



August 9, 2007

Tom Cackette
Acting Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 95812

RE: San Joaquin Valley APCD Response to
Carl Moyer Memorial Air Quality Standards Attainment
Program and Lower-Emission School Bus Program
Audit Report

Dear Mr. Cackette,

The San Joaquin Valley Air Pollution Control District (SJVAPCD) wishes to thank you and your staff for the thorough and comprehensive audit report of the SJVAPCD's implementation of the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) and Lower-Emission School Bus Program. As the name indicates, the Carl Moyer Program was developed as an *attainment* program; a way to assist air districts in non-attainment areas attain federal and state air quality standards. This program and other incentive programs are integral strategies outlined in the SJVAPCD's recently adopted 2007 Ozone Plan.

We appreciate your staff's flexibility and willingness to engage in meaningful dialogue in order to fully comprehend the dynamics of the SJVAPCD's grant programs. Additionally, we want to thank you for recognizing and highlighting our commitment and dedication to running an efficient, effective and robust program. The SJVAPCD strives to provide the highest quality customer service across all of our programs, while maintaining the utmost integrity and efficiency.

We welcome this opportunity to gain important feedback regarding our implementation of the Carl Moyer Program and Lower Emission School Bus Program and value the recommendations that have been put forth. Periodic programmatic evaluations such as this are important tools that we use to ensure continuous improvement in our operation of these important emission reduction strategies.

The following is the SJVAPCD's response and written plan of action in reference to the audit findings:

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Executive Director/Air Pollution Control Officer

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Carl Moyer Program

Finding 1: Inaccurate reporting to the ARB (2 Issues)

Issue 1: Reporting of Required Engine Usage

- **SJVAPCD Response:**

Staff has conferred with SJVAPCD counsel to determine the usage percentage that is legally enforceable by the SJVAPCD based on existing contracts. According to SJVAPCD counsel, the usage percentage contained in Exhibit B of SJVAPCD contract templates simply clarifies the minimum usage stated within the "General Conditions" section of the contract, with Exhibit B being the more specific statement of intent. Even if there is ambiguity between the usage statement in the "General Conditions" section of the contract and Exhibit B, under accepted principles of contract law, the extrinsic evidence in the project file shows the intent of the contracting parties. The SJVAPCD counsel is of the opinion that the usage percentage in Exhibit B is fully binding on the parties and enforceable in a court of law. However, to eliminate any perceived ambiguity in the contract templates, the percentage usage statement within the "General Conditions" section of SJVAPCD contract templates has been removed. Copies of the updated contract templates have been provided to ARB.

The SJVAPCD is actively working with the EPA to ensure that emission reductions from the Carl Moyer Program and other SJVAPCD grant programs meet EPA criteria (surplus, quantifiable, enforceable and permanent for the life of the project) and requirements for SIP creditability for all incentive-based emission reductions used by the SJVAPCD to meet Federal Clean Air Act Requirements. Essentially, SIP credit will be based on *actual* emission reductions; not merely predicted (contracted) emission reductions. Towards this end, the SJVAPCD has committed to several strategies aimed at ensuring that emission reductions meet EPA criteria for SIP creditability.

As part of the SJVAPCD's 2007 Ozone Plan, the SJVAPCD resolved, in Governing Board Resolution No. 07-04-11b, the following:

- 5. The District will prepare and provide annual reports to EPA by March 31st of each calendar year for the preceding calendar year after at least one public hearing allowing for public review and input. At a minimum, the annual reports will describe the amount of incentive-based funds spent, verify the amount of actual emission reductions versus predicted emission reductions, discuss any quantification or surplus issues that have arisen during the reporting period and how they were resolved, summarize any key issues from field inspections and audits, and include or reference publicly available electronic information or records for each grant issued.*

7. *The District will use information from annual reports and field inspections to track actual emissions reductions from incentive-based programs on a real-time basis, and will provide quality-assured data on incentive-based emission reductions to the public on a continuous basis via website posting. These data will also be summarized in the annual reports. The District will develop and implement a new data collection and management system for the real-time tracking and evaluation of emission reductions from incentive-based programs.*

The SJVAPCD will continue to work with EPA to further refine the process for reporting and validating grant program emission reductions submitted for SIP creditability.

Issue 2: Incorrect Emission Factors

- **SJVAPCD Response:**

The SJVAPCD has recently submitted updated annual reports for the affected fiscal years during the annual report process in late June. These annual reports include the most up to date corrected emission reduction information from our database. However, staff will contact our liaison within 30 days to ensure that we have provided all of the required information. If necessary, we will work with our liaison to provide any additional information that is required.

Finding 2 and Finding 3 have been fully mitigated and require no further action from the SJVAPCD.

Lower Emission School Bus Program

Finding 1: Lack of Language in the Funding Agreement Specifying the ARB's Right to Audit

- **SJVAPCD Response:**

The SJVAPCD will include all minimum requirements for funding agreements outlined in the Lower Emission School Bus Program Guidelines.

Finding 2: Lack of Language on the Purchase Order Specifying Delivery Deadline and the Performance Penalty Statement

- **SJVAPCD Response:**

The SJVAPCD will ensure that school districts include the delivery deadline and the performance penalty statement in their purchase orders with vendors as required by the Lower Emission School Bus Program Guidelines.

Finding 3: Lack of Documentation that the school district notified the San Joaquin Valley APCD that school buses have been ordered and delivered

- **SJVAPCD Response:**

The SJVAPCD will require the purchase order to be submitted by the school district, along with the delivery deadline for the school bus and the performance penalty language as part of their participation in the Lower Emission School Bus Program.

Again, I appreciate this opportunity to gain important feedback regarding our implementation of these important emission reduction strategies. If you have any questions, please do not hesitate to call me at (559) 230-6000.

Sincerely,



Seyed Sadredin
Executive Director/APCO