

ATTACHMENT 3 - DRAFT REVISED LANGUAGE FOR 2008 CARL MOYER PROGRAM (CMP) GUIDELINES

The proposed language changes below are to facilitate discussion at the January public workshop regarding upcoming revisions to the Carl Moyer Program. This document is printed in a style to indicate changes from the existing provisions and from the changes already proposed at the December 2009 Workshops. All existing language is indicated by plain type. All additions to language that were proposed at the December Workshops are indicated by underlined text. All new proposed changes are indicated by double-underlined text. All deletions to language are indicated by ~~strikeout~~. Only those sections containing the suggested modifications from the existing language are included. All other portions remain unchanged and are indicated by the symbol “* * * * *” for reference.

The 2008 CMP Guidelines language will be revised as follows:

OFF-ROAD PROGRAM PROPOSED CHANGES

Chapters 5 and 7: Off-Road Compression Ignition Equipment and Off-Road Equipment Replacement
Page V-8. IV(b)(10). Repower. and Page VII-8. IV(c)(10). Replacement Equipment Requirements.

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(10) ARB is providing ~~limited flexibility for one year after Board approval of these Guidelines that allows the applicant to opt-out of the default retrofit requirement.~~ for equipment for which the Board has not approved an in-use regulation not subject to an approved in-use regulation. Projects that are subject to an in-use regulation and have a retrofit waiver signed prior to March 25, 2010 may proceed without a retrofit provided the district commits to the project no later than June 25, 2010.

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Chapter 5: Off-Road Compression Ignition Equipment
Page V-5. IV(a). Project Criteria.

(a) General Off-Road CI Equipment Project Criteria

- (1) Maximum project life:
- | | |
|---|----------|
| (A) Repower Only (no retrofit) | 7 years |
| (B) Repower + retrofit | 5 years |
| (C) Retrofit | 5 years |
| (D) <u>Farm Agricultural</u> equipment (all projects) | 10 years |

A longer project life may receive case-by-case approval if applicants provide justifying documentation. The maximum project life does not consider regulatory requirements and may be shorter.

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Chapter 6: Off-Road Large-Spark Ignition Equipment
Page VI-3. IV(a). Project Criteria.

(a) General Off-Road LSI Equipment Project Criteria

- (1) Maximum project life:
- | | |
|---|----------|
| (A) New electric purchase | 10 years |
| (B) Retrofit | 5 years |
| (C) <u>Farm Agricultural</u> equipment (all projects) | 10 years |

A longer project life may receive case-by-case approval if applicants provide justifying documentation. The maximum project life does not consider regulatory requirements and may be shorter.

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Chapter 7: Off-Road Equipment Replacement
Page VII-4. IV(a)(3). Project Criteria.

- (3) Project Life
- (A) The maximum project life for non-farm agricultural off-road CI equipment replacement projects is five years with the following exceptions:
1. Three years: excavators, skid steer loaders, and rough terrain forklifts as defined in Section VI of this chapter.
 2. Seven years: crawler tractors, off-highway tractors, rubber tired dozers, and workover rigs as defined in Section VI of this chapter.
- (B) The maximum project life for all off-road non-farm agricultural LSI equipment replacement projects is three years.

- (C) The maximum project life for replacement of an LSI forklift with a zero emission forklift is ten years.
- (D) The maximum project life for all off-road farm agricultural equipment replacement projects is 10 years.
- (DE) A longer project may receive case-by-case approval if applicants provide justifying documentation. The maximum project life does not consider regulatory requirements and may be shorter.

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Chapter 10: Agricultural Equipment
Page X-4. IV(a). Project Criteria.

(a) General Agricultural Sources Project Criteria

- (1) The maximum project life for agricultural use engine projects is as follows:
 - (A) Diesel engines 7 years
 - (B) Spark-ignited engines 7 years
 - (C) Electric motors 10 years
 - (D) Portable Farm Agricultural equipment (all projects) 10 years

A longer project life may receive case-by-case approval if applicants provide justifying documentation. The maximum project life does not consider regulatory requirements and may be shorter.

- (2) Projects must have a minimum project life of three years, with the exception of engines subject to the agricultural engine requirements in the Stationary Diesel Engine ATCM. In accordance with SBX2 3, portable farm equipment agricultural engines may be eligible for funding up to the compliance date of an applicable in-use rule. In order to be eligible, portable equipment engine projects must be under fully executed contract, and must be installed and in operation prior to the applicable compliance date.

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Chapters 5, 6, 7 and 10 : Off-Road Compression Ignition Equipment, Off-Road Large-Spark Ignition Equipment, Off--Road Equipment Replacement, and Agricultural Sources

Page V-11. VI. Definitions, Page VI-7. VI. Definitions, Page VII-17.

VI. Definitions, Page X-9, VI. Definitions.

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Farm equipment or vehicle: Any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm.

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ADMINISTRATION PROPOSED CHANGES

Part III, Program Administration. Part III: Air District-Applicant Interactions,

Page 30. Section 26. Minimum Project Application Requirements.

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(c) Information regarding required previous years of existing engine usage documentation (miles traveled, hours operated, or fuel consumed per year) may be found in the applicable source category chapter must be included in the project application. The usage amount included in the project application must be used to evaluate project cost-effectiveness and maximum grant award. For projects for which historical usage data meet the criteria outlined in Section 29(f), minimum annual usage is not required to be specified in the contract.

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Page 35. Section 29. Minimum Contract Requirements.

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(f) Project Specifications. All contracts shall include detailed information on the baseline and new vehicles, equipment, and/or engines that were used in the project cost-effectiveness calculation. This requirement may be met by including

the project application as an attachment to the contract as long as the application is accurate and complete. A program-eligible new vehicle, piece of equipment and/or engine that is verified or certified to achieve greater reductions than the original project new vehicle, piece of equipment and/or engine may be substituted with prior approval of the district. All contracts shall specify the amount the engine is to operate within California (or the district) each year based on hours, miles, or fuel usage. Projects for which at least twenty-four (24) months of complete historical usage are documented and verified by the district, minimum annual usage is not required to be specified in the contract. Such historical usage shall be documented for at least the twenty-four (24) consecutive months immediately prior to the application date. The types of acceptable documentation for establishing historical annual usage will be clearly defined in each district's policies and procedures manual and will be subject to ARB approval at ARB's request. Additional forms of documentation to verify historical annual usage that are not included in a district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.

Contracts must also contain a statement that the project complies with the Carl Moyer Program Guidelines and criteria and shall meet all program requirements for the full contract term.

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Page 43. Section 33. Grantee Annual Reporting.

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(b) The annual report shall be in a format prescribed by the district and shall contain all of the following information: ^{See Best Practice #34}

- (1) Owner's name, address, and telephone number.
- (2) Information needed to uniquely identify the project engine, vehicle, or equipment, such as engine make, model, horsepower, and serial number.
- (3) Estimated percentage of time the vehicle or equipment has been operated in California since the previous annual report.
- (4) Readings of the usage meter (hour meter, odometer, EMU, etc.). If usage is more than 30 percent above or below that identified in the project application, the grantee shall describe any conditions (such as weather, permits, major maintenance, etc...) that significantly impacted project usage. In instances where annual usage is significantly lower than the contracted level due to unforeseen

circumstances beyond the control of the engine owner, the owner may request a waiver from the district per Section 33(d)(4).

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(d) If the project's usage does not average out to within 70 percent of the annual usage specified in the contract over at least a 3 year period (i.e. no more than 30 percent below the stated usage), the district shall take appropriate action to ensure the contracted emission reductions are realized. Activity for agricultural irrigation pump projects with a one-year project life must be within 70 percent of that stated in the project contract. Options for addressing actual usage that is more than 30 percent below that stated in the contract include, but are not limited to:

- (1) Extending of the project contract for additional years (if this doesn't overlap with an applicable rule implementation requirement).
- (2) Returning of project funds in proportion to the loss in emission reductions.
- (3) Transferring ownership of the vehicle or equipment to an entity committed to comply with the contract terms.
- (4) Granting a waiver, without penalty, to the engine owner for a defined time period if the owner demonstrates to the district Air Pollution Control Officer's satisfaction that the equipment was significantly underutilized due to unforeseen conditions beyond the owner's control. The engine owner must also demonstrate that the equipment for which a waiver is being requested is not being underutilized in favor of operating other, higher-polluting equipment.

(A) The conditions under which a waiver may be issued include, but are not limited to, the following:

- (i) A decrease in usage due to the economic recession.
- (ii) Unforeseen fluctuations in water allocations or pumping needs for agricultural irrigation pump engines.
- (iii) Significant land fallowing for off-road agricultural equipment and agricultural irrigation pump engines.

(B) To be considered for a waiver, the engine owner must provide a written request to the district along with

documentation that substantiates the need for the waiver and verifies that higher-polluting equipment is not consequently receiving more use. The types of acceptable documentation will be clearly defined and incorporated into each district's policies and procedures manual, and will be subject to ARB approval at ARB's request. Such documentation may include, but is not limited to, documentation from appropriate governmental agencies regarding surface water deliveries and fallow land, relevant logs regarding the amount of groundwater pumped in lieu of surface water deliveries, agricultural pump engine registration/permit information, records that show that idled vehicles or equipment are still owned by the participant, relevant information from the ARB's Diesel Off-Road On-Line Reporting System (DOORS), or other pertinent records. Additional forms of documentation that are not included in a district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.

In granting a waiver of the minimum annual usage requirement, the district shall specify the length of time for which the waiver is valid. The waiver will not excuse the participant from any contract requirement to provide annual usage reports.

The district's findings must be documented in writing, signed by the Air Pollution Control Officer, and be included in the project files. Appropriate notations to indicate that a waiver has been granted shall also be included in the "comments" field of the CARL database for each relevant project, if applicable.

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Page 44. Section 34. District Audit of Projects.

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- (b) Districts shall conduct audits for the following projects at the end of their contract term as follows:
 - (1) At least five percent (or a statistically significant number, whichever is less) of projects, and
 - (2) All of the projects whose owners fail to submit their final project annual report as per Section 33 of this chapter, and

- (3) All of the projects that were found to be greater than 30 percent below the contracted activity level during any audit conducted as per Section 34(a), above, except those projects that received a waiver per Section 33(d)(4) are not required to be audited per this paragraph.

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**Part III, Program Administration. Part II: ARB-Air District Interactions,
Part A: District Solicitation and Receipt of Program Funds
Page 4. Section 5. District Applications for Program Funding.**

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- (4) Policies and Procedures Manual: Districts must submit to ARB either: 1) a copy of their current Carl Moyer Program Policies and Procedures Manual for approval, or, once approved; 2) a statement signed by a district representative confirming that an updated version of their Policies and Procedures Manual is maintained at the district office; ~~to ARB in order to be eligible for continued funding in order to be eligible for continued funding.~~ The manual must describe the district's policies, procedures, and organizational structure for implementing the Carl Moyer Program. ~~The submitted manual shall apply to the funding cycle for which the district is applying. Districts may request additional time to complete their Policies and Procedures Manual as part of their application; however, a complete Policies and Procedures Manual must be submitted to and approved by ARB before a district is eligible to receive its initial funding disbursement. The Policies and Procedures Manual must include, at a minimum, the district's policies and procedures for following program components:~~

- (A) Program structure and organization, including coordination with ARB
- (B) Solicitation of funds from ARB
- (C) Project solicitation, evaluation, and selection (including schedule for program implementation)
- (D) Environmental justice/at-risk communities (if applicable)
- (E) State and match fund obligation and expenditure
- (F) Fiscal practices and procedures
- (G) Light duty vehicle/fleet modernization projects (if applicable)
- (H) Pre- and post-inspections
- (I) Project reports
- (J) Contract components and contracting with applicants
- (K) Invoice review, approval, and payment protocols

- (L) District audits of projects
- (M) Details regarding program components identified in the following sections of this chapter: 13(d), 14(c), 18(a), 27(l), 30(b), 30(e), 30(f), 31(a), 31(c), 33(c), and 35(c).

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Part III, Program Administration. Part III: AIR DISTRICT-APPLICANT INTERACTIONS.

Page 31. Section 27(d). Application Evaluation and Project Selection.

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(d) Districts must have a system for tracking applications. CARL may be used to satisfy this requirement if the district enters the data from all applications received into this database, whether the application is provided funding or not. At a minimum, the tracking system shall include the minimum information needed to readily identify the project applicant, project type, and project eligibility, and to calculate project cost-effectiveness and maximum grant award in CARL. Minimum allocation districts are not required to maintain an application tracking system. Any other implementing air district receiving less than one-half percent of the current fiscal year total Carl Moyer Program Funds, or \$450,000, whichever is less, is also exempt from this requirement.

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