Chapter 3: PROGRAM ADMINISTRATION

A. Background

The responsibilities of the Air Resources Board (ARB) include the management of program funds and program oversight. This chapter is divided into discrete sections that describe specific administrative requirements that ARB, air districts, and interested parties must follow to ensure the Carl Moyer Program achieves the State Implementation Plan (SIP)-creditable emission reductions. Air districts may choose to require more stringent administrative procedures in implementing their local program.

These 2011 Carl Moyer Program Guidelines (Guidelines) must be used for all projects funded with fiscal year 2011-2012 (Carl Moyer Program Year 14) and subsequent years' funds. Carl Moyer Program Year 1 is defined as fiscal year 1998-1999 (e.g. July 1 – June 30) to signify the inception of the program beginning in 1998.

For projects funded using fiscal year 2010-2011 funds (Year 13), or any previously awarded funds, an air district has the option of using either the 2008 Guidelines (and the subsequent relevant Program Advisories and Mail-Outs) or using these 2011 Guidelines. Air districts may not pick and choose requirements from both sets of Guidelines. The 2011 Guidelines may be utilized after the Board approval date and would apply to projects for which contracts have been fully executed after the Board approval date. If an air district chooses to begin applying the 2011 Guidelines to projects, it must continue to apply only the 2011 Guidelines to all subsequently funded projects. ARB will follow these 2011 Guidelines for administration of the Carl Moyer Program following Board approval.

B. ARB Solicitation of Program Fund Availability

1. Initial Allocation: Each year, ARB shall send a solicitation letter to each air district's Air Pollution Control Officer (APCO) to notify the air districts that Carl Moyer Program funding is available and to provide the application that air districts need to apply for program funds. The solicitation letter shall provide each air district's tentative funding award and tentative match funding requirement. ARB shall determine the tentative awards for each year's grants or, when necessary, reallocation of returned funds in accordance with Health and Safety Code section 44299.2. The process and minimum requirements for distribution of these funds is described in Sections C through G of this chapter. The typical timeline for each initial allocation funding cycle is provided in Table 3-1.

Table 3-1
Timeline for Initial Allocation of Funds

Date	Action
Mid-September	ARB sends application packet to air districts
Mid-November	Air districts apply to ARB for funds
Early January	ARB notifies air districts of final awards
January - June	Air districts receive grant awards
April 30	Deadline for air districts to accept or decline funds
June 30 of Following Year	Target date for contracts to be executed
June 30 of Second Year	Funds must be expended

2. Reallocation: If returned funds are available after each expenditure deadline (see also Section S), ARB shall send a solicitation letter to each air district's APCO to notify the air districts that such funds are available and to provide the application and instructions that the air districts need to apply for the funds. The timeline for a reallocation funding cycle is provided in Table 3-2.

Table 3-2
Timeline (Deadline) for Reallocation of Funds

Date	Action
August 29	Deadline for air districts to report and return unexpended funds to ARB
September 28	ARB notifies air districts of available returned funds
November 27	ARB allocates returned funds to eligible air districts
December 31	Deadline for air districts to accept or decline reallocated funds
November 27 of the following year	Reallocated funds must be expended within one year of the allocation

3. "Multi-District": ARB reserves the right to direct up to ten percent of each year's State Carl Moyer Program funds to projects that operate or impact air quality in multiple air districts in accordance with Health & Safety Code section 44286(d).

C. Air District Applications for Program Funding

1. Air districts must submit a completed application packet within 60 calendar days from the date of the solicitation letter.

2. The completed application packet must include the following documents:

   (A) Completed Application: Submission of the original form signed by the air district's APCO. Air districts requesting the minimum $200,000 allocation may opt to direct their allocation to the Rural District Assistance Program.

(B) Match Fund Commitment: Air districts must specify the source and amount of local match funding on the application. Air districts requesting more than their tentative funding allocation must demonstrate that sufficient match funds are available to cover any additional funds requested. Refer to Section I to determine the required match fund amount if requesting additional funds. Air districts requesting no more than the minimum allocation of $200,000 will be exempted from the match requirement. Air districts may account for up to15 percent of their match requirement with in-kind contributions. Additional information regarding allowable sources of match funding can be found in Section I of this chapter.

(C) Air District Board Resolution: Submission of the air district Governing Board resolution or minute order that commits the air district to participate in the Carl Moyer Program, comply with the Carl Moyer Program requirements, and authorizes the air district to accept funds from ARB or to have such funds placed into the Rural District Assistance Program is required. For air districts with a match requirement, the board resolution shall authorize the APCO to supply sufficient funding to meet the match requirement. If an air district has previously obtained a board resolution that authorizes the air district to implement the Carl Moyer Program for multiple years, the air district must state the date of the resolution in the application.

(D) Policies and Procedures Manual: In order to be eligible for continued funding, an air district must submit to ARB a copy of their current Carl Moyer Program Policies and Procedures Manual for approval. If previous approval has been provided by Carl Moyer Program staff, the air district must instead submit a statement, signed by an air district representative, confirming that an updated version of their Policies and Procedures Manual is maintained at the air district office. The manual must describe the air district's policies, procedures, and organizational structure for implementing the Carl Moyer Program. The Policies and Procedures Manual, at a minimum, must include:

(1) Program structure and organization, including coordination with ARB.
(2) Solicitation of funds from ARB.
(3) Project solicitation, evaluation, and selection (including schedule for program implementation).
(4) State and match fund expenditure and liquidation.
(5) Fiscal practices and procedures.
(6) Pre- and post-inspections.
(7) Project reports.
(8) Contract components and contracting with applicants.
(9) Invoice review, approval, and payment protocols.

(10) Air district audits of projects.
(11) Details regarding program components identified in the following Sections of this chapter: K.5., L.3., X.8., X.10., Y.6., AA.2., AA.5., AA.6., BB.1., BB.4., CC.6., DD.3., and FF.5.
(12) Environmental justice/at-risk communities (if applicable).
(13) Light duty vehicle/fleet modernization projects (if applicable).

D. The Rural District Assistance Program

1. Rural air districts may use the Rural District Assistance Program (RAP) which provides the ability to pool their project funds in order to streamline program administration. Funds dedicated to RAP are pooled to fund project grants from a statewide list of rural air district projects.

2. Solicitation, initial project application review and ranking, and assignment of a project to an air district may be done by the California Air Pollution Control Officer's Association (CAPCOA). Additionally, CAPCOA may contract with one or more third parties (RAP administrator) to conduct these tasks. CAPCOA is responsible for selecting the RAP administrator. Projects are assigned to recipient air districts prior to contract execution. Recipient air districts have the authority to refuse or accept projects offered through RAP within a time period designated by CAPCOA.

3. An air district whose annual Carl Moyer Program grant application dedicates the entire annual grant to RAP is not required to have a current approved Carl Moyer Program Policy and Procedure Manual, but the grant application must include a board resolution or minute order authorizing dedication of the funds to RAP. Air districts dedicating their entire grant are not obligated to submit a yearly report for the associated grant.

4. An air district may dedicate funds to RAP after it has executed an annual grant with ARB, but must do so by March 1st prior to the end of the grant funding cycle, per the following example timeline:

Example:
CMP Year 13 (Fiscal Year 2010-11)

January – June 2011	Air District executes Year 13 Grant Award
	Funds may be dedicated to RAP
March 1, 2013	Deadline to dedicate funds to RAP
June 30, 2013	Deadline to expend Year 13 Grant Award

However, funds that have been disbursed to districts and subsequently returned to ARB will be treated as returned funds, and reallocated as specified in Section S.

5. An air district receiving RAP projects and funds must have a current approved Carl Moyer Program Policy and Procedures manual. Following project acceptance, the air district is fully responsible for all grant obligations, including eligibility verification, contract draft and execution, inspections, monitoring and reporting. RAP projects will be subject to review as part of the Incentives Program Review ("Program Review" or "review") of the implementing air district.

E. ARB Review and Approval of Air District Funding Applications

1. ARB shall review an application immediately upon receipt and, if necessary, provide the air district with a written explanation of what is missing from the application within 10 working (business) days of its receipt. Complete applications that fulfill all criteria shall be approved no later than 60 business days after receipt as identified in Health and Safety Code section 44287(n).

2. ARB may elect to approve an application that is missing a particular item and make the submittal of that item a stipulation of the Grant Agreement. For example, sometimes air district staff are unable to obtain a board resolution or minute order before the application deadline. In such a case, ARB may allow a board resolution or minute order to be submitted with the signed Grant Agreement or prior to the air district's initial disbursement.

3. ARB shall review an air district's Policies and Procedures Manual for minimum elements listed in Section C.2. of this chapter and within 30 days of its receipt either approve the manual or describe what additional information or clarification is needed. ARB approval of an air district's Policies and Procedures Manual shall be provided by email or in other written format. Once approved, the air district must submit a statement that an updated version of their Policies and Procedures Manual is maintained on-site. In this case, an annual submittal of their Policies and Procedures Manual with the application for funding is no longer required. ARB approval of an air district's Policies and Procedures Manual denotes approval of the air district's policies and procedures as written. An air district's policies and procedures as implemented can only be fully evaluated during the Program Review process.

4. ARB shall follow the formula identified in Health and Safety Code section 44299.2(c) to redistribute funds declined by air districts. See Section S. of this chapter regarding the return and reallocation of unexpended funds.

F. Final Grant Awards

1. Once air districts applications have been approved, ARB shall determine the final grant awards and corresponding amounts of required match funding.

2. ARB shall prepare and submit two signed original copies of the Grant Award and Authorization Forms to qualifying air districts.

3. The APCO must sign both original copies of the Grant Award and Authorization Form. The air district retains one of the originally signed forms for their files and returns the other originally signed form to ARB.

4. The deadline for acceptance of an annual grant award shall be specified in the award letter each year. The deadline for acceptance of a reallocation grant award shall be December 31 of each year.

5. Air districts have until June 30th of the second calendar year after funds are accepted from ARB to expend the allocation grant award.

6. For a reallocation grant award, air districts have one year from the date of allocation to expend the funds. See Section B of this chapter – Table 3-2.

G. Fund Disbursements to Air Districts

1. In order to receive a disbursement, each air district must submit a Grant Disbursement Request to ARB. The Grant Disbursement Request form must be signed by a party authorized and designated by the air district's Governing Board.

2. If there are stipulations on the Grant Award and Authorization form, all stipulations must be met before ARB will disburse funds associated with the grant award.

3. Protocol and minimum requirements for air districts to receive disbursements are as follows:

   (A) Initial Disbursement: An air district may request an initial disbursement that includes all of its administrative funds and up to ten percent or $200,000 of its project funds, whichever is greater. Minimum allocation air districts may request up to their entire allocation of $200,000. An air district has the option to request additional project funds to be included in the initial disbursement if they can meet and demonstrate all the criteria described in Section G.3.(B).

   (B) Additional Disbursements: Air districts may request any remaining portion of their project funds once the following criteria have been met and submitted to ARB:

      (1) Preceding Yearly Report demonstrates on-time expenditures consistent with Health and Safety Code section 44287(k).
      -or -

The unexpended funds identified in the preceding Yearly Report have been received by ARB. NOTE: ARB will not request a return of any funds under contract.

(2) Program staff submission of document(s) listing eligible projects in an amount equal to the disbursement request, and confirming the air district's commitment of Carl Moyer Program funds to those projects.

(3) Program staff certification that an executed contract will not be entered prior to project being approved by the APCO or Board approved designee (for those air districts not requiring Board action) or air district Board (for those air districts requiring Board approval of projects) as consistent with their Policies and Procedures Manual.

(4) Air districts will receive one check for both program administration and project funds, but must account for the administration and project funds separately.

4. Due to the compressed timeframe for expending reallocated funds, air districts may receive the full reallocation grant award once the following has been submitted and approved by ARB:

   (A) An original signed copy of the reallocation grant award.

   (B) A completed disbursement request form.

H. AB 923 - $2 Motor Vehicle Fee

1. State law allows air districts to collect an additional $2 motor vehicle registration surcharge (MV Fee) (Health & Safety Code § 44223), which must be used to fund the following (Health & Safety Code § 44229(b)):

   (A) Projects eligible for grants under the Carl Moyer Program.

   (B) The Agricultural Assistance Program.

   (C) Purchase of new school buses pursuant to the Lower-Emission School Bus Program.

   (D) An accelerated vehicle retirement or repair program that is adopted by ARB.

   (E) On-Board natural gas tank replacements in qualifying school buses.

(F) Infrastructure improvements for deteriorating natural gas fueling dispensers.

(G) Retrofits for qualifying school buses.

2. $2 MV Fees used to meet the Carl Moyer Program match fund requirement (See Section I) are subject to the same eligibility, reporting, review and auditing requirements as State-provided Carl Moyer Program funds. $2 MV Fee funds used to meet the match requirement are not required to be expended within two years from the date of their collection. However, air districts must expend sufficient match funds to meet the obligations for the Carl Moyer Program funds received each year.

3. Reporting and oversight of the $2 MV Fee depends upon whether the fee is used to meet the Carl Moyer Program's match requirement and whether the air district takes SIP credit for $2 MV Fee projects. Table 3-3 summarizes the various scenarios for treatment of $2 MV Fee funds and projects. Sections R and V.6. of this chapter, respectively, describe reporting and oversight on the $2 MV Fee in more detail.

Table 3-3
Summary of $2 MV Fee Requirements and Oversight

Requirements/ Oversight	$2 MV Fee Used as Match	$2 MV Fee Used for SIP Credit	$2 MV Fee Not Match/ not SIP
Expenditure of funds within two years	(1)	--	--
Meet full and complete Carl Moyer Program Guideline criteria	√	--	--
Subject to ARB Program Review	√	--	--
Subject to ARB project eligibility evaluation (e.g., cost-effective and surplus)	√	√	√
Fiscal reporting to ARB (list total funds expended in seven basic categories)[2]	√	√	√
Detailed reporting to ARB (project specifics submitted in current database)[2]	√	√	--

[1] Sufficient funds must be expended, regardless of their year of origin or source, to provide the required match by that year's expenditure timeline. For example, for Year 9, air districts must expend their match by June 30, 2009. When those funds were received is not a factor in determining this deadline.
[2] See Section R of this chapter for details.

I. Air District Match Funds

1. Health and Safety Code section 44287 requires air districts participating in the Carl Moyer Program to provide match funding. Air districts implementing the Carl Moyer Program must commit match funds equaling 15 percent of the State funds received.

2. An air district receiving the minimum grant award of $200,000 is exempt from this match requirement.

3. Air district match funds must be under the air district's budget authority or fiduciary control, with the exception of port funds (Health & Safety Code § 44287(e)) described in Section I.9. 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. Air districts may meet their matching fund requirement on an overall program basis rather than a project-by-project basis. In other words, air districts do not need to provide match funds towards each project funded, but must fund enough projects (in total or in part) with match funds in order to meet the match requirement.

4. An air district may include match funds spent on or after February 25, 1999 that would have qualified as matching funds but were not previously claimed as matching funds (Health & Safety Code § 44287(h)).

5. Motor vehicle registration surcharge fees, including the AB 2766 $4 MV Fee, and the AB 923 $2 MV Fee, may be used as match funds subject to the following provisions:

   (A) In order to qualify as match funds, MV Fees must fund motor vehicle projects that meet the Carl Moyer Program criteria. Consistent with Health and Safety Code section 44287(j), MV Fees may not be used as match funds on projects involving stationary or portable engines, locomotives, or marine vessels. Table 3-4 identifies the source categories that are considered motor vehicles for the purposes of match funding.

   Note that statute allows the $2 MV Fee to be used to fund any eligible Carl Moyer Program project – both motor vehicle and non-motor vehicle projects (Health & Safety Code § 44229(b)(1)). However, only motor vehicle projects funded with MV Fees may be counted as match projects.

Table 3-4
Eligibility of Motor Vehicle Registration Surcharge Fee Projects as Air District Match

Eligible	Not Eligible	
On-road*	Locomotives	Stationary or portable engines
Off-road mobile	Marine vessels	Agricultural Assistance projects

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

(B) Motor Vehicle Fees that pay for incremental fuel costs consistent with Section J.1.(B) and J.1.(C) of this chapter may be used as match funds. Fuel must be dedicated to a source category potentially eligible for Carl Moyer Program funds (such as heavy-duty trucks).

(C) MV Fees that pay for accelerated light-duty vehicle retirement and repair and lawn and garden programs that meet all Carl Moyer program criteria may be used as match funds.

(D) MV Fees used to fund Lower Emission School Bus Program projects may count towards the air district match requirement if they meet the Carl Moyer Program requirements and the current cost-effectiveness threshold. 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) $2 MV Fees used to fund Agricultural Assistance Program projects may not be counted towards the Carl Moyer Program match requirement (Health & Safety Code § 44287(j)).

6. Other (non-MV Fee) locally-generated funds may be counted as match if they fund projects that meet all Carl Moyer Program requirements and criteria, including those project types described in Section J.1.(A) through J.1.(C).

7. Air districts may use federal funds as Carl Moyer Program match if written confirmation is received from the administering federal agency (for example, the United States Environmental Protection Agency) that 1) the administering agency has no objection to the air district using those funds as match, and 2) the emission benefits obtained from those funds will not be used by the administrating agency in a State Implementation Plan. The air district must also ensure that it will not use such funds as match for any other program and that the use of the funds as Carl Moyer Program match does not conflict with any State or local requirements regarding the funds. Also, like all match funds, such funds must meet all Carl Moyer Program Guideline requirements. If this option is used, supporting documentation must be included in all relevant project files.

8. Interest or other funds earned on Carl Moyer Program funds received from ARB must not be used for match funding. See Section K for more information on earned interest.

9. Funding provided by a port authority or a local government for a qualifying project or for infrastructure that serves a qualifying project may count toward the air district's Carl Moyer Program matching fund requirement. However, in any air district granted more than $300,000 of the state board funds, no more than 30 percent of an air district's match obligation may come from a port authority or local government as identified in Health and Safety Code section 44287(e). Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.

10. Per Health and Safety Code section 44287(e), only an air district, or a port authority, or a local government teamed with an air district may provide matching funds. Private companies are not allowed to provide match funding to satisfy the air district's match funding obligation.

J. Eligible Types of Match Projects

1. The types of projects that can be funded to meet the match funding requirement Include:

   (A) Carl Moyer Program Projects: Match funds may be used to pay for any project that meets all Carl Moyer Program criteria and all other statutory limitations on the funds such as those specified in Section I.6. of this chapter.

   (B) 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 serves a Carl Moyer Program-eligible source category (such as heavy-duty trucks).

   (C) Infrastructure Projects:

      (1) Match funds may be used for electric and alternative fuel infrastructure projects that serve Carl Moyer Program qualifying project categories.

      (2) Motor vehicle fees authorized under Assembly Bill (AB) 2766 and AB 923 can be used to fund infrastructure projects that serve Carl Moyer Program qualifying project categories. However, of these, only infrastructure projects that serve Carl Moyer Program qualifying motor vehicle project categories can be counted towards the air district's match requirements. Table 3-4 in Section I lists eligible and ineligible motor vehicle project types.

2. In-Kind Contributions: Up to 15 percent of an air district's match requirement may be fulfilled through in-kind contributions (Health & Safety Code § 44287(h)). Air districts may use any funds under their budget authority -- except for Carl Moyer Program administrative funds and interest or other funds earned on Carl Moyer Program funds -- to cover their in-kind contribution. When using air district funds for in- kind match, air districts must follow all relevant statute, guidelines, and other legal requirements for expending such funds. In-kind contributions have the same expenditure timeline as match funds. Air district in-kind match funds spent on program administration and outreach must meet the documentation requirements identified in Section L.

3. Air districts found by ARB to have funded ineligible projects must substitute eligible projects, using eligible match funds as describe in Section I, equal to the amount found ineligible.

K. Earned Interest

1. Interest or other funds earned on Carl Moyer Program funds must be reported to ARB. The funds earned must either be used to fund projects that meet the current Carl Moyer Program Guidelines (including any revisions in effect at the time of contract execution) or be returned to ARB.

2. Calculation of Earned Interest: All air districts must maintain accounting records (e.g., general ledger) that track interest earned and expended on Carl Moyer Program funds.

   (A) If an air district maintains its Carl Moyer Program funds in a non-segregated account, the air district must maintain accounting records that track the revenue, expenditures, and interest earned by the Carl Moyer Program funds separately from other air district programs.

   (B) 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.

   (C) Each air district's methodology for calculating Carl Moyer Program interest must be consistent with how it calculates earned interest for its other fiscal programs.

3. Expenditures for Carl Moyer Program Projects: All projects funded with interest or other funds generated through the Carl Moyer program must meet all the Carl Moyer Program Guidelines current at the time of contract execution, including any revisions to those Guidelines in effect at the time of contract execution.

4. Expenditures for Program Administration: An air district can use up to five percent of earned interest or other funds generated through the Carl Moyer Program on administrative expenses if the air district has one million or more inhabitants and up to ten percent of earned interest on administrative expenses if the air district has less than one million inhabitants, in accordance with Health and Safety Code section 44299.1(a)(3)(c).

5. Reporting Requirements: Each air district must report on interest and other funds generated through the Carl Moyer program in Yearly Reports to ARB using the format provided by ARB.

   (A) Air districts must report on projects funded with earned interest or other funds earned through the Carl Moyer program the same way air districts report on Carl Moyer Program-funded projects (i.e., by entering projects in the CARL and in their Yearly Reports). The Carl Moyer Program does not specify that Air Districts perform any program actions in such a way that they generate proceeds or returns on Carl Moyer Program business.

   (B) In the 2010 Yearly Report, for the period of July 1, 1998, through June 30, 2010, air districts reported interest earned on Carl Moyer Program, Rural District Assistance Program, and Multi-district fund balances by listing the following:

      (1) Earned interest that was liquidated on Carl Moyer Program projects.

      (2) Earned interest that was expended on Carl Moyer Program administration.

      (3) Balance of earned interest held by the air district on June 30, 2010, including those interest funds committed to projects but not yet liquidated. For this balance, air districts were provided the following options:

         a. Spend that amount on Carl Moyer Program projects and administration (consistent with Section K.3. and K.4.) on the same schedule as the air district's Year 13 Carl Moyer Program grant award. For reporting purposes, such interest funds were added to the Year 13 Carl Moyer Program funds and counted in the Year 13 cumulative contract execution and fund expenditure targets tracked by clean air reporting log (CARL).

            -or-

         b. Return unspent interest to ARB by October 31, 2010.
            -or-

         c. A combination of (a.) and (b.).

(C) Beginning with the 2011 Yearly report (due on August 29, 2011), and for each Yearly Report thereafter, air districts must report interest earned during the previous fiscal year (i.e. July 1 through June 30). Beginning with the 2014 Yearly report (due August 29, 2014), and for each Yearly Report thereafter, the same policy applies to any other funds generated through the Carl Moyer program. For such interest and other funds earned the previous fiscal year, air districts may choose from the following options:

(1) Add the earned funds to the next funding year and spend it on Carl Moyer Program projects and administration (consistent with Section K.3. and K.4.) on the same schedule as other Carl Moyer Program funds in that funding year. For example, funds earned during fiscal year 2010- 2011 (Moyer Year 13) may be added to an air district's 2011-2012 (Year 14) funds, placing those interest funds under the same contract execution and expenditure schedule as other Year 14 funds.

-or-

(2) Return the funds to ARB by October 31 of the same year as the relevant Yearly Report. For example, interest earned during fiscal year 2010-2011 (Moyer Year 13) and reported in the 2011 Yearly Report should be returned to ARB by October 31, 2011.

-or-

(3) A combination of (1) and (2).

6. Interest and Other Earned Funds Documentation: Documentation of earned interest and other earned funds must be retained, at a minimum, until the liquidation deadline of the funding target with which it is associated (e.g., for funds earned from 6/30/2010 - 6/30/2011 and added to the Year 14 target, the funding year liquidation deadline is June 30, 2016). Documentation of projects funded with earned funds (i.e., the project files) must be retained for a minimum of two years after the end of the contract term or a minimum of three years after final payment, whichever is later.

L. Program Administration and Outreach Funding

1. Air 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 (Health & Safety Code § 44299.1(c)), while air districts with under one million inhabitants may use up to ten percent of their Carl Moyer Program funds (Health & Safety Code § 44299.1(d)).

2. Allowable Costs: Administrative funds must be used for Carl Moyer Program administration and outreach such as: air 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.

3. Required Documentation: Air districts must maintain documentation of Carl Moyer Program funds used for administration and outreach. Air districts must keep the following documentation:

   (A) Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation may also be used to verify the number of staff and actual hours or percent of time staff is devoted to Carl Moyer Program administration and outreach.

   (B) Consultant fees must be documented with copies of the consultant contract and invoices.

   (C) Printing, mailing, and travel expenses must be documented with receipts and/or invoices.

   (D) 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 air district's Policies and Procedures Manual. Air district travel cost criteria must be consistent with the air district's written travel policies for other air district programs. Alternatively, if these definitions are included in local administrative code or other documents, the air district may cite the document that governs its practices in the Policies and Procedures Manual.

   (E) Indirect cost calculation methodologies, if used to determine indirect costs of program administration, must be fully described or referenced in the air district's Policies and Procedures Manual. Air districts must maintain documentation for all costs referenced in the indirect cost calculation formula.

4. The documentation, records, and referenced materials described in Section L.3. must be made available for review during ARB or other State agency monitoring visits, reviews and audits. Such administrative records for a given funding year must be retained, at a minimum, until the applicable funding year liquidation deadline [e.g., for Year 13 (fiscal year 2010-2011) funds, the funding year liquidation deadline is June 30, 2015].

5. Air districts that charge unallowable costs for program administration or outreach must substitute eligible administration and outreach expenses equal to the dollar amount found ineligible, or return the funds for the unallowable cost to ARB as mitigation or returned funds.

M. Commitment of Project Funds

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

1. The contract between the air district and the owner is fully executed.

2. The air district's governing board approves a project for funding through a resolution, minute order, letter or other written instrument.

3. The APCO or other Board-authorized representative sends the successful applicant a project offer letter.

4. The air district inputs into CARL project details from applications it has determined are eligible for funding.

5. Program staff submits a list of eligible projects confirming the air district's commitment to fund these projects.

N. Progress Tracking: Contract Execution

1. Air districts shall make every effort to have all Carl Moyer Program funds associated with the funding year one calendar year prior as well as any other funds in the applicable funding target (see Section Q.2.) under executed contract by June 30th of each year. Thus, for example, all funds awarded Year 13 (fiscal year 2010-2011) should be under executed contract by June 30, 2012.

2. Match funds should be under executed contract by the same contract execution deadline as the Carl Moyer Program funds with which they are associated regardless of the date such funds were collected by the air district.

3. For Carl Moyer voucher programs, the voucher issue date will be used to gauge progress in contract execution.

O. Progress Tracking: Fund Expenditure

1. By June 30th of each year, air districts must have expended all Carl Moyer Program project funds associated with the funding year, two calendar years prior (Health & Safety Code § 44287(k)), as well as any other funds in the applicable funding target (see Section Q.2.). For example, funds awarded Year 13 (fiscal year 2010-2011) must be expended by June 30, 2013. By this date, all administrative funds must be liquidated, as described in Section P.3.

2. Match funds must be expended by the same expenditure deadline as the Carl Moyer Program funds with which they are associated regardless of the date the match funds were collected by the air district.

3. All funds under a project's contract are considered expended for the purposes of progress tracking under the following conditions:

   (A) The project is liquidated per Section P.2., or

   (B) An invoice for the project has been fully or partially paid by the air district consistent with Section CC and such invoice payment covers the grant amount for at least one operational new engine, vehicle, or piece of equipment under the project's contract. See Chapters 10 (Portable and Stationary Agricultural Sources) and 12 (Marine Vessels) for specific exemptions for electric agricultural irrigation pump motors and shore-side shore power projects, respectively.

4. Any funds associated with an engine, vehicle, or piece of equipment cancelled from a contract prior to the liquidation of the contract as a whole will no longer be considered expended beginning at the time of the cancellation.

P. Progress Tracking: Fund Liquidation

1. Funding Year Liquidation

   By June 30th of each year, air districts must have liquidated all Carl Moyer Program funds associated with the funding year four calendar years prior as well as any other funds in the applicable funding target (see Section Q.2.). For example, funds awarded Year 13 (fiscal year 2010-2011) must be liquidated by June 30, 2015. The exception is funds awarded Year 8 (fiscal year 2005-2006); such funds must be liquidated by June 30, 2011.

   (A) Match funds must be liquidated by the same liquidation deadline as the Carl Moyer Program funds with which they are associated regardless of the date such funds were collected by the air district.

   (B) A funding year that has been liquidated by an air district and all associated projects will be removed from cumulative tracking.

   (C) At ARB's discretion, a funding year adjustment to a later, un-liquidated funding year may be made to correct for errors discovered in an earlier, liquidated, funding year.

   (D) For purposes of progress tracking, ARB considers Years 1-7 (fiscal years 1998-1999 through 2004-2005) to be liquidated. All projects associated with those funding years must remain associated with them; i.e., such projects are no longer available for use in cumulative tracking and can not be counted in later funding years. Any air district with knowledge of un-liquidated funds from such funding years must notify ARB and take

appropriate actions such as returning those funds to ARB or, at ARB's discretion, make a funding year adjustment to a later, un-liquidated funding year.

2. Individual Project Liquidation

   (A) A project's funds are considered to be liquidated for the purpose of progress tracking if all invoices associated with the project under contract have been paid.

   (B) For completed projects for which all invoices have been paid except for a small amount withheld for making progress payments, both the paid funds and the withheld funds will be considered liquidated for the purpose of progress tracking. Such progress payments, if used, must be covered in the project's contract and in the air district's policies and procedures manual. Withheld progress payments considered to be liquidated per this section that are not ultimately paid to the grantee due to non-performance must be treated like other recaptured funds consistent with Section P.2.(C).

   (C) Funds that have been liquidated on a given project but are later returned to the air district are considered recaptured funds. For the purposes of progress tracking, such funds will still be considered to be liquidated with regard to the original project, but will be added to the contract execution, expenditure, and liquidation targets of the current funding year as a funding year adjustment when the funds are returned.

   For example, if Project X is liquidated in 2010 but in February 2012, the grantee opts to end the contract early and pays the air district back a prorated amount of the grant, for tracking purposes the funds associated with Project X are still considered to be liquidated in 2010. However, the amount paid back to the air district is added as an adjustment to the air district's Year 14 (fiscal year 2011-2012) targets.

   (D) Per Section Z.5.(A), each project's contract must be liquidated within four years from the original date of contract execution. Under no circumstances may the liquidation date be extended beyond four years from the original date of contract execution.

3. Administrative fund liquidation. Administrative funds associated with a grant must be liquidated by the expenditure deadline requirement for the grant consistent with Health and Safety Code section 44287(k). For example, administrative funds associated with funds awarded Year 13 (fiscal year 2010-2011) must be liquidated by June 30, 2013.

Q. Cumulative Progress Tracking

1. ARB shall track, cumulatively, an air district's progress in meeting program milestones to execute contracts, expend funds, and liquidate funds. Funds associated with a given funding year must be fully accounted for; however, deadlines may be met on a cumulative basis. For example, an air 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.

2. To assist participating air districts with cumulative tracking, ARB shall maintain in the CARL database appropriate progress tracking targets for each participating air district for each funding year. These funding targets shall list the total funds required to meet given milestones such as contract execution, fund expenditure, and funding cycle liquidation. Such tracking targets shall include, as appropriate, Carl Moyer Program grant funds (including Multi-district funds awarded pursuant to Health and Safety Code section 44286, Rural District Assistance Program funds, and Carl Moyer voucher program funds), required match funds, interest funds, reallocated funds, recaptured funds, and any other relevant funds associated with the Carl Moyer Program.

3. ARB will adjust progress tracking targets to account for the movement of funds into and out of an air district's account (i.e., funds donated to or received from RAP), for in-kind match, for interest spent on administration, or as otherwise needed.

R. Yearly Report

1. ARB shall send air districts a copy of the appropriate Yearly Report template to fill out, or make the report template available on ARB's website. The Yearly Report template shall include instructions for the report's completion and shall be made available to air districts by June 30.

2. Air districts must submit the Yearly Report on or before August 29th. This report must provide information regarding projects associated with funds received that are under executed contract as of June 30th of that year. Air districts that dedicate their full allocation to the Rural District Assistance Program are not required to report regarding those funds.

3. The Yearly Report must include the following information:

   (A) Project details sufficient to populate the data fields in the CARL database for each Carl Moyer Program project, including match fund projects, projects funded with earned interest, and AB 923 $2 MV Fee projects claimed for State Implementation Plan credit. To provide such project details for the Yearly Report, air districts must update all of their project information in the CARL database and must ensure that all information in

CARL is complete, correct, and supported by relevant documentation (e.g., executed contracts and project invoices) maintained by the air district.

(B) Quantitative information regarding progress through June 30th on reaching program milestones such as contract execution, fund expenditure, and funding cycle liquidation, as tracked cumulatively. An air district may waive contract execution reporting requirements if the air district is covered by a contingency plan to move uncommitted funds to RAP or to a partnering air district no later than March 1 prior to the expenditure deadline of the funding cycle (e.g., by March 1, 2011, for Year 11 funds, which have a June 30, 2011, expenditure deadline). Contingency plans must receive air district board approval. Contingency plans involving participation of multiple air districts must be described in a memorandum of understanding (MOU) approved by all participating air district boards.

(C) The APCO, Chief Financial Officer (CFO), and Carl Moyer Program Administrator must sign and certify that the project and fiscal information contained within the Yearly Report is, to the best of their knowledge, accurate and complete. The air district Board may designate an alternate for the CFO; however, the designated alternate must be someone in addition to the APCO or Program Administrator, therefore ensuring certification of the report by more than one person. Submission of executed contracts and/or project invoices to ARB is not required. Physical documents are to be maintained at the air district office and made available to ARB upon request.

(D) A brief narrative specifying any enforcement actions taken and/or any funds recaptured from liquidated projects.

(E) Amount of interest accrued on State Carl Moyer Program funds. See Section K for more regarding earned interest.

4. Projects funded with the AB 923 $2 MV Fee that are not Carl Moyer Program match projects shall be reported as follows:

(A) Air districts claiming State Implementation Plan credit for AB 923 $2 MV Fee projects must report project-by-project details by entering them into CARL.

(B) Air districts not claiming SIP credit for AB 923 $2 MV Fee projects must report fund expenditures for each of the four allowed uses identified in Section H.1., but are not required to report project-by-project details. However, ARB recommends that air districts make project information publicly available in the interest of transparency.

5. Air districts that have not executed contracts to cover all project funds received during the previous calendar year must work with their ARB Carl Moyer Program liaison to ensure the air district is on target to expend all required program funds within two years (see Section Q). At a minimum, such air districts must provide an email or other written documentation briefly describing:

   (A) The reason for the delay in executing contracts, and

   (B) Their schedule for executing the remaining contracts, returning funds to ARB, contributing the funds to the Rural District Assistance Program, or other action(s) as needed to ensure project funds are expended within the two-year deadline. Air districts choosing to contribute funds to the Rural District Assistance Program must do so by the March 1 date preceding the applicable funding year expenditure deadline (e.g., by March 1, 2011, for Year 11 funds, which have a June 30, 2011, expenditure deadline)

6. If the Yearly Report identifies an expenditure shortfall, the air district must submit and ARB must receive a check for the shortfall amount by August 29, concurrent with the deadline to submit the Yearly Report. No additional disbursements will be made to the air district until the returned funds have been received by ARB.

7. Receipt of a Yearly Report by ARB does not imply ARB approval of project eligibility. Air district staff is responsible for project approval and funding eligibility determinations.

8. Air districts that are found to have funded ineligible projects will be required to substitute eligible projects equal to the amount found ineligible or return the ineligible amount to ARB as mitigation or returned funds.

S. Return and Reallocation of Unexpended Funds

1. Any air district whose latest required Yearly Report does not demonstrate full expenditure of program funds within two years, must return the expenditure shortfall within 60 calendar days after the June 30th expenditure deadline (Health & Saf. Code § 44287(k)). Funds under executed contract, though not expended, do not need to be returned to ARB (Health and Safety Code § 44291(d)).

2. For returned funds (including funds that have been disbursed to districts that are subsequently returned to ARB prior to the expenditure deadline required under Health and Safety Code section 44287(k)) ARB shall reallocate those funds to air districts per Health and Safety Code section 44299.2(c). Air districts may apply for any amount of the available funds. To be considered for funding, an air district must apply for the funds and submit a list of eligible projects. The application must demonstrate the air district's ability to expend the amount requested on eligible Carl Moyer Program projects expeditiously.

3. If the total returned funds are less than $300,000, ARB shall determine how to reallocate the funds to air districts and/or projects identified in Section S.2.

4. If the total returned funds are $300,000 or greater, ARB shall take the following steps to reallocate the funds:

   (A) Using the air districts identified in Section S.2., use the allocation methodology per Health and Safety Code section 44299.2(a).

   (B) Adjust the results from Section S.4.(A) using the project lists submitted in Section S.2. to best match the available funds while also attempting to provide up to 20 percent of funds to rural air districts.

5. No administrative funds are provided with reallocated funds.

6. No matching funds are required for reallocated funds.

7. For the timeline for reallocation and expenditure of returned funds, see Section B.2. of this chapter – Table 3-2.

T. Program Non-Performance

1. Program non-performance is air district non-compliance with program Guidelines or statute that is not corrected by the air district in a timely or satisfactory fashion. As directed by Health and Safety Code section 44291(d), ARB shall monitor air district programs to ensure that participating air districts conduct their programs consistent with the criteria and guidelines established by the state board. ARB may become aware of possible air district non-performance through program reports, Program Reviews of air districts, or other means. Examples of program non-compliance with program Guidelines or statute include:

   (A) Failure to return to ARB a check for the expenditure shortfall identified by the Yearly Report (Health & Safety Code § 44287(k)).

   (B) Misuse of Carl Moyer Program funds, including funding of ineligible projects.

   (C) Insufficient or improper program oversight and enforcement, including widespread deficiencies in project contracting, inspections, reviews or audits.

   (D) Insufficient, incomplete, or inaccurate project documentation.

   (E) Failure to submit timely and accurate reports to ARB.

2. ARB shall make every effort to assist any non-performing air district.

3. When ARB determines that an air district program is non-compliant, ARB shall initiate a series of informal steps to assist the air district as follows:

   (A) The ARB air district liaison and manager shall work with the air district staff to understand and resolve the issue.

   (B) If the ARB Branch Chief determines that the non-performance issue has not been resolved, the ARB Branch Chief shall contact the air district APCO and continue the informal process to understand the issue and offer help to resolve the issue.

   (C) If the ARB Branch Chief determines that the non-performance issue has not been resolved through Section T.3.(B), the ARB air district liaison shall send a Program Non-Performance Notification email to the air district's program contact that contains the following:

      (1) Description of the problem;

      (2) Pertinent details, such as names of involved persons and projects, dates, dollar amounts, and citations of relevant guidelines sections, Health and Safety Code, and regulations;

      (3) Possible solutions to the problem, if some have been identified, and/or offer ARB assistance; and

      (4) Arrangements for a meeting between the ARB Branch Chief and the air district APCO to agree on a plan and timeline for resolving the problem. The plan and timeline shall be recorded by the ARB air district liaison and emailed to the air district APCO within five business days of the meeting.

4. Lacking satisfactory resolution of the issue(s) described above then in accordance with Health and Safety Code section 44291(d) the ARB Executive Officer shall determine if the non-performance issue(s) identified in Section U.3.(C)(1) warrants ARB's recapture of funds that have been granted to the air district and not yet awarded to approved projects. If so, ARB will send a letter of Program Non-Performance to the air district APCO. The letter will set a public meeting to be held at the air district's offices (or other appropriate facility within the air district). The purpose of the meeting will be to consider public comments prior to any recapture of funds.

U. ARB Program Oversight

1. State law assigns ARB the responsibility and authority to oversee Carl Moyer Programs and related emission reduction incentive programs as identified in

Health and Safety Code section 44291 and Health and Safety Code section 39500. ARB conducts Program Reviews to ensure that air district programs achieve expected emission reductions and are implemented in a manner consistent with program guidelines and State law. ARB may also contract with the State Department of Finance to conduct fiscal compliance audits of air district records within the scope of the Program Review. ARB retains final authority with respect to corrective measures and follow-up. Besides identifying program deficiencies, Incentives Program Reviews also provide a mechanism for identifying the strengths of air district programs. ARB's specific oversight procedures are described in more detail in the Carl Moyer and School Bus Programs Auditing Policies and Procedures posted on the Carl Moyer Program website: http://www.arb.ca.gov/msprog/moyer/audits/audits.htm.

2. ARB shall review a sufficient number of air districts each year to ensure proper program implementation.

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

4. ARB's responsibilities during an Incentives Program Review include the following:

   (A) Program Reviews shall be conducted in a manner that reflects the public responsibility and accountability entrusted to ARB.

   (B) ARB shall generally limit the scope of a Program Review to cover the two most recently-completed funding years and the two years currently in progress. For example, a Program Review initiated April 2010 would typically cover Year 8 (completed June 30, 2008), Year 9 (completed June 30, 2009), and Years 10 and 11 (in progress).

   (C) Once a given funding year is reviewed, ARB will typically not review it again unless warranted. ARB reserves the right to investigate possible fraud or misuse of funds in any program year.

   (D) ARB shall maintain open channels of communication with the air district under review. ARB's Incentives Program Review procedures contain a number of provisions to enable open communications. Such provisions include fully explaining the review's scope and procedure at the beginning of the process, discussing preferred channels of communication with the air district, informing the air district of potential issues as they unfold, affording numerous opportunities for air district input throughout the

review, thoroughly discussing any findings and recommendations with the air district during the exit interview, and allowing the air district an opportunity to formally respond to the Incentives Program Review report.

(E) To ensure objectivity and predictability, ARB shall base its findings and recommendations on materials such as State law, ARB's Program Guidelines and Mail-Outs, Program Grant Award and Authorizations, email communications between ARB and the air district, an air district's Policies and Procedures Manual, and an air district's local requirements.

(F) All Incentives Program Review reports, air district responses, and related documents shall be made available to the public via web posting at ARB's Carl Moyer Program website.

(G) ARB shall conduct sufficient follow-up activities, including assisting air districts and conducting follow-up reviews, to ensure that any identified deficiencies are promptly and effectively mitigated.

5. Air district responsibilities during an Incentives Program Review include the following:

(A) Air districts must ensure that program files and other requested information are readily available to Incentives Program Review staff. Unless otherwise specified for a specific source category, project files must be retained for a minimum of three years after the end of the contract term. In the event final payment has not been issued prior to the end of the contract term, the three-year clock is re-started upon final payment. Applications that were not selected for funding must be retained for a minimum of three years after receipt. Administrative records for a given funding year (including personnel documentation and records of various administrative expenses per Section L) must be retained, at a minimum, until the applicable funding year liquidation deadline (e.g., for Year 13 (fiscal year 2010-2011) funds, the funding year liquidation deadline is June 30, 2015).

(B) Air district management must, at a minimum, participate in the entrance and exit interviews and ensure that air district staff is cooperative with Incentives Program Review staff.

(C) Air district staff must communicate fully with Incentives Program Review staff and with air district management throughout the course of a review.

(D) If deficiencies are identified during the review, air districts must make every effort, including requesting assistance from ARB if necessary, to ensure that the identified deficiencies are fully mitigated. Air districts must report on their progress at specified intervals.

6. AB 923 $2 MV Fee projects are subject to Program Review or evaluation as follows:

   (A) A Carl Moyer Program match project funded with the AB 923 $2 MV Fee will be subject to the same review and oversight requirements and protocols as other Carl Moyer Program match projects.

   (B) A non-match project funded with the AB 923 $2 MV Fee may be evaluated by ARB in conjunction with a Program Review. Evaluation of these projects shall be limited to project eligibility. Any irregularities regarding non-match AB 923 $2 MV Fee project eligibility must be reported separately from Carl Moyer Program Incentives Program Review findings.

V. Minimum Project Application Requirements

1. Air 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 (Health & Safety Code § 44290).

2. Project applications must include all information needed to populate and calculate project cost-effectiveness in CARL.

3. Information regarding previous years of existing engine usage (e.g. miles traveled, hours operated, or fuel consumed per year) must be documented and included in the project application. This information must be used to evaluate project cost-effectiveness and the maximum grant award amount. At the air district's option, minimum annual usage is not required to be specified in the contract for projects in which at least twenty-four (24) months of complete historical usage prior to the application date have been documented and verified by the air district. If an applicant has been on active military duty at any time during the previous twenty four (24) months, documentation prior to deployment and covering the same length of time as the deployment period may be used to meet the title, registration, usage, and operation in California requirements as applicable for each source category. The applicant must submit a copy of DD Form 214, Certificate of Release or Discharge from Active Duty to verify military service during the deployment period.

4. 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.

5. Project applications must include language informing the applicant that by signing and submitting the application, the applicant certifies under penalty of

perjury that the information in the application is accurate and true. In addition, the application must include the following statements that the applicant or the applicant's designee must certify as accurate and true:

(A) A disclosure statement.

(1) The disclosure statement must specify whether the applicant has submitted an application for incentive funds to any other entity or program for the same equipment (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.

(2) An applicant may re-apply for project funding if a previous application for the same project has been rejected by the air district and is no longer being considered for funding.

(3) An applicant must 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 will be reduced by the amount of the current financial incentive, except for projects, beginning July 1, 2011, in which the following funding sources are used to reduce greenhouse gas emissions:

a. Federal funding to reduce greenhouse gas emissions.

b. Alternative and Renewable Fuel and Vehicle Technology Program.

(4) An applicant who is found to have applied for or received incentive funds from another entity or program for the same project without disclosing that information as required by Section W.5.(A)(1), shall at a minimum, be disqualified from funding for that project from all sources within the control of an air district or ARB. ARB and the air district may also seek civil penalties for such non-disclosure.

(B) A regulatory compliance statement form requiring the applicant to certify that they are currently in compliance with all federal, state, and local air quality rules and regulations at time of application submittal.

W. Application Evaluation and Project Selection

1. Air districts must review all applications for completeness upon receipt and notify the applicants within five working days of receipt if their application is not complete, consistent with Health and Safety Code section 44288(a). The air

district must make every effort to clearly state to the applicant what is required to make the application complete. The application and all correspondence with the applicant should be kept in the applicant's project file. Additionally, the record of each project's rating and ranking, receipt date, or other project selection criteria must be maintained with the project file.

2. Air districts are responsible for determining that project applications are credible, made in good faith, and in compliance with the Carl Moyer Program and its objectives.

3. Air districts must ensure that the emission reductions provided by selected projects are eligible and surplus to adopted regulations and other legal requirements. This should include checking to ensure the project meets all of the minimum requirements outlined in the appropriate source category chapter:

   (A) Documentation of historical vehicle, equipment, or engine usage;

   (B) Documentation of project costs;

   (C) Engine or retrofit device Executive Orders, if applicable;

   (D) Proof of a vehicle compliance check, as needed, for on-road (which includes emergency vehicle) projects; and

   (E) Other documentation identified in the relevant source category chapter.

4. Air districts must have a system for tracking applications. CARL may be used to satisfy this requirement if an air 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. Air districts that import project information into CARL are responsible for ensuring the accuracy of their calculations of cost-effectiveness and eligible funding amounts. Minimum allocation air districts and any other implementing air districts receiving less than one-half percent of the current fiscal year total Carl Moyer Program Funds, or $450,000, whichever is less, are not required to maintain an application tracking system.

5. The following requirements apply to those air districts that do not operate and maintain their own databases:

   (A) Information for projects selected for funding must be entered into CARL to ensure each project meets the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program.

(B) No project will be funded unless CARL indicates the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program have been met.

(C) If CARL indicates the project does not meet either the emission reduction requirements or the cost-effectiveness criteria of the Carl Moyer Program and the air district representative believes the project should actually qualify, the air district representative may contact his or her ARB liaison to further evaluate project eligibility.

6. The air district must maintain a copy of each application and a file for each project selected for funding. An air district may use a solely electronic file system only if the air district satisfactorily demonstrates to ARB that all documentation is maintained and can be easily accessed on demand. Unless otherwise specified for a specific source category, project files must be retained three years after the end of the contract term. In the event final payment has not been issued prior to the end of the contract term, the three-year clock is re-started upon final payment.

7. Air districts must keep project applications until a minimum of three years after receipt for projects not selected for funding.

8. Projects approved for funding must meet all applicable requirements of these guidelines. Once an air district has checked the eligibility of projects, the air district must follow its Policies and Procedures Manual in selecting projects to fund.

9. Carl Moyer Program participants that received funding and are still under contract may not apply for funding for the same project through the Carl Moyer Program, the Voucher Incentive Program, the Goods Movement Emission Reduction Program, or any other program.

   (A) If an air district chooses to amend a contract to reduce the term, the amended project must be cost-effective during the reduced contract term, based on the cost-effectiveness values and limit that applied when the original contract was executed. If an air district agrees to accept a prorated repayment of the Carl Moyer Program grant, the repayment and amended contract execution must both occur prior to the execution of any new contract for funding.

   (B) Emissions reductions that were previously funded are part of the baseline and must not be included as emissions benefits of any subsequent project designed to achieve emission reductions, including the Carl Moyer Program, the Voucher Incentive Program, or the Goods Movement Emission Reduction Program.

10. An air district's methodology for notifying applicants of their prospective award must be included in its Policies and Procedures Manual.

11. Air districts with a population greater than one 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 abatement fee and tire fee) are expended on projects that are located in/or operate in environmental justice/high risk communities (Health & Safety Code § 43023.5). Air districts may track this on a cumulative basis (see Section Q.1.).

12. ARB shall include a solicitation packet on its website for multi-district projects that are solicited and selected by ARB consistent with Health and Safety Code section 44286(d). The multi-district project solicitation packet shall include the application requirements and application due date, project eligibility criteria, and project selection criteria.

X. Case-by-Case Determination Process

1. An air district may request ARB review of a project or other Carl Moyer Program element that varies from the requirements of these Guidelines for a case-by-case determination. ARB Carl Moyer Program staff may approve such a project or other program element if the outcome of this approval would not adversely impact achievement of real, surplus, quantifiable, enforceable, and cost-effective emission reductions, would not significantly reduce program transparency, and is not prohibited by law.

2. An air district requesting a case-by-case determination for a project must submit the following to Carl Moyer Program staff (e.g., liaison and/or source category expert):

   (A) A summary of the request and reference(s) to the pertinent area(s) of the Guidelines which the air district is asking for additional guidance and approval.

   (B) Documents providing information essential to the request for approval including, but not limited to, baseline and new engine information, the associated ARB engine Executive Orders and/or United States Environmental Protection Agency Certificate of Conformity for baseline and new engines, other related applicant information from a completed application.

   (C) Other information and documents as requested by Carl Moyer Program staff.

   Once the above information has been submitted, ARB staff will respond to the air district within 15 business days with a determination or estimated date of

determination.

3. The requested project or program element submitted for review shall be deemed:

   (A) Approved: Approval of a project does not imply or equate to “blanket approval” of other similar projects.

   (B) Not Approved: Non-approval of a project does not imply or equate to “blanket non-approval” of other similar projects.

   (C) No Action / CBC approval not required: ARB evaluation concludes that a case-by-case determination is not required as the request already conforms to the requirements or intent of the Guidelines.

4. Air districts are required to request a case-by-case determination even if they believe a project is similar to previously-approved case-by-case projects. ARB may initiate a guideline modification under the Executive Officer’s authority to establish general approval. Subsequent requests for ARB approval would not be required for a project or program element covered by a general case determination.

5. All case-by-case determinations submitted for review and all general case determinations will be made available to the public via web posting at ARB’s Carl Moyer Program website.

6. Air districts must keep a copy of the determination, either approved or not approved, in the project file. Written case-by-case approval for other program elements must be kept by an air district with the air district Policies and Procedures manual and be readily available for ARB Program Review staff.

7. All attempts should be made to request a case-by-case determination prior to contract execution. However, in rare circumstances in which an unforeseen event, subsequent to contract execution, leads to a project or program element that varies from the requirements of these Guidelines, a request for case-by-case determination as outlined in Section Y.2. will also be required.

Y. Minimum Contract Requirements

1. General Requirements. Air districts participating in the Carl Moyer Program must execute contracts with prospective grantees who will receive funds under the Carl Moyer Program. All Carl Moyer Program project contracts must include the elements described in this section. Projects funded by the Carl Moyer Program may not be used to generate a compliance extension or credit for determining regulatory compliance. All executed project contracts and contract amendments must be kept in the air district’s project file.

2. Party Names and Date. All contracts must state the name of the air district and the grantee as parties to the contract. Contracts must include signature blocks with an area for the dates the contract is signed, or the execution date must otherwise be clearly indicated in the contract.

3. Notices. All contracts must include contact information for both parties to the contract, including how to send and receive notices.

4. Funds from Other Sources.

   (A) Grantees must certify that they have disclosed all other public funds that they have applied for or received for a project.

   (B) A grantee may receive Carl Moyer Program funding from multiple air districts for the same project if these entities are coordinating to jointly fund portions of the project. The contract must list the entities involved and funding provided.

   (C) The contract must prohibit the grantee from applying for or receiving other public funds for the same project except in the following situation. Starting July 1, 2011, grantees may apply for and receive additional funding for the same project from federal programs to reduce greenhouse gas emissions (GHG) or funding provided by the Alternative and Renewable Fuel and Vehicle Technology Program to reduce GHG. These funds are not required to be included in the cost-effectiveness calculations (See Appendix C), but they are subject to the disclosure requirements. The total public funds received by the grantee during the term of the Carl Moyer Program contract cannot exceed 85 percent of the project cost (see Chapter 2: General Criteria).

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

   (A) Project Completion. Project completion is the time frame starting with the date of execution of the contract to the date 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 must include a specified time frame in which project completion will occur so that the contract is liquidated within four years from the original date of contract execution. Under no circumstance may the liquidation date be extended beyond four years from the original date of contract execution.

   (B) 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 must specify that the grantee 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.

6. Project Specifications. All contracts must 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) A program-eligible replacement vehicle, piece of equipment and/or engine that is verified or certified to achieve equivalent or greater reductions than the original project replacement vehicle, piece of equipment and/or engine may be substituted with prior approval of the air district.

   (B) All contracts must specify the amount the engine is to operate within California (or the air district) each year based on hours, miles, or fuel usage.

      (1) For projects for which at least twenty-four (24) months of complete historical usage are documented and verified by the air district, minimum annual usage is not required to be specified in the contract. Such historical usage must be documented for at least the twenty-four (24) consecutive months immediately prior to the application date.

      (2) The types of acceptable documentation for establishing historical annual usage will be clearly defined in each air district's policies and procedures manual and will be subject to ARB approval at ARB's request.

      (3) Additional forms of documentation to verify historical annual usage that are not included in an air district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.

   (C) Contracts must also contain a statement that the project complies with the Carl Moyer Program Guidelines and that the grantee will meet the following requirements:

      (1) Certify that the grantee's fleet, engine(s), or equipment/vehicle is in compliance with all applicable federal, state, and local air quality rules and regulations at time of contract execution.

      (2) Maintain compliance with all applicable federal, state, and local air quality rules and regulations for the full contract term.

(3) For repower projects, the installation of the engine must be completed in a manner such that it does not void the engine warranty provided by the manufacturer and any remaining warranty provided by the equipment/vehicle manufacturer.

(D) Contracts must specify the following :

(1) Projects funded by the Carl Moyer Program must be included when defining the size of the fleet for determining regulatory requirements.

(2) Throughout the contract term, projects funded by the Carl Moyer Program must not be used to generate credits or compliance extensions, and must be excluded when determining regulatory compliance.

7. Maintenance. All contracts must require the grantee to maintain the vehicle, equipment and/or engine according to the manufacturer's specifications for the life of the project, and include a prohibition on engine tampering. The grantee must maintain a working hour meter for projects that use hours of operation as a means of calculating emission reductions and cost-effectiveness. If the hour meter fails, the grantee must immediately notify the air district, and remain responsible for validating any hours not recorded by the hour meter. The grantee must either repair or replace the non-operating meter or provide other documentation of equipment operating hours acceptable to the air district.

8. 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 air district, and the project post-inspection must be successfully completed to document the completion of the work specified in the invoice. The equipment must be operational before the final payment is issued. All contracts must include the following payment terms:

(A) Maximum Contract Amount. The maximum contract amount must not exceed the maximum funding level corresponding to the current 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.

(B) 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 air 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. The contract should be clear that the air district will pay the lower of the contract amount or the final invoice amount. Invoices must meet the

minimum requirements of Section CC to be eligible for Carl Moyer Program funding.

9. Reporting. All contracts must include a provision for grantees to submit annual reports commencing no later than 18 months after project post-inspection and continuing annually thereafter throughout the project implementation phase of the contract. The air district must include the dates the grantee Annual Report is due.

   (A) If the air district monitoring phase (i.e. project implementation phase) of the contract term exceeds five years, the grantee's reporting responsibility may be reduced to once every other year after the initial five years of reporting.

   (B) If the project is a zero-emission technology, reporting may be reduced to biennially for the first six years of the contract term. No Annual Reports are required thereafter.

   (C) During the project implementation phase, the air district is responsible for monitoring the project to assure the project is operational and the project emissions reductions are realized.

   (D) The contract must inform the grantee that noncompliance with the reporting requirements will require on-site monitoring or inspection(s).

10. On-Site Inspections and Audits. All contracts must include language that allows the air district, ARB, or their designee to conduct a fiscal audit of the project and/or to inspect the project engine, vehicle, and/or equipment and associated records during the contract term. Contracts must require the owner to maintain and retain the project records for at least three years after contract expiration.

11. Repercussions for Nonperformance. Air districts must include repercussions for non-compliance with the obligations of the contract.

   (A) The contract must specify that by executing the contract, the grantee understands and agrees to operate the vehicle, equipment, and/or engine according to the terms of the contract and to cooperate with the air district and ARB in implementation, monitoring, enforcement, and other efforts to assure the emission benefits are real, quantifiable, surplus, and enforceable.

   (B) The contract must describe the repercussions to the grantee for noncompliance with contract requirements, including but not limited to cancelling the contract and recapturing project funds in proportion to any loss of emission reductions as agreed to in the contract (Health & Safety Code § 44291(c)).

(C) The contract must inform the grantee that ARB and the air district have the authority to seek any remedies available under the law for noncompliance with Carl Moyer Program requirements and nonperformance with the contract. Air districts may consider unforeseen circumstances beyond the grantee's control in determining repercussions for nonperformance.

(D) The contract must state that 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.

Z. Project Pre-Inspection

1. Once an application is deemed eligible, the air district must complete a pre-inspection. Air districts may choose to allow public agencies (e.g. public works departments, transit organizations, and school districts) to provide documentation of the engine(s) and its use in lieu of a pre-inspection.

2. The pre-inspection form and information to be documented must include, at a minimum, the following:

   (A) Information regarding the baseline engine, vehicle, or equipment as needed to uniquely identify, establish eligibility, provide a basis for emission calculations, populate the CARL database, and ensure contract enforceability. Such information includes (as applicable) make, model, year, horsepower, fuel type, engine family, engine tier, serial number, vehicle identification number (VIN), and any additional information pertinent to the project. 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 such as an engine tag.

   (B) The project usage (hours or miles) meter reading if used in the project cost-effectiveness calculation. The inspector must verify that stated project usage is reasonable given the usage meter reading.

   (C) Verification that the engine is operational (with a start-up) and that the engine is working as described in the application (document function and use).

   (D) Photo documentation of the engine, vehicle, or equipment information. The photos must include the legible serial number of the engine (if available) and/or any other identifying markings. Air districts must include in their Policies and Procedures Manual 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 air district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.

(E) Other relevant information including, but not limited to:

(1) Name of inspector;

(2) Date of inspection;

(3) Name and contact information of engine or equipment owner; and

(4) Location of the engine or equipment.

3. Either at the time of application, or no later than the time of pre-inspection the district must obtain certification and submission of supporting documentation from the applicant that their engine(s), vehicle/equipment, or project fleet is currently in compliance with the applicable rules or regulations affecting the engine(s), vehicle/equipment for which they are requesting funding.

4. The air district must maintain a hard copy of the completed pre-inspection form in the air district's project file.

5. All projects other than on-road retrofit projects must be pre-inspected personally by air district staff. An air district may enter into a contract with a vehicle or equipment dealer to pre-inspect on-road retrofit projects. An air district that enters into such a contract must ensure the following:

(A) 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.

(B) The air district must define in its Policies and Procedures Manual its protocol for ensuring the correct verified project retrofit will be properly installed on the eligible project vehicle.

(C) The air district must define the consequences of fraud in the contract with the dealer.

(D) The air district must randomly inspect at least ten percent of vehicles/equipment that have been pre-inspected by the dealer pursuant to the agreement.

6. The project pre-inspection must be completed prior to a project contract execution and the information in the contract must be consistent with the information gathered during the pre-inspection. An air district may apply to ARB for approval 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 conditions being met:

   (A) The air district describes the program benefits it would achieve by conducting pre-inspections after contract signature.

   (B) The project contract includes language to indicate contract terms may be adjusted or the contract may be deemed void based upon information collected during the pre-inspection. The air district must also include a process for informing the prospective grantee of such.

   (C) The air 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.

7. Minimum allocation air districts and any other implementing air district receiving less than one-half of one percent of the current fiscal year total Carl Moyer Program Funds, or $450,000, whichever is less, may reduce their required project pre-inspections to a minimum of 25 percent of the total number of projects associated with the current fiscal year funds. Projects must be selected from each source category funded.

AA. Project Post-Inspection

1. An air district must gather and document post-inspection information on all projects funded under the Carl Moyer Program.

   (A) The air district must conduct a post-inspection after it receives an invoice for a project from the grantee or otherwise receives notice the project is complete. If the post-inspection occurs before the air district receives the project invoice, the invoice must be reviewed for consistency with the new engine, vehicle, or equipment information from the post-inspection form.

   (B) For public fleets such as transit organizations where more than 20 of the vehicles in the fleet are included in the project, the air district may choose to inspect a statistically significant random sample of the vehicles included in the project.

   (C) The inspector must record, at a minimum, information regarding the new

project engines, vehicles/equipment, and retrofit devices as needed to uniquely identify, establish eligibility, provide a basis for emission calculations, populate the CARL database, and ensure contract enforceability. Such information includes (as applicable), make, model, year, horsepower, fuel type, engine family, engine tier, serial number, VIN number, retrofit device certification level, and any additional information pertinent to the project. Submersible pump inspections may have the applicant take a picture of the motor name plate information including, make, model, and serial number prior to installation inside the irrigation well. The district will verify the make, model and horsepower rating information with the project invoice.

(D) The engine must be operational in the equipment or vehicle as stated in the contract. The inspector must visually witness all engine start ups and operation of all mobile projects.

(E) The engine, vehicle/equipment, and retrofit information must be documented with photos. The photos must include the serial number of the engine or retrofit (if legible) and/or any other identifying markings. Photos of the scrapped or destroyed engine must be included. Air districts must include in their Policies and Procedures Manual 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 air district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.

(F) The post-inspection form must also contain other relevant information including, but not limited to:

(1) Name of inspector;

(2) Date of inspection;

(3) Name and contact information of engine or equipment owner; and

(4) Location of the engine or equipment.

(G) The air district must maintain a hard copy of the completed post-inspection form in the air district's project file.

2. Post-inspection of a retrofit device requires the collection of additional information from the labels affixed on both the retrofit device and the engine. The air district may make payment once post-inspection confirms the retrofit device and the

engine are properly labeled with the manufacturer name, family name, and serial number. Retrofit projects that do not have the proper retrofit labels containing the required information on both the device and the engine are non-compliant with ARB retrofit verification and labeling requirements. The post-inspection form must note any missing information and a dated record of the notification must be kept in the project file. Potential scenarios are summarized below, which air district staff must address prior to payment:

(A) The retrofit device is properly labeled but the engine lacks a label: An engine label should be readily obtainable from the retrofit manufacturer by reference to the serial number. The air district may make payment once the grantee has been informed that the engine must also be labeled.

(B) The retrofit device is labeled but the label does not have the required items: The air district must contact the manager of the In-Use Control Measures section or their Carl Moyer Program liaison to determine if an alternate label has been approved. The air district may make payment once it gets approval from ARB or a compliant label has been installed on the retrofit device.

(C) The engine is properly labeled but the retrofit device lacks a label: The air district may make payment once a compliant label has been installed on the retrofit device.

(D) No label is found on either the engine or the retrofit device: The air district may make payment once a compliant label has been installed on both the engine and the retrofit device.

3. Post-inspection of a new electric motor on an agricultural pump must also include recording of the serial number of the variable frequency device if the project includes one.

4. The air district must verify that the existing (old) engine is destroyed and rendered permanently unusable and irreparable.

(A) Air district staff must verify and document through photographic or video evidence that the destroyed engine serial number matches that on the project contract.

(B) Air district staff must verify that engines without a visible and legible serial number are uniquely identified by the correct air district stamp or other permanent marking prior to engine destruction, as per Section AA.2.(A).

(C) Methodology for verifying engine destruction must be identified in the air district's Policies and Procedures Manual. ARB approval of the Policies and Procedures Manual shall indicate ARB approval of the air district's

methodology for verifying engine destruction.

(D) 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.

5. The air district must verify that the information collected in the post-inspection is consistent with the project contract.

BB. Project Invoice and Payment

1. With the exception of some progress payments as described in Section CC.6. and consistent with Section O of this chapter, an itemized invoice for a project (or a completed portion of a project if a partial payment is being made) must be received by the air district and a post-inspection of the project must indicate the project is in-place and operational before the air district may make a payment. See Chapters 10 (Portable and Stationary Agricultural Sources) and 12 (Marine Vessels) for specific exemptions for electric agricultural irrigation pump motors and shore-side shore power projects, respectively. 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 air district must review the itemized invoice and only pay for eligible expenses.

2. Equipment and parts on engine repower projects are eligible for funding only 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.

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

4. Taxes, installation costs for eligible hardware, and transport costs for eligible hardware are eligible for Carl Moyer Program funding at the air district's discretion.

5. A potential grantee may not order or make a down payment on a new engine, piece of equipment, or vehicle prior to air 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 air 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, unless the air district has provided the potential grantee with a written notification

that any work performed is not guaranteed funding until a contract is executed.

6. Partial payments, including progress payments, may be made only if the payment process and requirements have been reviewed and approved by the air district, are described in the air district's Policies and Procedures Manual, and are described in the contract. If multiple engines, vehicles or pieces of equipment comprise a project under one contract, all the funds under the project's contract may be counted as expended consistent with Section O.3. of this chapter as long as the air district has paid the approved grant amount of one or more units that are invoiced and ascertained by post-inspection to be in place and operational.

7. Progress payments (for example, providing partial payment for an engine prior to its installation and operation) will only be made after the grantee provides the air district with sufficient evidence of completing predetermined milestones such as engine delivery. The air district must maintain a clear record of progress payments in the file and in the administration or fiscal unit of the air district. Funds under a contract for which progress payments are being made may not be counted as expended until such time that the air district pays the incremental cost of an invoiced engine, vehicle, or piece of equipment that has been ascertained by post-inspection to be in place and operational consistent with Sections O.3. and P.2.(B) of this chapter. Progress payments include final payments that are withheld until all reporting requirements are met (also known as "withhold payments").

8. Payments typically will be made directly to the grantee. However, payments may be made directly to the dealer or distributor only if such payment arrangements are specified in the contract.

9. Additional project invoicing requirements may also be included in the source category chapters.

10. For all on-road and emergency vehicle projects, should a compliance check indicate that there is an outstanding violation with any vehicle in the applicant's fleet, no disbursement may be made until the applicant provides proof to the district that each violation has been corrected and each fine has been paid.

11. Where a contract requires a grantee to demonstrate that specific regulatory compliance requirements have been met, in order to receive funding (such as engines subject to the Portable Equipment ATCM), air districts may not pay invoices until the grantee has provided documentation that the requirements have been met. A project participant may demonstrate this via a detailed letter signed by the vehicle or equipment owner or legal representative or, if the regulation requires ARB (or the air district) to certify compliance, through ARB (or air district) certification. For more information, see the associated category chapter. Air districts are not to be held liable if a grantee falsifies this

documentation.

12. Invoices received after the project post-inspection has been complete must be evaluated for consistency with the information gathered during the project post-inspection (See Section BB.1.).

13. The air district must maintain copies of all invoices and documentation of payment in the project file or otherwise keep copies on-site at the air district office and be readily available.

CC. Grantee Annual Reporting

1. Air districts must require all grantees to submit annual reports commencing no later than 18 months after the project post-inspection and annually thereafter for the term of the contract, with the following exceptions:

   (A) If the air district's monitoring phase of the contract term exceeds five years, the grantee's reporting responsibility may be reduced to once every other year after an initial five years of satisfactory reporting.

   (B) If the project involves a zero-emission technology, grantee reporting may be reduced to biennially for the first six years. No annual reports are required thereafter.

2. The annual report must be in a format prescribed by the air district and must contain all of the following information:

   (A) Grantee's name, address, and telephone number.

   (B) Information needed to uniquely identify the project engine, vehicle, or equipment, such as engine make, model, horsepower, and serial number.

   (C) Estimated percentage of time the vehicle or equipment has been operated in California since the previous annual report.

   (D) Readings of the usage meter (hour meter, odometer, electronic monitoring unit (EMU), etc.).

   (E) Except for projects in which usage is not required to be specified in the contract (as allowed per Section Z.6.(B)(1) above), if usage is more than 30 percent below that identified in the project application, the grantee must 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 grantee, the grantee may request a waiver from the air district per Section FF.4.(D).

3. The air district must review the annual report for completeness, accuracy, and usage. A hard copy of the annual report, initialed and dated by the reviewing staff, must be maintained in the project file. An air 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.

4. If an annual report is incomplete, inaccurate or not received from the grantee on schedule, the air district will make a reasonable attempt to obtain a complete and accurate report from the grantee. If the air district is unable to obtain the report, the air district must review all of the engines in that project, as per Section EE.

5. Air districts must keep a list of the grantee(s) from whom any reports are more than six months late. Grantees with reports that are more than six months late will not be granted any additional Carl Moyer Program funds until all reports are satisfactorily submitted.

DD. Air District Audit of Projects

1. Each calendar year, air districts must conduct audits of projects funded with Carl Moyer Program Funds (see definitions, including project funds, earned interest, and match funds). The audits must, on an annual basis, include at least five percent or 20 active projects (whichever is less): the district may include in this total the audits of the projects whose owners fail to submit their most recently required project annual report. The requirements of Section CC of this chapter to audit all such projects also apply, even if the total projects audited exceed five percent of, or 20, active projects.

2. Audits must be completed by air district staff and, at a minimum, include an inspection that verifies that the engines and emission control devices paid for are still owned by the grantee named in the contract, operational in the same equipment, and meet the mileage, fuel usage, or hours of operation indicated in the executed contract. This must be performed by checking the serial number of the engine; witnessing the operation of the engine; and checking the odometer, hour meter/usage device, fuel receipts, or EMU.

3. Audits of multi-equipment/engine projects of up to 25 pieces must include inspection of at least two pieces, and for projects of 25 pieces or more must include inspection of at least five pieces.

EE. Nonperforming Projects

1. An air district must work with nonperforming project grantees to ensure Carl Moyer Program project requirements are met and emission reductions are achieved.

2. Off-road construction contracts for which the usage requirements are not being met may be extended to capture the required usage, even if the contract extension overlaps the required compliance date. This revision only applies to off-road construction contracts that have been executed prior to August 15, 2008, and does not modify similar Moyer policy for other eligible categories.

3. An air district must make all reasonable efforts to recoup Carl Moyer Program funds from nonperforming grantees as needed to ensure funded emission reductions are achieved. An air district's efforts to recoup funds may be guided by circumstances such as:

   (A) The existence of fraud or intentional misuse of funds; or

   (B) The amount of Carl Moyer Program funding involved; or

   (C) The ability of the grantee to repay the funds.

4. The air district must take appropriate action to ensure contracted emission reductions are realized per engine, equipment, or vehicle. Except for projects in which usage is not required to be specified in the contract (as allowed per Section Z.6.(B)(1) above), should the average usage over a three year period a contracted engine, equipment, or vehicle be less than 70 percent of the activity required in the contract, the air district may choose, but is not limited to, the options below to address the underutilization. In cases of projects which may have a contracted project life of less than three years, the same activity threshold of less than 70 percent applies, averaged over the project life.

   (A) Extend the project contract for additional years (precluding overlap with an applicable rule implementation requirement).

   (B) Return funds in proportion to the loss in emission reductions.

   (C) Transfer ownership of the engine, vehicle, or equipment to another entity committed to complying with the contract terms.

   (D) Grant a waiver, without penalty, to the grantee for a defined time period. The grantee must demonstrate to the air district Air Pollution Control Officer's satisfaction that the engine, vehicle, or equipment is not being underutilized in favor of operating other, higher-polluting equipment and the underutilization was due to unforeseen conditions beyond the grantee's control.

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

         a. A decrease in usage due to the economic recession;

b. Unforeseen fluctuations in water allocations or pumping needs for agricultural irrigation pump engines; or

c. Significant land fallowing for off-road agricultural equipment and agricultural irrigation pump engines.

(2) To be considered for a waiver, the grantee must provide a written request to the air 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 must be clearly defined and incorporated into each air 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 or permit information, records that show that idled vehicles or equipment are still owned by the grantee, relevant information from ARB's Diesel Off-Road On-Line Reporting System, or other pertinent records. Additional forms of documentation that are not included in an air district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.

a. The air district must specify the length of time for which the waiver is valid. The waiver will not exempt the grantee from any contract requirement to provide annual usage reports.

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

(E) Recalculate a project's cost-effectiveness based on the reported decrease in usage. Based on this recalculation, if the project is still below the cost-effectiveness cap, consistent with the cap and methodology in effect on the date of contract execution and prior to the end of the contract, the air district must continue to monitor the project over the next year to determine if additional actions are necessary. A waiver is not required in this event.

5. An air district must describe its procedures for dealing with nonperforming grantees in its Policies and Procedures Manual.