-2892 or [tcackette@arb.ca.gov](mailto:tcackette@arb.ca.gov).

Sincerely,

Tom Cackette,  
Acting Executive Officer

Enclosures

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency

Mr. Jack Broadbent  
August 27, 2007  
Page 2

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Mr. Jack Broadbent  
August 27, 2007  
Page 3

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Sacramento, California 95814

Mr. Robert H. Cross, Chief  
Mobile Source Control Division

## **The Air Resources Board's Comments on the Bay Area Air Quality Management District's Response to the 2007 Carl Moyer Program Audit**

The Bay Area Air Quality Management District (BAAQMD) provided a response to the Air Resources Board (ARB) on the District's Carl Moyer Program. In this response, the BAAQMD committed to developing a comprehensive plan to address the recommendations and findings in the ARB's audit of the BAAQMD's Carl Moyer Program. The ARB is providing additional clarifying comments in this document to ensure that we provide the BAAQMD with all the necessary tools to mitigate the findings of the audit.

### **Clarifying Comments**

#### Quarterly On-site Progress Review

After reviewing the BAAQMD's response to the mitigation requirement for quarterly progress reviews, the ARB believes that we may have not been clear as to our intent. As the funding process for fiscal years 2005/2006 and 2006/2007 was in its early stages during our audit, we were unable to review these projects at that time. The current funding cycle allocates over three times the amount of funding as was dispersed during the years included in the audit. Therefore, the ARB believes that it is fiscally prudent to ensure that these funds were properly awarded as soon as possible by reviewing the progress of the current funding cycle. This can only be adequately performed during an on-site review. If the deficiencies in the District's program identified in the audit carried over into this recent funding process, it would be necessary to deem the District "at risk" placing funding for fiscal year 2007/2008 in jeopardy. Since the ARB starts this funding process at the end of the calendar year, time is of the essence in verifying the progress of the BAAQMD's program in its most recent funding cycle. To assist the BAAQMD in ensuring that no District funding is in jeopardy, we will begin these quarterly reviews shortly after September 30, 2007.

#### Misspent Local Match Funds Identified in the Audit by the ARB

The audit found that the eligibility of projects used for match was the most significant issue of concern regarding this finding. Two actions are required to remediate this finding. We may have been unclear in defining the distinction between these two separate actions. The first of these actions is the identification of replacement projects for those found ineligible by the ARB during the audit. This is an integral part of the District's remedial action. The ARB believes that the most straightforward method of repayment to the program—described in the audit report—is to substitute the ineligible projects with alternate, eligible projects. This would consist primarily of identification of replacement projects, along with a timeline, and a description of the steps taken by the District to ensure that these projects were eligible. Information provided by the BAAQMD indicates that a significant pool of projects eligible for use as local match currently exists. To minimize the impact on the District's resources in

completing this effort by the September 30, 2007 deadline, the ARB offers this approach and will assist the BAAQMD as needed.

The second, distinct action is an eligibility review of all projects in completed Program years, both Carl Moyer funded and those used to meet the local match requirement, by September 30, 2007. The projects included in the ARB audit do not need to be included in this review. We agree with the BAAQMD that it would not be reasonable to require the identification of replacement projects by September 30, 2007, for additional ineligible projects found during this review by the District. The ARB is only requiring the review, not the mitigation, of previous projects by September 30, 2007. For any additional ineligible projects, the ARB will allow the funds to be considered already "obligated and invoiced" and returned to the District per the 2005 Carl Moyer Program guidelines (Part I, II-12). Therefore, the funds would need to be expended with the current year cycle of fiscal year 2006/2007. This provides the BAAQMD until June 30, 2009 to replace the emission reductions from the ineligible projects, although we encourage more expedient action. If these funds are not expended in the legally required two year limit, no additional disbursements can be made to the BAAQMD.

Past Project Review and Future Carl Moyer Program Implementation Plan:

The ARB believes that there may be confusion as to what is required to correct the audit findings. We wish to clarify that two separate actions are required to correct the audit finding. First, a forward thinking plan for ensuring that the errors found in the audit do not continue to occur would describe methods that address future actions by the BAAQMD. The second remedial action addresses past actions by the BAAQMD. The BAAQMD must review prior grant awards using the applicable historical guidelines, correct errors found during this review, and provide accurate reports to the ARB per program requirements. These two separate items are due September 30, 2007.

**Mitigation Deliverables**

In summary, we are providing the following list of deliverables required to mitigate the findings of the audit:

By September 30, 2007

- Comprehensive Plan to Minimize Future Errors In:
  - Use of emission factors
  - Cost effectiveness calculations
  - Reporting
  - Eligibility determination
  - Program operation
  
- Eligibility review of all Carl Moyer funded and local match projects from completed years of the Program (excludes those reviewed by ARB during audit)

- If additional ineligible projects are found, the District must report quarterly on its' progress in replacing these funds
- Identification of replacement projects for the five match projects found to be ineligible by the ARB during the audit and a timetable for completing that replacement
- Plan to ensure that funding is expended within the legally required deadline
- Updated cost-effectiveness calculations for all projects, both Carl Moyer funded and local match, for all completed Program years

June 30, 2009

- Replacement of remaining ineligible projects identified by BAAQMD during required review