

## Chapter 2

### ADMINISTRATION OF THE CARL MOYER PROGRAM

**Note for Reviewers:** This preliminary draft language includes commentary that describes the intent of some paragraphs. This commentary is noted in bold and starts with the word “Below:”. The commentary in bold is a guide for reviewers and will be removed in later drafts. Chapter language that you might want to focus on is also noted in italics. Language should reflect general consensus from Admin Work Group meetings to date (as noted in meeting e-mail summaries).

#### **PART I. BACKGROUND AND DEFINITIONS**

##### **(Section 1) Background**

This chapter formalizes the minimum administrative requirements that ARB and local air districts must follow to implement the Carl Moyer Program. The chapter outlines ARB's responsibility for overall program administration and oversight. It also provides the minimum administrative requirements that districts must follow to ensure the program achieves SIP-creditable emission reductions. Appendix H describes Carl Moyer Program “Best Practices”, which go beyond this chapter's minimum program requirements and describe how districts can run more effective and efficient programs. For Year 10, districts may choose to use either the 2005 Guidelines or the 2008 Guidelines and the relevant Program Advisories. However, districts must use the same Guidelines for all of one fiscal year's funding. For Year 11 and subsequent years, districts must use the 2008 Guidelines and subsequent Program Advisories.

##### **(Section 2) Definitions**

**Carl Moyer Program Funds.** Carl Moyer Program funds include state Carl Moyer Program funds awarded by ARB (as provided by statute, and including ), interest earned on these state funds, local funds used as program match funding (as per H & SC § 44287), and air district \$2 motor vehicle fees (as per AB 923) committed to Carl Moyer Program projects.

**Clean Air Reporting Log (CARL).** The Carl Moyer Program on-line project evaluation and tracking system administered by ARB.

**Commitment of Funds.** Funds are considered committed to a project when a specific Carl Moyer Program project eligible for those funds have been approved by the Board or by a district APCO or other delegated authority.

**Contract.** A legally binding and enforceable agreement between an air district and a project applicant to complete a Carl Moyer Program project by a specific date.

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**Earned Interest.** Interest generated from State Carl Moyer Program funds provided to air districts and held in interest bearing accounts.

**Expend.** The payment of Carl Moyer Program funds on a project invoice for an eligible Carl Moyer Program project, for the purposes of meeting the requirements of H & SC §44287(k).

**Fully Executed Contract.** A Carl Moyer Program contract signed by the district Air Pollution Control Officer (APCO) or other designated representative and the project vehicle, engine, or equipment owner or legal representative to make the contract legally binding.

**Good Standing.** A district which has submitted the most recent required annual and final reports by the reporting deadline and whose reports demonstrate full contract execution and expenditure of funds as required by these guidelines. A district must also meet all applicable program requirements and fully address any ARB audit findings in a timely manner to be considered “in good standing”.

**Probation.** A status potentially imposed upon an air district by ARB for systemic non-conformance with Carl Moyer Program requirements. See Section 23 of this chapter for details.

**Rural District Assistance Program.** An element of the Carl Moyer Program in which districts pool their project funds to streamline project outreach and solicitation.

**State Carl Moyer Program Funds.** State Carl Moyer Program funds include state Carl Moyer Program funds awarded by ARB (as provided by statute) and interest earned on these state funds.

## **PART II: ARB-AIR DISTRICT INTERACTIONS**

### **Part II-A: District Solicitation and Receipt of Program Funds**

**Sections 2 through 9 are held for issues CAPCOA has asked to review – obligation and expenditure of previous year’s funds in order to receive the next year’s funding allocation, and protocols for returning Moyer funds that aren’t spent within two years. CAPCOA has a copy of working draft language for these sections.**

**Part II-C: Match Funding**

**(Section 10) Match Fund Formula**

(a) Districts participating in the Carl Moyer Program are required to provide \$1 in match funding for every \$2 of state Carl Moyer Program funding awarded by ARB, with a cap on statewide match funds at a total of \$12 million. The formula provided below is used to determine each district's required matching funds.

$$\frac{\text{Each district's annual allocation} * \$12,000,000}{\text{Total allocation to all districts}}$$

(b) A district receiving the minimum grant award of \$200,000 may request a waiver of the match fund requirement if the district can demonstrate appropriate staff commitment for program implementation and administration or if the district elects to donate its funding allocation to the Rural District Assistance Program.

**(Section 11) Match Funds Sources**

(a) District match funds must be under the district's fiduciary control. Funds allocated to an air district by the State of California, such as Lower Emission School Bus Program Funds or State bond funds, may not be used as Carl Moyer Program match funding. Districts may meet their matching fund requirement on an overall program basis, rather than a project-by-project basis.

**Below: Description of which DMV fees must be spent on motor vehicle projects to count for match.**

*(b) Motor vehicle fees, including the AB 2766 - \$4 Motor Vehicle Registration Fee (\$4 MV Fee), and the AB 923 - \$2 Motor Vehicle Fee (\$2 MV Fee) have more restrictive requirements than other locally generated funds regarding what types of projects may count towards the Carl Moyer Program match requirement.*

- i. Motor Vehicle Fees: The \$4 MV Fee and \$2 MV Fee must fund motor vehicle projects that meet the Carl Moyer Program criteria in order to be counted towards the district match requirement. Eligibility of motor vehicle fees to be used as Carl Moyer Program match funds are as follows:*
  - A. Motor vehicle fees may not count towards meeting the Carl Moyer program match requirement if they fund locomotive, marine vessel, agricultural irrigation pump, or other non-motor vehicle project (H & SC §44287(j)). Table II-1 identifies what source categories are considered motor vehicles for the purposes of match funding.*
  - B. Motor vehicle fees that pay for incremental fuel costs or infrastructure costs consistent with Sections 12(a)(ii) and (iii) of this chapter may be used as*

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*match funds. Fuel and infrastructure must be dedicated to a Carl Moyer Program project.*

- C. Motor vehicle fees that pay for light-duty accelerated vehicle retirement and repair programs that meet all Carl Moyer program criteria may be used as match funds.*
- D. Motor vehicle fees used to fund Lower Emission School Bus Program projects may count towards the district match requirement if they meet the Carl Moyer Program cost-effectiveness threshold of \$16,000 per weighted ton of pollutants reduced. All air district or state incentive funds used to help pay for a school bus project must be included in this cost-effectiveness calculation.*
- E. Motor vehicle fees used to pay for Agricultural Assistance Program projects may not be counted towards the Carl Moyer program match requirement (H & SC §44287(k)).*

**Table II-1:  
Eligibility of Motor Vehicle Fee Projects as District Match**

<b>Eligible</b>	<b>Not Eligible</b>
Automobiles	Locomotives
Trucks	Marine vessels
Buses*	Stationary agricultural engines
Vans	Aircraft
Road graders	Refrigeration units
Earth movers	Auxiliary generators
Tractors	Welding machines
Golf carts	Pleasure craft
Motorcycles	Cranes
Self-propelled harvesters	
Forklifts	
Sweepers	

\* Lower Emission School Bus Program projects must meet Carl Moyer Program cost-effectiveness and other criteria to count as match.

- ii. **Other Locally-Generated Funds:** Locally generated funds which are not motor vehicle fees may be counted as match if they fund projects that meet all Carl Moyer Program requirements and criteria, including those project types described in Sections 12(a)(i), (ii), and (iii).

(c) Interest earned on Carl Moyer Program funds received from ARB shall not be used for match funding.

(d) Funding provided by a port authority for a qualifying project or for infrastructure that serves a qualifying project may count toward the district's Carl Moyer Program matching fund requirement. No more than 30 percent of a district's match obligation may come from a port authority. Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.

(e) Private companies are not allowed to provide match funding to satisfy the districts' match funding obligation.

**(Section 12) Eligible Types of Match Projects**

(a) The types of projects that can be funded to meet the match funding requirement include:

- i. Carl Moyer Program Projects: Motor vehicle fees used as match funds may be used to pay for any motor vehicle project which meets all Carl Moyer Program criteria and requirements as specified in Section 11(b) of this chapter. Non-motor vehicle fees used as match funds may pay for both motor vehicle and non-motor vehicle projects that meet all Carl Moyer Program criteria.
- ii. Incremental Fuel Cost: Match funds may be used to pay for the incremental cost of liquid or gaseous fuel and electricity, other than standard gasoline or diesel, which is integral to a specific Carl Moyer Program qualifying project.
- iii. Infrastructure Projects: Match funds may be used for electric and alternative fuel infrastructure projects that serve specific Carl Moyer Program qualifying projects.
- iv. In-Kind Contributions: Up to 15 percent of a district's match requirement may be fulfilled through in-kind contributions. Districts may use any funds under their budget authority -- except for outreach funds districts receive from ARB as part of their annual program allocation and interest earned on Carl Moyer Program funds -- to cover their in-kind contribution. When using these other district funds for in-kind match, districts must follow all relevant guidelines and other legal requirements for expending those other funds. In-kind contributions must be made in the same fiscal year as the funds being matched, must be proportional to the time and amount dedicated to Carl Moyer Program activities, and shall not be carried over to other years. District in-kind match funds must be spent on program administration and outreach as described in Section 14, and meet the documentation requirements identified in Section 14.

(b) Districts that are found to have funded ineligible projects shall be required to substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB. Districts that are found to have used ineligible funding sources for match funding shall be required to substitute eligible projects equal to the amount found ineligible.

**Part II-D: Fiscal Issues**

**(Section 13) Earned Interest**

Interest earned on Carl Moyer Program funds must be reported to ARB. The interest income must be used to fund projects that meet the current Carl Moyer Program Guidelines.

(a) Calculation of Earned Interest. All districts must maintain accounting records (e.g. general ledger) that track interest earned and expenditures on Carl Moyer Program funds.

- i. If a district maintains its Carl Moyer Program funds in a non-segregated account, the district must maintain accounting records that segregate the interest earned by the Carl Moyer Program funds by tracking the revenue, expenditures, and interest earned separately from other district programs.
- ii. The calculation of interest must be based on an average daily balance or some other reasonable and demonstrable method of allocating the proceeds from the fund back into the program.
- iii. Earned interest must be tracked such that it is separately identifiable from other program funds.
- iv. Each district's methodology for calculating Carl Moyer Program interest must be consistent with how it calculates earned interest for its other fiscal programs.

(b) Expenditures for Program Administration. A district shall follow the following minimum requirements in expending earned interest on program administration:

- i. A district that segregates its Carl Moyer Program funds into project and program administration accounts must use all interest earned in the project account to fund eligible Carl Moyer Program projects, and may use interest earned in the program administration account for either program administration or Carl Moyer Program projects.
- ii. A district that earns interest collectively on both project and administration funding can use up to five percent of earned interest on administrative expenses if the district has one million or more inhabitants and up to ten percent of earned interest on administrative expenses if the district has less than one million inhabitants.

(c) Expenditure of Small Sums. Residual amounts of earned interest may also be combined with Carl Moyer Program and/or earned interest from previous years to fund a single project. When combining funds from different fiscal years, the district must use the Guidelines in effect at the time of the obligation.

(d) Expenditure and Reporting Timeline. Districts typically track and report on earned interest in one of two ways -- the Fiscal Year Method or the Funding Cycle Method, as illustrated in Table II-2. Using the Fiscal Year Method, Carl Moyer Program Year X earned interest is that interest earned on all Carl Moyer Program funds in the fiscal year

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that begins in Year X (See Table II-2). For the Funding Cycle Method, Year X earned interest is that interest earned on Year X Carl Moyer Program funds over the approximately two year period the district has to expend the funds. Whatever the method used to accrue and track earned interest, interest on Year X funds must be expended by the expenditure deadline for Year 'X+2' funds (i.e. June 30<sup>th</sup> four years after Year X funding was awarded by ARB). Year X earned interest shall be reported with Year 'X+2' funds, consistent with the schedule identified in Table II-2. Table II-3 identifies the expenditure deadlines for interest accrued through program Year 12.

**Table II-2: Interest Accrual, Expenditure, and Reporting Timelines for Two Commonly Used Interest Generation Methods**

	Year X	Year X+1	Year X+2	Year X+3	Year X+4
Jan					
Feb					
Mar					
Apr					
May					
June					Invoices Paid
July					
Aug					Final Report
Sep					
Oct					
Nov					
Dec					

Assumes Year X funds received from ARB on April 1 of first year.

- Fiscal Year Method (interest earned on all Carl Moyer Program funds)
- Funding Cycle Method (interest earned on Year X Carl Moyer Program funds)

**Table II-3: Expenditure Deadlines for Earned Interest**

Funding Year	Expenditure Deadline
Years 1-7	June 30, 2009
Year 8	June 30, 2010
Year 9	June 30, 2011
Year 10	June 30, 2012
Year 11	June 30, 2013
Year 12	June 30, 2014

Districts must also report on interest expended as of June 30, 2008 with their Year 8 Final Report (due August 31, 2008). There is no earned interest expenditure requirement or deadline for this report.

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(e) Reporting Requirements. The districts option shall indicate the amount of interest earned on Annual and Final Reports, consistent with this schedule selected for tracking of funds.

- i. Districts must report on projects funded with earned interest the same way districts report on Carl Moyer Program-funded projects – by entering projects in the CARL and in their Annual and Final Reports.
- ii. Documentation of earned interest generation and expenditure must be retained for a minimum of the project life plus two years, contract term plus two years, or date of final project invoice payment plus three years, whichever is longer.

### **(Section 14) Program Administration and Outreach Funding**

(a) District Funding. Air districts with one million or more inhabitants may use up to five percent of their Carl Moyer Program funds on program outreach and administration, while districts with under one million inhabitants may use up to ten percent of their Carl Moyer program funds.

(b) Allowable Costs. Administrative funds shall only be used for costs associated with the program implementation related tasks outlined in these guidelines and must be documented by the district. Administrative funds shall be used for: district staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs, such as general administrative services, office space, and telephone services.

**Below: Documentation and tracking of admin funds has been recommended by DoF. Having districts describe their practices in the P&Ps may be more flexible than DoF would like, but this seems like a practical approach since districts have differing practices.**

(c) Required Documentation. *Districts must maintain documentation of Carl Moyer Program funds used for administration and outreach. Districts must keep the following documentation:*

- i. *Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation must be used to verify actual hours or percent of time staff devoted to Carl Moyer Program administration and outreach.*
- ii. *Consultant fees must be documented with copies of the consultant contract and invoices.*
- iii. *Printing, mailing, and travel expenses must be documented with receipts and/or invoices.*
- iv. *If travel and per diem expenses are used to document program administrative costs, allowable travel costs and per diem rates must be described in the district's Policies and Procedures Manual. District travel cost criteria must be consistent with the district's written travel policies for other district programs.*

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*Alternatively, if these definitions are included in local administrative code or other document, the district may cite the document that governs its practices in the Policies and Procedures Manual.*

- v. *Indirect cost calculation methodologies, if used to determine indirect costs of program administration, must be fully described or referenced in the district's Policies and Procedures Manual. Districts must maintain documentation for all costs referenced in the indirect cost calculation formula.*

(d) The above documentation, records, and referenced materials must be made available for review during ARB or other State monitoring visits and audits. These records must be retained for a minimum of two years after submittal of the Final Report for that funding cycle to ARB.

**(e) District Carl Moyer Program staff shall meet with the appropriate district fiscal staff at least twice per year to reconcile program funds. (DoF Recommendation)**

(f) Districts that charge unallowable costs for program administration or outreach shall be required to substitute eligible administration and outreach costs equal to the dollar amount found ineligible or return the unallowable cost to the ARB.

### **Part II-E: Reporting and Progress Tracking**

#### **(Section 15) Commitment of Project Funds**

**Below: List of how to show funds are committed to specific projects.**

**Commitment of funds is being distinguished from contract execution, which must be complete by June 30<sup>th</sup> after one year. Districts in good standing may request more than their minimum funding allocation each year for the funding amount for which funds are committed. This process is described in Section 8 (now with CAPCOA).**

(a) *Funds are considered to be committed to a project when the district officially selects an eligible project for funding through any of the following actions:*

- i. *The district's governing board approves a project for funding through a resolution, minute order, letter or other written instrument.*
- ii. *The district's APCO or other Board-authorized representative sends the successful applicant a project offer letter.*
- iii. *The district submits project applications it has approved for funding to CARL.*
- iv. *The district provides ARB with spreadsheets describing approved projects.*
- v. *The contract between the district and the owner is fully executed.*

(b) *In the event previous years' funds associated with projects that were awarded to or were under contract for projects that withdrew or were terminated prior to the funds*

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*being expended, those funds shall be committed to other projects along with the current year's funds, following the current year's requirements. However, for tracking purposes, those funds must be reported with the correct previous year's reports.*

### **(Section 16) Contract Execution**

*(a) Each year's Carl Moyer Program funds shall be committed to a project via executed contract between the district and the project engine, vehicle, or equipment owner or other legal representative by a district one year from June 30<sup>th</sup> of the year a district received its Grant Award and Authorization Form.*

*(b) Districts may demonstrate progress in executing contracts cumulatively, by substituting executed contracts for current year State Carl Moyer Program funding (i.e. early contract execution) for funds not yet under contract from a previous year.*

*(c) Executed contracts must meet all requirements of Section 29 of these Guidelines.*

### **(Section 17) Annual Report**

**Below: Annual and Final Report deadlines moved to August 31<sup>st</sup>. Qualitative reporting is removed from the annual report. Some things, like outreach or EJ policies, would be reported in P&Ps. Districts in good standing could certify they have contracts rather than mailing contracts to ARB.**

**(a) ARB shall send districts a copy of the appropriate annual report template to fill out, or make the report template available on ARB's website. The annual report template shall include instructions for the report's completion.**

**(b) Districts shall submit an annual report by or before August 31<sup>st</sup> of the year following their allocation. This report shall provide information regarding projects associated with funds received one year prior which are under contract as of June 30<sup>th</sup> of that year. At a minimum, districts shall update all of their project information in the CARL, including date of contract execution.**

**(c) The annual report must include the following information for funds received one year prior:**

- i. Project type, emission reductions, number of engines funded, and funds committed by executed contract for each Carl Moyer Program project, including match fund projects.**
- ii. Other projects funded as per the \$2 MV Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). *(still discussing reporting and auditing of AB 923 funds w/ CAPCOA)***

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- iii. Projects from previous funding cycles which were reported as under contract, which are no longer under contract, must be updated as such.
- iv. Copies of executed contracts for all Carl Moyer Program projects, including match projects, must be provided to ARB. Districts may make and submit one complete copy of their standard contract format and then submit only the pertinent pages (initial page, signature page and page describing the project) of the contract to ARB. Districts shall submit only one copy of each contract or the pertinent pages of each contract. Districts in good standing may provide a form signed by the APCO, Chief Fiscal Officer (CFO), and Carl Moyer Program manager certifying the funds under contract in lieu of copies of executed contracts.
- v. Copies of executed contracts, as identified in Section 19(b)(i) of this chapter, that commit Carl Moyer Program and local match funds to projects, which were not previously submitted.
- vi. Projects from previous funding cycles which were reported as under contract, which are no longer under contract, must be updated as such.

**Table II-4:  
Key Carl Moyer Program Milestones for Calendar Years 2008 Through 2011**

	2008	2009	2010	2011
Jan	ARB Awards and Disburses Year 10 Funds to Districts	ARB Awards and Disburses Year 11 Funds to Districts	ARB Awards and Disburses Year 12 Funds to Districts	ARB Awards and Disburses Year 13 Funds to Districts
Feb				
Mar				
Apr				
May				
June	Year 8 Expended Year 9 Contracts	Year 9 Expended Year 10 Contracts	Year 10 Expended Year 11 Contracts	Year 11 Expended Year 12 Contracts
July				
Aug	Year 8 Final Report Year 9 Annual Report	Year 9 Final Report Year 10 Annual Report	Year 10 Final Report Year 11 Annual Report	Year 11 Final Report Year 12 Annual Report
Sep				
Oct				
Nov	Year 11 Apps. Due	Year 12 Apps. Due	Year 13 Apps. Due	Year 14 Apps. Due
Dec				

**(Section 18) Invoice Payment**

*(a) A district has the following two choices for paying of project invoices:*

- i. The district must receive an invoice from the owner and complete a satisfactory post-inspection.*

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- ii. *The district makes partial payments on project contracts. A district choosing this option must include its policies and procedures for partial payments in its Policies and Procedures Manual.*

*(b) By June 30<sup>th</sup> of each year, districts must have paid invoices for projects associated with all State Carl Moyer Program funds received two years prior. Funds are considered expended when an invoice for that project has been fully or partially paid by the air district, if the invoice payment also meets the conditions identified in Section 18(c) of this chapter.*

*(c) An invoice payment must cover charges for a new engine, vehicle, or piece of equipment which is currently operational in order for project funds for the contract to be considered fully expended and meeting the requirements under H & SC §44286(k). An electric agricultural irrigation pump is considered operational for the purposes of this definition once it has been delivered to the project participant and has been connected to the electricity grid.*

*(d) Districts may demonstrate progress in paying invoices cumulatively, by taking credit for funds paid on projects from the current or previous year of State Carl Moyer Program funding (i.e. early invoice payment) in place of funds not yet expended, consistent with Section 20 of this chapter.*

*(e) Project invoices must meet all applicable requirements of Section 32 of this chapter.*

**How do we ensure partially paid contracts are paid off (ie. all funds paid/liiquidated) within a reasonable amount of time? As now written, a district could pay off a small percent of all contracts and be considered in compliance...)**

### **(Section 19) Final Report**

**(a) ARB shall send districts a copy of the appropriate final report template to fill out, or make the report template available on ARB's website. The final report template shall include instructions for the report's completion.**

**(b) Districts shall submit a final report to ARB no later than August 31<sup>st</sup> of the second year following the district's receipt of program funds. This report shall provide information regarding projects associated with funds received two years prior that have been expended as of June 30<sup>th</sup> of that year.**

**(c) The final report shall include the following information for funds received two years prior:**

- i. **Project type, emission reductions, and number of engines funded for each Carl Moyer Program project, including match fund projects and projects funded with earned interest. Districts tracking progress cumulatively must include this**

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information for funds expended early as needed to demonstrate overall expenditure of program funds within two years

- ii. *Other projects funded as per the \$2 MV Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). (still discussing reporting and auditing of AB 923 funds w/ CAPCOA)*
- iii. Amount of interest accrued on State Carl Moyer Program funds.

**Below: Districts in good standing can certify they have invoices rather than send copies of these to ARB.**

- iv. Copies of invoices that document the amount Carl Moyer Program funds and local district match expended for each project. Districts in good standing may provide a form signed by the APCO, CFO, and district Carl Moyer Program manager certifying the funds have met the expenditure requirements of the Carl Moyer Program in lieu of project invoices.
- v. A brief narrative specifying: results of environmental justice efforts, if any; results of outreach efforts to zero-emission and small business projects; monitoring and auditing efforts and results; enforcement actions and recaptured funds.
- vi. *A document signed by the district Chief Administrative Officer, Chief Financial Officer, and Carl Moyer Program Grant Administrator that project and financial data submitted is complete, accurate, and the district's responsibility, and that there are no known instances of fraud. (DoF's Recommendation #7)*

*(d) In the event previous years' funds that were expended are returned to a district, those returned funds are to be committed to new projects along with the current year's funds, and following the current year's requirements. The district shall include the projects funded with the returned funds in the current year's Annual and Final Reports. For the purposes of progress tracking, these funds will continue to be considered expended.*

(e) Receipt of an Annual or Final Report by ARB does not imply ARB approval of project eligibility. Air district staff is responsible for project approval and funding eligibility determinations.

*(f) Districts that are found to have funded ineligible projects shall be required to substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB.*

### **(Section 20) Cumulative Progress Tracking**

**Below: Description of cumulative progress tracking.**

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*(a) In meeting deadlines to commit funds, execute contracts, or expend funds, ARB shall track district progress cumulatively. Cumulative progress tracking allows for comparison of the total funds spent by the expenditure deadline, regardless of the funding year, with the amount required to be expended at that deadline. For example, a district that must demonstrate expenditure of Year 8 funds by the two-year statutory deadline, may utilize Year 9 funds expended early in place of Year 8 funds not yet expended. In this case, if the district had received \$5 million in total funding in Years 1 through 8, it would have to demonstrate \$5 million in cumulative fund expenditure by the two year statutory deadline.*

***(b) Cumulative progress tracking shall not include funds received from ARB for specific multi-district projects selected via ARB's multidistrict solicitation (pursuant to H & SC § 44286).***

### **(Section 21) Funding Year Close-Out**

**Below: Section b indicates to close out a year, all the money must be spent for that year. A partially paid invoice is considered fully expended, but a year won't be closed out until all the dollars are fully spent (no partially paid invoices). Is the language too convoluted?**

*(a) ARB shall designate as "closed out" each new funding year once a district has submitted all required reports and demonstrated that every dollar of Carl Moyer Program funds for that funding year, including match funding and earned interest, has been properly invoiced and fully paid to projects. In order to close out a year, the district APCO, CFO, and Carl Moyer Program shall certify that all funds from that year have been fully spent and that there are no known instances of fraud in implementing the program for that year.*

*(b) For the purposes of cumulative progress tracking, funds from a project are considered fully expended when an invoice for that project has been paid (even if it is a partial payment). However, in order to close out a year, all funds for a project must have been spent on an operational, in-use project and all contracts must be fully paid.*

*(c) Districts that have submitted the required Annual and Final Reports for Years 1 through 6 and have no ARB audit findings relative to fund non-expenditure may close out their programs for these years by having the district APCO, CFO, and Carl Moyer Program manager certify in writing that the invoices for these projects have been paid in full. Alternately, a district may provide a copy of any invoices not already provided to ARB and contained in ARB project files that demonstrate that all projects have been complete and contracted invoice amounts paid in full.*

### **Part II-F: Program Oversight**

**(Section 22) ARB Audit of Air Districts**

**Note: CAPCOA has an interest in developing a subcommittee that will provide suggestions to ARB regarding program audits.**

(a) State law provides ARB with the oversight responsibility and authority to audit Carl Moyer Programs and related emission reduction incentive programs (H & SC §44291 and §39500). ARB audits are designed to ensure that district programs achieve expected emission reductions and are implemented in a manner consistent with program guidelines and State law. Besides identifying program deficiencies, audits are also designed to provide ARB with a mechanism for identifying the strengths of district programs. ARB's specific audit procedures are described in more detail in the Carl Moyer and School Bus Program Auditing Policies and Procedures Manual.

**(b) AB923 - Oversight/audit of AB 923 funds is being worked through with CAPCOA**

(c) ARB shall audit a sufficient number of districts each year – commensurate with approximately 10 percent of program funds -- to ensure proper program implementation. The frequency of district audits is as follows:

- i. Large districts will be audited at least once every 4 years.
- ii. Medium districts will be audited at least once every 6 years.
- iii. Small districts will be audited once every 8 years.

(d) To ensure objectivity and the efficient use of resources, ARB shall use a risk-based approach to select specific districts for audit during a given year and to select specific district projects to audit. Consistent with this approach, districts that demonstrate good performance when audited will likely be audited less frequently in the future than similarly-funded districts with poorer audit results.

(e) ARB's responsibilities during an audit include the following:

- i. Audits shall be conducted in a manner that reflects the public responsibility and accountability entrusted to ARB.
- ii. ARB shall maintain open channels of communication with the district under audit. ARB's audit procedures contain a number of provisions to enable open communications. Such provisions include fully explaining the audit's scope and procedure at the beginning of the process, discussing preferred channels of communication with the district, informing the district of potential issues as they unfold, affording numerous opportunities for district input throughout the audit, thoroughly discussing any findings and recommendations with the district during the exit interview, and allowing the district an opportunity to formally respond to the audit report.
- iii. To ensure objectivity and predictability, ARB shall base its findings and recommendations on materials such as State law, ARB's Program Guidelines

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and Advisories, Program Grant Award and Authorizations, e-mail communications between ARB and the district, a district's Policies and Procedures Manual, and a district's local requirements.

- iv. All audit reports, district responses, and related documents shall be readily available to the public.
- v. ARB shall conduct sufficient follow-up activities, including assisting districts and conducting follow-up reviews, to ensure that any identified deficiencies are promptly and effectively rectified.

(f) Air district responsibilities during an audit include the following:

- i. Districts shall ensure that program files and other requested information are readily available to audit staff.
- ii. District management shall, at a minimum, participate in the entrance and exit interviews and shall ensure that district staff are cooperative with audit staff.
- iii. District staff shall communicate fully with audit staff and with district management throughout the course of an audit.
- iv. Districts shall make every effort, including requesting assistance from ARB if necessary, to ensure that identified deficiencies are promptly and effectively rectified. Districts shall report on their progress at specified intervals.

### **(Section 23) Program Non-Performance**

(a) An air district may be placed on probation due to systemic non-conformance with the Carl Moyer Program Guidelines or program statute. Systemic non-conformance may be determined via an ARB audit as per Section 22 of this chapter or other mechanism. Non-conformance with program guidelines and statute include, but are not limited to, the following:

- i. Failure to expend program funds within two years as required by H & SC §44287(k).
- ii. Misuse of Carl Moyer Program funds, including funding of ineligible projects.
- iii. Insufficient or improper program oversight and enforcement, including widespread deficiencies in project contracting, inspections, or audits.
- iv. Insufficient, incomplete, or faulty project documentation.
- v. Failure to submit timely or accurate Annual and Final Reports to ARB.

(b) Prior to placing a district on probation, ARB shall offer a meeting between the ARB Executive Officer and the district APCO to identify the areas of program non-performance.

(c) A district on probation is subject to the following requirements:

- i. The district must provide a mitigation plan, which includes its committed actions and timeline for addressing its nonconformance with program guidelines and/or statute.

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- ii. ARB shall evaluate the district's mitigation plan and weigh the proposed actions and timeline against the severity of program non-conformance. ARB shall approve the mitigation plan if it includes adequate and expeditious commitments for addressing the identified problem(s).
- iii. The district shall complete regular training, to be provided by ARB, focusing on the subject area for which it was placed on probation.
- iv. The district shall attend all quarterly Incentive Program Implementation (IPI) team meetings.
- v. ARB may impose additional requirements, depending upon the scope and/or severity of the district's non-compliance with program requirements.

(d) ARB shall evaluate the district to determine whether it has met the requirements of this section and fully addressed the issue for which it was placed on probation. No later than one year from the date the district was placed on probation, ARB shall do one of the following:

- i. Remove the district from probation.
- ii. Place the district on probation for a period of up to one additional year.
- iii. Place the district on probation for a period of up to one additional year and adjust the district's annual funding allocation for the probationary period to reflect an amount which the district is able to spend in accordance with program guidelines and statute. A district's unallocated funds per this Section are to be reallocated to other air districts based upon the formula identified in H & SC §44299.2(a)

### **(Section 24) Program Streamlining**

(a) A district which has demonstrated continued excellence in program implementation may apply to ARB to have specific elements of these guidelines waived or amended (Streamlining Plan). The district's Streamlining Plan application must include the following three elements.

- i. Evidence that the district has consistently run an outstanding program, including but not limited to:
  - o results of an ARB audit of the district's program;
  - o continued submission of timely and accurate Annual and Final Reports, Policies and Procedures Manual, and other documentation;
  - o continued participation in Incentive Program Implementation (IPI) meetings, work groups, and other program forums;
  - o adoption of program Best Practices, as identified in these guidelines;
  - o Others???

A district which ARB has recently audited and found runs an outstanding program shall receive greater consideration for more program autonomy than a district whose program has not been as thoroughly reviewed.

- ii. A detailed description of the administrative exemptions requested.
- iii. A Streamlining Plan, which details how the district intends to implement the Carl Moyer Program with the requested exemptions. The Streamlining Plan must

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demonstrate that that the proposed changes shall not undermine the effectiveness, transparency, or accountability of the Carl Moyer Program.

(b) Continued approval of the Streamlining Plan shall be contingent upon the district meeting the plan's requirements, and continued excellence in overall program implementation. ARB shall notify a district in writing at least 14 days before revoking a district's Streamlining Plan. ARB's notification shall include an explanation for the plan's revocation.

(c) Examples of exemptions a district may request in its Streamlining Plan include:

- i. authority to approve case-by-case projects that don't exceed a certain maximum funding cap.
- ii. exemption from submitting Annual and/or Final Reports.
- iii. more flexibility to pre- and post-inspect less than 100 percent of projects.
- iv. more flexibility for auditing of projects.
- v. ??

(d) ARB shall review a district's Streamlining Plan application within 30 days of its receipt and either approve the application, disapprove the application, or request additional clarification. A district shall not implement the Streamlining Plan until receiving written approval from ARB.

### **PART III: AIR DISTRICT-APPLICANT INTERACTIONS**

#### **(Section 25) General Carl Moyer Program Criteria**

(a) All Carl Moyer Program projects must meet the following minimum Carl Moyer Program project criteria. Participating districts retain the authority to impose additional requirements.

- i. Emission reductions obtained through Carl Moyer Program projects must not be required by any federal, state or local regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate.
- ii. The local air district or ARB Governing Board rule adoption date (or the promulgation date of a federal regulation) represents the cutoff date by which a Carl Moyer Program project contract must be fully executed, or that project must achieve emission reductions surplus to the new rule.
- iii. No emission reductions generated by the Carl Moyer Program shall be used as marketable emission reduction credits, or to offset any emission reduction obligation of any person or entity.
- iv. No project funded by the Carl Moyer Program shall be used for credit under any federal or state emission averaging banking and trading program.

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- v. Engines operating under a regulatory compliance extension granted by the ARB, a local district, or the U.S. EPA are not eligible for funding.
- vi. Projects funded by the Carl Moyer Program may not be used to generate a compliance extension or extra credit for determining regulatory compliance.
- vii. Projects must meet a cost-effectiveness of \$16,000 per weighed ton of NOx, ROG, and PM10 reduced calculated in accordance with the cost-effectiveness methodology in Appendix C. All state funds plus any other under a district's budget authority or fiduciary control contributed toward a project must be included in the cost-effectiveness calculation.
- viii. Carl Moyer Program grants can be no greater than a project's incremental cost. The incremental cost is generally expressed as the percent of the total project cost in each source category chapter. The incremental cost shall be reduced by the value of any current financial incentive that reduces the project price, including tax credits or deductions, grants, or other public financial assistance such as Proposition 1B Goods Movement Emission Reduction Bond, Environmental Quality Incentive Program, or Federal Transportation Authority funds. Port funds contributed to a project are not considered public financial assistance and are not included in the project cost-effectiveness calculation unless used to meet the program match requirement. **(Run by Legal)**
- ix. Projects must have a minimum project life of three years, except for engines subject to the Stationary Diesel In-Use Agricultural Engine Airborne Toxic Control Measure, which must have a minimum project life of one year.
- x. The default project life does not consider upcoming regulatory requirements. Project life may be shorter due to regulatory requirements.
- xi. The contract term must extend to the end of the project life.
- xii. The new engine/vehicle/equipment must remain in service for the project life.
- xiii. Funded projects must have at least 75 percent of their total activity in California. (Requirement does not apply to marine projects).
- xiv. Projects for which activity is based on hours of operation must include a functioning hour meter on the new engine.
- xv. Carl Moyer Program projects must meet requirements applicable to that project category found in the source category chapter of these guidelines.
- xvi. Potential projects that fall outside of these criteria may be approved by the ARB on a case-by-case basis if the project is demonstrated to achieve surplus, real, quantifiable and enforceable emission reduction benefits for the full project life. Additional information regarding approval of case-by-case projects is found in Section 28 of this chapter.

### **(Section 26) Minimum Project Application Requirements**

**(a) Districts and ARB shall conduct outreach to inform potential project applicants of the availability of grants and the requirements and objectives of the Carl Moyer Program. (H & SC § 44290) DoF Recommendation**

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(b) Project applications must include all the source category-specific information needed to populate and calculate project cost-effectiveness in CARL. **Example project application data is available on ARB's website at...**

(c) Project applications must include documentation for the previous two years of existing engine usage (miles traveled, hours operated, or fuel consumed per year) for repower or retrofit projects and projected engine usage for new purchase projects. The usage amount included in the project application must be used to evaluate project cost-effectiveness and maximum grant award. Additional engine usage criteria may be found in specific source category chapters. **(DoF Recommendation to include this language)**

(d) Applications must include a signature section for third parties. A third party may complete an application or part of an application on an owner's behalf if the vehicle, engine, or equipment owner signs the application. The third party signature section must include signature and date lines, and blanks for the third party to indicate the amount and source of payment, if any.

### **Below: Disclosure statement language.**

(e) *Project applications must include a disclosure statement that the owner or the owner's designee must sign.*

- i. The disclosure statement certifies whether the applicant has submitted an application for incentive funds to any other entity or program for the same project (for example, repowering of the same project engine). If so, the applicant must disclose to whom the other application was submitted, and whether funds have been awarded or may be awarded. If funds have been awarded or may be awarded, the funding amount must be disclosed.*
- ii. An applicant is allowed to re-apply for project funding if a previous application for the same project has been rejected and is no longer being considered for funding.*
- iii. An applicant is required to disclose the value of any current financial incentive that directly reduces the project cost, including tax credits or deductions, grants, or other public financial assistance, for the same engine. The incremental cost of the project shall be reduced by the amount of the current financial incentive.*
- iv. An applicant who is found to have submitted multiple applications for the same engine and not disclosed any current financial incentive shall, at a minimum, be disqualified from funding for that engine from all sources and may also be banned from submitting future applications to any and all Carl Moyer Program solicitations. ARB and the districts may also levee fines and/or seek criminal charges for such non-disclosure.*
- v. The disclosure statement shall also certify that the applicant has reviewed the application and that the application information is correct.*

### **(Section 27) Application Evaluation and Project Selection**

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(a) In accordance with HSC section 44288(a), districts must review all applications for completeness upon receipt and notify the applicants in writing if their application is not complete within five working days of receipt of the application. The notification must clearly state what is required to make the application complete. All notifications of an incomplete application must be copied, with the original handed or sent to the owner and the copy must be placed in the applicant file along with a copy of the incomplete application. This written notification must be accomplished using one of the options below:

- i. A letter, sent through the U.S. mail.
- ii. An email message.
- iii. A boiler plate form with check-offs.
- iv. A phone call to the applicant, followed by district staff adding a dated note or other documentation of the call to the project file.

(b) Air districts are responsible for determining project applications are credible, made in good faith, and in compliance with the Carl Moyer Program and its objectives based upon the documentation submitted by the applicant. **(DoF recommendation)**

(c) All complete applications must be reviewed by the district for eligibility. This process must include all of the following:

- i. Entering or uploading the data from the application into the ARB database (CARL) or the district equivalent to ensure it meets the emission reductions and cost-effectiveness criteria of the Carl Moyer Program. Districts not using CARL are responsible for ensuring the accuracy of their database calculations of cost-effectiveness and eligible funding amounts.
- ii. Checking to ensure the project meets all of the minimum requirements outlined in the chapter for the appropriate source category, including:
  - o Documentation of historical vehicle, equipment, or engine usage.
  - o Documentation of project costs.
  - o Engine or retrofit device Executive Orders, if applicable.
  - o Proof of a vehicle compliance check, as needed, for on-road projects.
  - o Other documentation identified as required in the relevant source category chapter.

(d) Districts must have a system for tracking applications. At a minimum, the tracking system shall include the minimum information needed to readily identify the project applicant, project type, and project eligibility, and calculate project cost-effectiveness and maximum grant award in CARL.

(e) The district shall maintain a copy of each application and a file for each selected project. A district may use a solely electronic file system only after the district satisfactorily demonstrates to ARB that all documentation is maintained and can be easily accessed on demand.

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- (f) Districts must keep project applications until three years after the end of the project life for projects selected for funding and until three years after the project application deadline for projects not selected for funding.
- (g) Districts have the authority and responsibility for selecting Carl Moyer Program eligible projects in their areas. Projects approved for funding must meet all applicable requirements of these guidelines. Once a district has checked the eligibility of projects, the district must follow its Policies and Procedures Manual in selecting projects to fund.
- (h) The record of each project's rating and ranking, receipt date, or other project selection criteria must be maintained with the application.
- (i) Districts must ensure that selected projects are surplus to compliance deadlines of adopted regulations.
- (j) The following requirements apply to those districts that do not currently operate and maintain their own database:
- i. Information for projects selected for funding shall be entered into the CARL to ensure the project meets the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program.
  - ii. No project shall be funded unless the CARL indicates the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program have been met.
  - iii. If the CARL indicates the project does not meet either the emission reduction requirements or the cost-effectiveness criteria of the Carl Moyer Program, and the district representative thinks the project should actually qualify, the district representative may contact his or her ARB liaison to further evaluate project eligibility.
- (k) A file shall be created for all projects selected for funding. Grant award notification shall be in writing, and a copy of the grant award notification letter must be maintained in the applicant file.
- (l) Districts with a population greater than 1 million inhabitants must select from their applicant pool in a way that ensures that 50 percent or more of their Carl Moyer Program funds (including the smog check fee, and adjustment to the tire fee) are expended on projects that are located and/or operate in environmental justice areas. (H § SC Section 43023.5)

### **(Section 28) Case-by-Case Approval**

- (a) An air district may request ARB approval of a project or other Carl Moyer Program element on a case-by-case basis. Some specific program administrative or other

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requirements as identified in these guidelines may also be adjusted on a case-by-case basis.

(b) Case-by-case approvals must be made by ARB Carl Moyer Program staff in writing (such as in an e-mail or letter).

(c) An air district receiving case-by-case approval for a project must keep the written approval from ARB in the project file. Written case-by-case approval for other program elements must be kept by an air district and be readily available for ARB audit staff.

(d) Case-by-case project approval must be made prior to contract execution.

### **(Section 29) Minimum Contract Requirements**

**Below: Insurance requirement has been deleted.**

(a) General Requirements. Districts participating in the Carl Moyer Program must execute contracts with applicants who shall receive funds under the Carl Moyer Program. All Carl Moyer Program project contracts must include the elements described in this section.

(b) Party Names and Date. All contracts shall state the name of the district and the owner as parties to the contract. Contracts must also include signature blocks with an area for the dates that the contract is signed.

(c) Notices. All contracts shall include contact information for both parties to the contract, and how to send and receive notices.

(d) Disclosure of Funds. The owner or owner's designee must sign a disclosure statement.

- i. The disclosure statement certifies that once the owner or designee signs the project contract, the owner or designee shall not submit another application or sign another contract for the same specific project (such as repowering of the project engine) with any other source of funds, including but not limited to, other districts or ARB (for a multi-district solicitation). An owner or designee may receive funding from multiple air districts or grant programs if these entities are coordinating to jointly fund the project.
- ii. The disclosure statement certifies whether the owner or designee has received prior incentive funding for the project vehicle, engine, or equipment, as well as the funding source, amount, and contract term associated with the previous incentive grant.
- iii. Any owner or designee who is found to have submitted multiple applications or signed multiple contracts for the same specific project shall, at a minimum, be disqualified from funding for that project from all sources and may also be banned from submitting future applications to any and all Carl Moyer Program

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solicitations. ARB and the districts may also levee fines and/or seek criminal charges for such conduct.

(e) Contract Term. All contracts shall specify the term of the contract. The contract term shall include two time frames – project completion and project implementation – to ensure that the district and ARB can fully enforce the contract during the life of the Carl Moyer Program-funded project.

- i. Project Completion. Project completion is the time frame starting with the date of execution of the contract to when the project post-inspection confirms that the project has become operational. This includes the time period when an engine or vehicle is ordered, delivered and installed. The contract shall include a specified time frame in which project completion shall occur, so that the funds are expended within the two-year required timeframe.
- ii. Project Implementation. The project implementation time frame is the second part of the contract term, and must equal the project life used in the project cost-effectiveness calculation. The contract shall specify that the owner is required to operate and maintain their Carl Moyer Program-funded project according to the terms of the contract for the full project implementation period.

(f) Project Specifications. All contracts shall include detailed information on the baseline and new vehicles, equipment and/or engines which were used in the project cost-effectiveness calculation. This requirement may be met by including the project application as an attachment to the contract. A program-eligible new vehicle, piece of equipment and/or engine which is verified or certified to achieve more 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 based on hours, miles or fuel usage within California (or the district) each year. 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.

(g) Maintenance. All contracts shall require the owner to maintain the vehicle, equipment and/or engine according to the manufacturer's specifications for the life of the project. This includes a prohibition on engine tampering. The owner is also responsible for maintaining a working hour meter for projects that use hours of operation as a means of calculating emissions reductions and cost-effectiveness. If the hour meter fails, the owner remains responsible for validating any hours not recorded by the hour meter. The owner must either repair or replace the non-operating meter or provide other documentation of equipment operating hours acceptable to the district.

(h) Payment. Before a Carl Moyer Program payment may be made to a project participant, the project contract must be executed, an eligible invoice must be received by the district, and the project post-inspection must be successfully completed. The

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equipment must be operating before the final payment is issued. All contracts must include the following payment terms.

- i. Maximum Contract Amount. The maximum contract amount must not exceed the maximum funding level corresponding to the \$16,000 per weighted ton program cost effectiveness limit, nor may the maximum contract amount exceed the project incremental cost. The maximum contract amount must also comply with any funding caps and other criteria for the specific project category as identified in these guidelines.
- ii. Itemized Invoices. Payment terms must require itemized invoices from the engine supplier for repowers or paid invoices from the vehicle owner for new vehicles and satisfactory post-inspection by the district prior to payment of the owner's invoice. An invoice payment for a specific vehicle, engine, or piece of equipment may not exceed the amount indicated on the project contract for that vehicle, engine, or piece of equipment. Invoices must meet the minimum requirements of Section X to be eligible for Carl Moyer Program funding.

(i) Reporting. All contracts must include a provision for owners to submit annual reports commencing no later than one year after project post-inspection and continuing annually thereafter for the project implementation phase of the contract. The district shall include the dates the annual report is due.

- i. If the district monitoring phase of the contract term exceeds five years, the owner's reporting responsibility may be reduced to once every other year after the initial five years of reporting.
- ii. If the project is a zero-emission technology, reporting may be reduced to biennially for the first six years of the contract. No annual reports are required thereafter.
- iii. During all or a part of the project implementation term, the district is responsible for monitoring the project to assure the project is operational and the project emissions reductions are realized.
- iv. The contract shall inform the owner that noncompliance with the reporting requirements shall require on-site monitoring.

(j) On-Site Inspections and Audits. All contracts shall include language that allows the district, ARB or their designee to conduct a fiscal audit of the project and/or to inspect the project engine, vehicle, or equipment and records relating to such during the contract term. Contracts must require the owner to maintain and retain the project records for at least two years after contract expiration or three years after final project payment, whichever is later.

(k) Repercussions for Nonperformance. Districts shall include repercussions for non-compliance with the obligations of the contract.

- i. The contract shall specify that by executing the contract, the owner understands and agrees to operate the vehicle, equipment, and/or engine according to the terms of the contract and to cooperate with the district and ARB in

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- implementation, monitoring, enforcement, and other efforts to assure the emissions benefits are real, quantifiable, surplus, and enforceable.
- ii. The contract must describe the repercussions to the owner for noncompliance with contract requirements, including but not limited to cancelling the contract and recapturing of project funds.
  - iii. The contract must inform the owner that ARB and the district have the authority to fine the owner or seek other remedies available under the law for noncompliance with Carl Moyer Program requirements and nonperformance with the contract. Districts may consider unforeseen circumstances beyond the owners' control in determining repercussions for nonperformance.
  - iv. The contract must state that the ARB, as an intended third party beneficiary, reserves the right to enforce the terms of the contract at any time during the contract term to ensure emission reductions are obtained, including the period between 5 years and the end of the project life for those projects with project lives that exceed 5 years.

### **(Section 30) Project Pre-Inspections**

*(discussed at Sept WG meeting)*

**Note: We're still looking for suggestions regarding possible risk-based pre- or post-inspection of less than 100% of projects. Sacramento's suggestion for risk-based pre-inspections is in Section (e).**

- (a) Once an application is deemed eligible, a pre-inspection must be completed by the district. Districts may choose to allow public agencies (e.g. public works departments, transit organizations, and school districts) to provide documentation of the engine and its use in lieu of a pre-inspection.
- (b) The pre-inspection shall, at a minimum, include the following:
  - i. Collect the serial number of the baseline engine and any additional information necessary to assist in the verification of the baseline engine application information. Engines without a visible and legible serial number must be uniquely identified by having the engine block stamped with a Carl Moyer Program number (or alternative permanent marking) when the engine is in the project vehicle or equipment.
  - ii. All baseline vehicle, equipment, or engine information directly related to the application emission reduction calculations (engine Tier, vehicle model year, etc...) must be verified to be equivalent to that used to evaluate project cost-effectiveness.
  - iii. Verify the project usage (hours or miles) meter reading, if used in the project cost-effectiveness calculation, and verify that stated project usage is reasonable given the usage meter reading.
  - iv. Verify the engine is operational (with a start-up) and that the engine is working as described in the application (document function and use).

**Below: SJV language for photo documentation methodology.**

- v. *At least one photo shall be taken of each engine for the project file. The photo must include the serial number of the engine (if legible) and/or any other identifying markings. Districts must include, in their Policies and Procedures, a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.*

(c) A pre-inspection form must be used to document the pre-inspection. The required elements the district must complete on a project pre-inspection form include:

- i. Owner's name, address and telephone number.
- ii. Location of the engine.
- iii. Verification of the project baseline engine, vehicle, and/or equipment information as described in the application.
- iv. Pre-inspection of a verified retrofit device must include the name of the manufacturer, diesel emission control strategy family name, product serial number, and, if available, month and year of manufacture (usually indicated as MM-YY). The month and year of manufacture may not be listed on the retrofit label if this information can be readily obtained from the retrofit manufacturer by reference to the serial number.
- v. Space for the inspector to record whether the engine is in running condition, make comments, and attach pictures.

(d) A hard copy of the completed pre-inspection form shall be maintained in the district's project file.

**Below: Sacramento suggestion for risk-based pre-inspections.**

(e) *A districts may enter into a Master Contract with a vehicle or equipment dealer to pre-inspect on-road retrofit projects. All other projects must be pre-inspected personally by district staff. A district which enters into such a contract must ensure the following:*

- i. *The vehicle or equipment dealer must complete and sign the appropriate inspection forms and provide photographic evidence that the equipment is correctly identified on the form. Photographic evidence must include the engine tag and emissions information.*
- ii. *The district must define its protocol for ensuring the correct verified project retrofit has been properly installed on the eligible project vehicle in its Policies and Procedures Manual.*
- iii. *The district must define clear and substantial consequences for fraud by the dealer in the Master Contract. **(Sacramento district will provide recommended language for consequences of fraud to the district)***

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- iv. *The district must randomly inspect at least ten percent of vehicles/equipment that have been pre-inspected by the dealer pursuant to the Master Agreement. The dealer shall have no more than 48 hours notice of such inspections.*

(f) The project pre-inspection must be completed prior to a project contract execution. A district may apply to ARB to conduct pre-inspections after contract execution on a case-by-case basis. Case-by-case approval of such a procedure shall depend upon the following:

- i. The district describes the program benefits it would achieve by conducting pre-inspections after contract signature.
- ii. Language is included in the project contract to indicate contract terms may be adjusted or the contract may be deemed void based upon information collected during the pre-inspection. The district must also include a process for informing the project participant of such.
- iii. The district's Policies and Procedures Manual clearly specifies the process for conducting pre-inspections after contract execution and any additional procedures enacted to ensure the project achieves real, surplus, enforceable, and quantifiable emission reductions. Work on the project engine, vehicle, or equipment may not commence until after the pre-inspection.

### **(Section 31) Post-Inspection** *(discussed at Sept WG meeting)*

(a) Post-inspections shall be completed on all projects funded under the Carl Moyer Program.

- i. The district shall conduct a post-inspection after it receives an invoice from the owner for a project.
- ii. For public fleets, such as transit organizations, where more than 20 of the vehicles in the fleet are included in the project, the district may choose to inspect a statistically significant random sample of the vehicles included in the project.
- iii. The inspector shall record the project information on the inspection form and verify it with the information listed in the contract. All new vehicle, equipment, or engine information directly related to the application emission reduction calculations (engine Tier, vehicle model year, retrofit device certification level, etc...) must be verified to be equivalent to that used to evaluate project cost-effectiveness.
- iv. The engine must be operational in the equipment or vehicle as stated in the contract. The inspector must visually witness all engines start up and mobile projects run.
- v. The vehicle, equipment, or engine information must be documented with photos. The photo must include the serial number of the engine (if legible) and/or any other identifying markings. Districts must include, in their Policies and Procedures, a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project

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number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.

(b) A post-inspection form shall be used to document the post-inspection. The completed form shall be maintained in the project file. The required elements for a post inspection form include all of the following:

- i. Owner's name, address and telephone.
- ii. Location of the engine.
- iii. Baseline engine information (make, model, model year, horsepower, and serial number) as written in the application and/or contract.
- iv. Space for the inspector to record whether the engine was scrapped or destroyed.
- v. New engine information (make, model, model year, horsepower, and serial number).
- vi. Retrofit post-inspection information identified in Section 30(c)(iv) of this chapter.
- vii. Space for the inspector to record whether the engine is in running condition and make comments.

### **Below: Methodology for destruction of old engine.**

(c) *The existing (old) engine must be destroyed and rendered useless.*

- i. *The destruction of the engine must be documented by district staff verifying the engine serial number matches that on the project contract either in-person or through photographic or video evidence.*
- ii. *District staff must verify that engines without a visible and legible serial number are uniquely identified by the correct district stamp or other permanent marking prior to engine destruction, as per Section 30(b)(i) of this chapter.*
- iii. *Methodology for verifying engine destruction must be identified in the district's Policies and Procedures Manual. ARB approval of the Policies and Procedures Manual shall indicate ARB approval of the district's methodology for verifying engine destruction.*
- iv. *Destruction methods and requirements specific to the on-road fleet modernization category, off-road equipment replacement, and the light duty vehicle category are described in those chapters (**sections shall be referenced when final**).*

**(Section 32) Project Invoice and Payment**

*(discussed at Sept WG meeting)*

**Below: Sections (a), (b), and (c) discuss required invoice detail and allowable costs.**

*(a) An itemized invoice for a project must be received by the district before payment may be made. A project invoice must include enough detail to ensure only eligible project costs are being reimbursed, yet clear and concise enough to be understandable. The district shall review the itemized invoice and only pay for eligible expenses **(Todd and Gary are discussing options with dealers...)***

*(b) Charges for equipment and parts on engine repower projects are only eligible for funding if they are required to ensure the effective installation and functioning of the new engine, but are not part of typical vehicle or equipment maintenance or repair. Ineligible repower costs include tires, axles, paint, brakes, and mufflers. Ineligible marine vessel repower costs are described in the marine vessel chapter of these guidelines (chapter sections shall be referenced when final).*

*(c) In order to be eligible for Carl Moyer Program funding, labor expenses must be included in the project invoice and detail the number of hours charged and the hourly wage.*

*(d) Taxes, installation costs for eligible hardware, and transport costs for eligible hardware are eligible for Carl Moyer Program funding at the district's discretion.*

*(e) A potential grantee may not order or make a down payment on a new engine, piece of equipment, or vehicle prior to district approval of the project, either via contract execution or approval by the governing board or board designee. Dealers ordering engines, equipment, or vehicles prior to district approval of grant applications assume all financial risk, and are in no way ensured program funds. A grantee may not receive engines, equipment, or vehicles, nor may work begin on a repower or retrofit project, until the project contract is fully executed.*

*(f) Payment on a project may only be made after receipt of a project invoice and the district post-inspection indicates the project is in place and operational. An electric agricultural irrigation pump is considered operational for the purposes of this definition once it has been delivered to the project participant and has been connected to the electricity grid.*

- i. Partial payments may be made only if the payment process and requirements have been reviewed and approved by the district and are described in the contract. Progress payments shall only be made after the owner provides the district with sufficient evidence of completing predetermined milestones, such as engine delivery. The district must maintain a clear record of progress payments in the file and in the administration/fiscal unit of the district. Progress payments

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include final payments that are withheld until all reporting requirements are met, also known as withhold payments.

- ii. Payments typically shall be made directly to the project applicants. However, payments may be made directly to the dealer or distributor only if such payment arrangements are specified in the contract. Partial payments may be made only if the payment process and requirements have been reviewed and approved by the district. **(Todd's language)**
- iii. Additional project invoicing requirements for the on-road fleet modernization category are included in that chapter *(section to be referenced when final)*.

(g) For all on-road projects, if a compliance check was not previously completed, the district shall verify with its ARB district liaison that there are no outstanding violations prior to payment.

**(h) For projects where the participant must comply with an ARB regulation early to receive funding, invoices may not be paid until the project participant has provided documentation that early compliance has been achieved. A project participant may demonstrate early compliance via a detailed letter signed by the vehicle or equipment owner or legal representative or, if the regulation requires ARB to certify compliance, through ARB certification. Districts are not to be held liable if a grantee falsifies this documentation.**

(i) The district shall maintain copies of all invoices and documentation of payment in the project file.

### **(Section 33) Project Annual Reporting**

(a) Districts shall require all project participants to submit annual reports commencing no later than one year after the project post-inspection and annually thereafter for the term of the contract, with the following exceptions:

- i. If the district's monitoring phase of the contract term exceeds five years, the owner's reporting responsibility may be reduced to once every other year after an initial five years of satisfactory reporting.
- ii. If the project involves a zero-emission technology, reporting may be reduced to biennially for the first six years and no annual reports are required thereafter.

(b) The annual report shall be in a format prescribed by the district and shall contain all of the following information:

- i. Owner's name, address, and telephone number.
- ii. Location of the engine and/or equipment.
- iii. Engine, vehicle, and/or equipment information (make, model, model year, horsepower, and serial number).

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- iv. Condition of the engine, vehicle, and/or equipment, including current working condition and any major maintenance of the engine that significantly affected the annual usage of the engine.
- v. Any conditions (e.g. weather, permits) that significantly affected the annual usage of the engine and/or equipment.
- vi. Readings of the usage meter (hour meter, odometer, EMU, etc.).

(c) The districts shall review the annual report for completeness, accuracy, and usage. A hard copy of the annual report, initialed and dated by the reviewing staff, shall be maintained in the project file. A district choosing an alternative method to indicate its review and approval of annual reports must identify such alternative method in its Policies and Procedures Manual.

(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 emissions 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 which is more than 30 percent below that stated in the contract include, but are not limited to:

- i. Extending of the project contract for additional years (if this doesn't overlap with an applicable rule implementation requirement).
- ii. Returning of project funds in proportion to the loss in emission reductions.
- iii. Transfer ownership of the vehicle or equipment to an entity committed to comply with the contract terms.

(e) If an annual report is incomplete, inaccurate or not received from an owner on schedule the district shall make a reasonable attempt to obtain the complete and accurate report from the owner. If the district is unable to obtain the report, all of the engines in that project shall be audited by the district, as per Section 34 of this chapter.

(f) Districts shall keep a list of project participants with any reports that are more than six months late. Project participants with reports that are more than six months late shall not be granted any additional Carl Moyer Program funds until all reports are satisfactorily submitted. **(DoF comment to keep the list of bad actors)**

### **(Section 34) District Audit of Projects**

- (a) Districts shall conduct audits of projects that have been funded for at least one year (based upon pre-inspection date) and are also within two years of contract expiration, as follows:
- i. at least five percent (or a statistically significant number, whichever is less) of projects, and

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- ii. all of the projects whose owners fail to submit their most recent required project annual report as per Section 33 of this chapter within six months of their reporting deadline.
- (b) Districts shall conduct audits for the following projects at the end of their contract term, as follows:
- i. at least five percent (or a statistically significant number, whichever is less) of projects, and
  - ii. all of the projects whose owners fail to submit their final project annual report as per Section 33 of this chapter, and
  - iii. all of the projects that were found to be more than 30 percent below the contracted activity level during any audit conducted as per Section 34(a) of this chapter.
- (c) Audits shall be completed by district staff and shall, at a minimum, include verifying that the engines paid for are still operational in the same equipment and meet the mileage, fuel usage, or hours of operation indicated on the executed contract. This shall be completed by checking the serial number of the engine; witnessing the engine operate; and checking the odometer, hour meter/usage device, fuel receipts, or EMU.
- (d) If project activity is more than 30 percent below an annual average of the level of use committed to in the contract, the district shall take appropriate action to ensure the emissions benefits are realized and captured during the term of the contract. In addition, the district shall audit all of the other engines owned by the same participant and included in the same Carl Moyer Program funded project.

**Section 35 (Delinquent Grantees)** *(is there a better name for this section? Do we really want this section?)*

- (a) A district shall work with delinquent project grantees to ensure Carl Moyer Program project requirements are met and emission reductions are achieved (including, as appropriate, use of the options identified in Section 33(d) of this chapter for insufficient or excess activity).
- (b) A district shall make all reasonable efforts to recoup Carl Moyer Program funds from delinquent applicants, as needed to ensure funded emission reductions are achieved. A district's efforts to recoup funds may be guided by circumstances such as:
- i. the existence of fraud or intentional misuse of funds
  - ii. the amount of Carl Moyer program funding involved
  - iii. the ability of the applicant to repay the funds
- (c) Air districts shall describe their policies and procedures for dealing with delinquent grantees in their Policies and Procedures Manual.

**Remaining Admin Issues for Next Work Group Meetings**

- Sections 3-9 draft language (awaiting CAPCOA review)
- ARB auditing protocols
- AB 923 funds (also getting CAPCOA feedback)
- Best Practices

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