

CHAPTER 3: PROGRAM ADMINISTRATION

TABLE OF CONTENTS

A. Background.....	3-1
B. Grant Fund Allocation and Solicitation.....	3-1
C. Air District Applications for Grant Funds.....	3-2
D. Grant Application Review and Grant Award.....	3-4
E. Fund Disbursement	3-5
F. Redirection of Funds.....	3-6
G. Rural Assistance Program.....	3-7
H. AB 923 - \$2 Motor Vehicle Fee.....	3-9
I. Air District Match Funds.....	3-10
J. Air District Administration Funds.....	3-11
K. Accounting Principles.....	3-12
L. Co-funding Moyer Program Projects with Other Funding Sources.....	3-14
M. Yearly Report.....	3-16
N. Progress Tracking.....	3-18
O. Funding Year Liquidation.....	3-19
P. Return and Reallocation of Funds.....	3-20
Q. Program Nonperformance.....	3-20
R. Incentive Program Review.....	3-22
S. Requirements for Project Applications.....	3-23
T. Application Evaluation and Project Selection.....	3-25
U. Case-by-Case Determination Process.....	3-26
V. Minimum Contract Requirements.....	3-27

W. Project Pre-Inspection.....	3-31
X. Project Post-Inspection.....	3-33
Y. Project Invoice and Payment.....	3-35
Z. Grantee Annual Reporting.....	3-37
AA. Air District Audit of Projects.....	3-37
BB. Nonperforming Projects.....	3-38

CHAPTER 3: PROGRAM ADMINISTRATION

This chapter describes the administrative requirements that the Air Resources Board (ARB), air quality management districts or air pollution control districts (air districts), and interested parties must follow to ensure that Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program) projects achieve State Implementation Plan (SIP)-creditable emission reductions.

A. Background

An air district may choose to require more stringent administrative procedures in implementing its local program. Some source category chapters of the Moyer Program Guidelines (Guidelines) give additional administrative requirements. In a case where the source category requirements conflict with requirements specified in this chapter, the source category requirements take precedence.

These Guidelines must be used for all projects funded with fiscal year 2017-18 (Moyer Program Year 20) and subsequent years' funds. The 2017 Guidelines may be utilized for previous year funds after the Board approval date, and applied to projects for which contracts are fully executed after the Board approval date. When an air district begins applying the 2017 Guidelines to projects, it must continue to apply only the 2017 Guidelines to all subsequently funded projects. ARB will follow these 2017 Guidelines for administration of the Moyer Program following Board approval.

For projects funded using fiscal year 2016-17 (Year 19) and previously awarded funds, an air district may use either the 2011 Guidelines or these 2017 Guidelines, with any applicable program advisories and mail-outs. An air district may not apply elements of both Guidelines to a project.

B. Grant Fund Allocation and Solicitation

- 1. Grant Funds Notification.** During each fiscal year, ARB will send a solicitation letter to each air district's Air Pollution Control Officer (APCO) with notification that Moyer Program funds for that year are available. Enclosures with the letter will include the application for funds, a tentative allocation of regular program funds (not including State Reserve funds) for all air districts showing a breakdown of project and administrative funds, and any associated match funds requirement.
- 2. Tentative and Final Funds Allocation.** After a review of projected revenues for the current fiscal year, a tentative funds allocation for all air districts will be determined by ARB under the requirements of Health and Safety Code (H&SC) section 44299.2(a); it may include funds returned or reverted to ARB under section 44287(j). Following receipt and review of air district applications, ARB will determine a final funds allocation that (a) considers any update in projected revenues and (b) redistributes any funds declined by air districts to other air districts that have requested additional funds. This redistribution will also follow

the allocation requirements of Health and Safety Code section 44299.2(a). The typical timeline for the initial allocation, air district application, final allocation, disbursement and subsequent expenditure of a fiscal year's grant funds is provided in Table 3-1.

**Table 3-1
Moyer Program Regular Funds Timeline**

Date	Action
By end of January	ARB sends application packet to air districts
By end of March	Air districts apply to ARB for funds
By end of April	ARB notifies air districts of final awards
By end of May	Air districts return signed grant agreements
June 30 of Following Year	Target date for contracts to be executed
June 30 of Second Year	Deadline for air districts to receive fund disbursements.
June 30 of Fourth Year	Deadline for air districts to liquidate funds

3. **State Reserve Funds.** ARB may direct up to ten percent of Moyer Program funds available each fiscal year to eligible projects selected in accordance with Health and Safety Code section 44286(d). ARB shall annually post on its website a solicitation packet for State Reserve projects. The solicitation packet will include the application requirements and due date, project eligibility criteria, and project selection criteria.

C. Air District Applications for Grant Funds

1. **Air District Options.** An air district may consider the following options upon receiving the solicitation:
 - (A) Accept the tentative allocation in full without change, and commit to the associated match funds amount;
 - (B) Accept the tentative allocation but request additional funds, and commit to the associated match funds amount;
 - (C) Accept the minimum allocation of \$200,000, with no match requirement;
 - (D) Accept the minimum allocation and authorize the funds be designated to the Rural Assistance Program, for the current year and up to four additional years unless rescinded in a future year;
 - (E) Accept the tentative allocation and authorize the funds be designated to a lead air district for Moyer Program funding in the region, for the current year and up to four additional years unless rescinded in a future year;
 - (F) Decline an allocation. In this case the air district's share of funds will be redistributed with the final funds allocation.

- 2. Application and Resolution.** Within 60 calendar days of the date of the solicitation letter, an air district accepting or designating funds will provide ARB a completed application indicating the option chosen above and signed by the APCO. The application will include a board resolution or minute order that supports the option chosen, and will indicate the district is maintaining a Moyer Program Policies and Procedures manual that meet the requirements of this section. For air districts accepting funds the resolution or minute order will commit the district to participate in the Moyer Program, comply with Program requirements, and commit to providing matching funds if requesting funds above the minimum allocation. If the air district board is unable to consider the Moyer Program application within the 60 days following the solicitation letter, the application will indicate when a resolution or minute order will be considered by the board.
- 3. Match Funds.** An air district requesting the tentative allocation or a greater amount must make a match funds commitment equal to 15 percent of State funds requested. The district will indicate on its application the source of match funds. An air district may account for up to 15 percent of its match requirement with in-kind contributions. Sources and requirements for match funds are described in Section I of this chapter.
- 4. Policies and Procedures.** To remain eligible for continued funding, an air district will maintain a Moyer Program Policies and Procedures Manual. The manual will focus on the district's local implementation of the Moyer Program Guidelines, including roles and responsibilities within the district and local application of Moyer Program policies. Air district staff will review the manual at least once a year and make it available when requested by ARB staff or a member of the public. The manual will include at least the following elements:

 - (A) Roles and responsibilities within the air district for program implementation, including staff or positions responsible for: responding to ARB funding solicitations; evaluation, selection and inspection of projects; and obtaining governing board approval for program participation and projects to be funded;
 - (B) Identification of the project source categories supported by the air district Moyer Program, and the schedule for solicitation and review of applications to be submitted under these source categories;
 - (C) Procedures for project selection, including cost-effectiveness or other criteria applied to rank projects, or whether projects are selected in order of application receipt (first-come, first-serve); and any procedures that vary by source category;
 - (D) Procedures for notifying successful applicants of their grant awards, and for notifying applicants who have not been awarded grants;

- (E) Where applicable, project selection procedures that ensure priority for funding projects that will reduce air pollution in communities with the most significant exposure to air pollution (H&SC § 43023.5);
- (F) Where applicable, the procedures for selecting projects to be funded with Moyer Program match funds;
- (G) The method for calculating interest earned on Moyer Program funds held by the air district;
- (H) Procedures for grantees to submit program invoices and receive payment, including itemization required to limit reimbursement to eligible costs, conditions for progress or partial payment, and practices for withheld payments pending grantee reporting;
- (I) Methods the air district will use to verify the destruction of engines and equipment when required, consistent with minimum standards specified in these Guidelines by source category;
- (J) Methods the air district will use to store and retrieve digital photographs documenting project inspections along with associated project-specific information;
- (K) Procedures, schedules and required content for grantee reports;
- (L) The types of acceptable documentation for establishing historical annual usage, and procedures for considering and granting usage waiver requests, including supporting information to be provided by the grantee;
- (M) Procedures for working with nonperforming grantees to gain full compliance with contracts and program requirements;
- (N) Any air district program requirements that are more stringent than those specified in Moyer Program Guidelines and Mail-Outs;
- (O) Any ARB approvals of air district program elements that vary from those required by Moyer Program Guidelines and Mail-Outs, e.g., methods of ensuring engine or equipment destruction that vary from those specified in the source category chapters.

D. Grant Application Review and Grant Award

- 1. Review Period.** ARB will review an application immediately upon receipt and, when necessary, provide the air district with a written explanation of what is missing from the application within ten working days of its receipt. ARB will approve completed applications that fulfill all criteria no later than 60 working days after receipt, including time for ARB review and comment on air district Policies and Procedures if desired (H&SC § 44287(m)).
- 2. Conditional Approval.** ARB may elect to approve an application that is missing a particular item and make the submittal of that item a Special Term and Condition of the Grant Agreement. For example, sometimes air district staff is 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. Policies and Procedures Review.** The grant application includes the air district's statement that it is maintaining a manual of current policies and procedures consistent with the requirements above. ARB may choose to review an air district's Policies and Procedures Manual, and an air district may request ARB's review of its manual's completeness and consistency with these Guidelines. ARB comments on an air district's Policies and Procedures Manual will be provided by email or in other written format. An air district's policies and procedures as implemented can only be fully evaluated during a program review process.
- 4. Grant Award Notification and Signature.** ARB will prepare and submit to qualifying air districts each year a notification of final grant awards, accompanied by a Grant Agreement for review and signature. A deadline for air district acceptance of the grant award will be specified in a cover letter sent with the Grant Agreement. The Grant Agreement package will include two copies of a cover sheet indicating the amounts of funds granted for projects and for administration, the required amount of match funds if applicable, any Special Terms and Conditions, and General Terms and Conditions for the grant. The district APCO will sign both copies of the cover sheet and return them with original signatures to ARB. Following signature by ARB Budgets Chief, ARB will return one original copy to the air district for its records.

E. Fund Disbursement

- 1. Procedure.** ARB may disburse funds following signature of the Grant Agreement by both parties. To obtain funds the air district will submit a completed current Grant Disbursement Request Form, available on the Moyer Program website. The Grant Disbursement Request Form must include an original signature by a party authorized and designated by the air district's Governing Board. Any Special Terms and Conditions in the Grant Agreement must be met before ARB will disburse funds associated with the grant award. Disbursement requests must be received by ARB by May 15 each year to ensure payment within the fiscal year. Any funds not disbursed by June 30 two years following the award will be reallocated to all districts in the subsequent grant cycle.
- 2. Initial and Additional Disbursements.** An air district may request an initial disbursement of \$200,000 or 10 percent of its project funds, whichever is greater. The air district may request additional disbursements when the criteria below have been met.
 - (A) The preceding Yearly Report demonstrates on-time liquidation consistent with Health and Safety Code section 44287(j); or if not, any funds not

liquidated on time have been received by ARB. ARB will not require a return of funds under executed contract. ARB may require an air district to change the funding years from which funds are assigned to projects in the statewide database (Clean Air Reporting Log or CARL) to facilitate on-time liquidation.

- (B) The Grant Disbursement Request Form is accompanied by a list of projects under executed contract with invoices pending, approved by an air district governing board, or under air district staff review for eligibility and funding. The total cost of the projects listed should equal or exceed the amount of the disbursement request.

- 3. Administration Funds.** An air district may also request some or all of its administrative funds with an initial disbursement. The air district will receive one check for both program administration and project funds, but must account for the expenditure of administration and project funds separately.

F. Redirection of Funds

- 1. Procedure.** An air district may redirect funds to another air district or the Rural Assistance Program by submitting to ARB the items below. For funds already disbursed by ARB and due for liquidation by June 30 of the current fiscal year, the air district must submit these items no later than March 31 to allow time for processing new grant agreements. For funds not yet disbursed by ARB and due for disbursement by June 30 of the current fiscal year, the air district must submit these items no later than March 15 to allow time for processing new grant agreements and subsequent processing of a disbursement request for the air district receiving the redirected funds. A redirection request includes:

- (A) The Moyer Program Redirection of Funds form, with the appropriate portions completed in consultation with ARB staff and indicating the sums of project and administrative funds to be redirected, which may include interest or other earned funds due for liquidation;
- (B) Resolutions or minute orders adopted by the boards of the air districts transferring and receiving funds that authorize the redirection;
- (C) A memorandum of understanding (MOU) or equivalent signed by the air pollution control officers of the affected air districts. The MOU must:
 - (1) Specify the details and conditions of the redirection of funds;
 - (2) Identify which air district is responsible for any required match associated with the redirected funds;
 - (3) Identify the funding year and the associated liquidation deadline for the redirected funds;
 - (4) Specify how and when payment will be made to the air district receiving the funds, including one of the following:

- a. If the transferring air district has not submitted a disbursement request to ARB, the MOU will specify that the air district that is receiving the funds will submit the request to ARB following ARB approval of revised grant agreements.
 - b. If the transferring air district has the funds already, the MOU will specify that it will pay the receiving air district directly, following ARB approval of revised grant agreements.
- 2. Amended Grant Agreements.** After receiving the items above from the transferring air district, ARB staff will develop new or amended grant agreements. District APCOs must sign and return the grant agreement cover sheets for signature by the ARB Budgets Chief. After ARB signature of both revised grant agreements, the receiving air district may request either a disbursement of funds from ARB or payment from the transferring air district. An air district receiving funds from another district will submit a copy of the check to Moyer Program staff.
- 3. Retention of Administrative Funds.** Air districts redirecting project funds but retaining, with approval of the receiving air district, associated administrative funds must provide to ARB by the close of the fiscal year in which the funds were transferred a description of how administrative funds were utilized for the period since the grant award, including but not limited to the following:
 - (A) A summary of air district activities to solicit project applications, including copies of any written grant solicitations and lists of potential applicants to which outreach was directed;
 - (B) A list of project applications submitted and reviewed;
 - (C) A breakdown of staff time devoted to Moyer Program activities;
 - (D) A summary of any Moyer Program training activities for air district staff.

G. Rural Assistance Program

- 1. Purpose.** The Rural Assistance Program (RAP) is a partnership among rural air districts, the California Air Pollution Control Officers Association (CAPCOA), and ARB to enhance rural air district participation in the Moyer Program. RAP facilitates air district participation by streamlining the grant administrative process and by encouraging the pooling of financial and technical resources. The reduction in cost and staff resources lowers the threshold for participation in the Moyer Program and maximizes project funding in rural areas.
- 2. Designation or Redirection to RAP.** An air district may designate funds to RAP in its application for Moyer Program funds (see Section C.1.(D)). An air district may also redirect funds to RAP after it has executed a grant with ARB, but must do so by March 1 of the year by which funds must be disbursed, as shown in the example timeline below. RAP funds that have been disbursed to air districts and

subsequently returned to ARB will be reallocated to other RAP projects whenever possible.

**Table 3-2
Example RAP Funds Calendar:
Moyer Program Year 18 (Fiscal Year 2015-2016)**

January–April 2016	Air district applies for funds and executes Year 18 Grant Agreement; funds are designated to RAP.
March 1, 2018	Deadline to redirect air district’s grant funds to RAP
June 30, 2018	Deadline for air districts to receive fund disbursements. Target date to expend Year 18 grant award.
June 30, 2020	Deadline to liquidate Year 18 grant award

3. Roles and Responsibilities among RAP Program partners are as follows:

- (A) ARB notifies CAPCOA of funds designated or redirected to RAP, and develops and administers grant agreements between ARB and recipient air districts.
- (B) CAPCOA selects a program administrator, which may be CAPCOA staff, an air district, or a third party. CAPCOA also establishes criteria for project selection and approves projects selected by the Program Administrator.
- (C) The RAP Program Administrator provides outreach for RAP, prepares the application and project solicitation, performs initial application screening, ensures project eligibility, ranks projects based on CAPCOA criteria, selects projects, and determines recipient air districts.
- (D) Donor air districts designate all or a portion of their Moyer allocations to RAP on their Moyer grant award application, or redirect grant funds already accepted to RAP using the procedure in Section F of these Guidelines. Air district boards approve designation or redirection of RAP funds via resolution or minute order.
- (E) Recipient air districts sign grant agreements with ARB to accept funds for RAP projects, maintain a Policies and Procedures Manual, and are responsible for grant obligations, including contracts with grantees for project implementation, project inspections, monitoring and reporting. Air district boards approve receipt of RAP funds via resolution or minute order.

H. AB 923 - \$2 Motor Vehicle Fee

1. **Project Eligibility.** State law allows air districts to collect an additional \$2 motor vehicle registration surcharge (MV Fee) (H&SC § 44223) which must be used to fund the following project categories (summarized) (H&SC § 44229(b)):
 - (A) Projects eligible for grants under the Moyer Program.
 - (B) The new purchase, retrofit, repower or add-on equipment for previously unregulated agricultural sources of air pollution (Agricultural Assistance Program, H&SC § 39011.5).
 - (C) Purchase of new school buses or the repower or retrofit of emissions control equipment for existing school buses pursuant to the Lower-Emission School Bus Program adopted by the Board.
 - (D) An accelerated vehicle retirement or repair program that is adopted by ARB.
 - (E) Onboard natural gas tank replacements in existing school buses 14 years or older or the enhancement of deteriorating natural gas fueling dispensers of fueling infrastructure pursuant to the Lower-Emission School Bus Program adopted by the Board.
 - (F) Alternative fuel and electric infrastructure projects solicited and selected through a competitive bid process.
2. **Match.** \$2 MV Fees used to meet the Moyer Program match fund requirement (See Section I) are subject to the same eligibility, reporting, review and auditing requirements as State-provided 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 Moyer Program funds received each year.
3. **Reporting and Oversight.** Reporting and oversight of the \$2 MV Fee depends upon whether the fee is used to meet the 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 M and R of this chapter further describe \$2 DMV fee reporting and oversight.

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

Requirement	\$2 MV Fee Used as Match	\$2 MV Fee Used for SIP Credit	\$2 MV Fee Not Match/ not SIP
Liquidation of funds within four years	(a)	--	--
Meet full and complete Moyer Program Guideline criteria	√	--	--
Subject to ARB Incentive Program Review	√	--	(b)
Subject to ARB project eligibility evaluation (e.g., cost-effective and surplus)	√	√	√
Fiscal reporting to ARB (list total funds expended in seven basic categories)	√	√	√
Detailed reporting to ARB (project specifics submitted in current database)	√	√	--

(a) Sufficient funds must be liquidated, regardless of their year of origin or source, to provide the required match by that year's liquidation deadline. For example, for Year 18, air districts must complete liquidation of applicable Year 18 match funds by June 30, 2020. When those funds were received is not a factor in determining this deadline.

(b) Non-match projects funded with AB 923 \$2 MV Fee may be evaluated by ARB in conjunction with Incentive Program Review. Evaluation of these projects will be limited to project eligibility. Any irregularities regarding non-match AB 923 \$2 MV Fee project eligibility must be reported separately from Incentive Program Review findings.

I. Air District Match Funds

- 1. Requirement.** Air districts participating in the Moyer Program are required to provide match funding. Air districts implementing the Moyer Program must commit match funds equaling 15 percent of the regular Moyer Program funds received. An air district receiving the minimum grant award of \$200,000 is exempt from this match requirement.

- 2. Federal Funds.** Air districts may use federal funds as 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 administering 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 Moyer Program match does not conflict with any State or local requirements regarding the funds. If this option is used, supporting documentation must be included in all relevant project files.

- 3. Program Basis.** 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. Match funds are included in cost-effectiveness calculations and subject to the same cost-effectiveness limits as other Moyer program funds.

4. **Match Fund Sources.** Match funds may be any funds under an air district's budget authority or fiduciary control that are committed to be expended in accordance with Moyer program requirements. Match funds may also be provided by a port authority, or a local government teamed with an air district. Match funds provided by a port authority or a local government shall not exceed 30 percent of the total required matching funds in any air district that applies for more than \$300,000 of the state board funds (H&SC § 44287(e)). Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.
5. **In-Kind Contributions.** Up to 15 percent of an air district's match requirement may be fulfilled through in-kind contributions (H&SC § 44287(h)). Air districts may use any funds under their budget authority, except for Moyer Program administrative funds and interest or other funds earned on Moyer Program funds, to cover their in-kind contributions. 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 in Section J.
6. **Eligible Projects.** Match funds may be used to pay for any project that meets all Moyer Program criteria. Match funds may also be used to pay for the incremental cost of electricity or alternative fuels serving a Moyer program eligible source category.

J. Air District Administration Funds

1. **Air District Funding.** Air districts with one million or more inhabitants may use up to 6.25 percent of their Moyer Program funds on program outreach and administration, while air districts with under one million inhabitants may use up to 12.5 percent of their Moyer Program funds (H&SC § 44299.1(c)-(d)). Air districts shall maintain an outreach program consistent with Health and Safety Code section 44290.
2. **Allowable Costs.** Table 3-4 lists allowable administration costs and documentation that the air district is required to maintain for Moyer Program administrative funds. Air districts will make available the documentation shown in the table for review during ARB or other State agency monitoring visits, reviews and audits. Such administrative records for a given funding year must be retained for a minimum of five years following the applicable funding year

liquidation deadline. For example, for Year 16 (fiscal year 2013-2014) funds, the funding year liquidation deadline is June 30, 2018, and administrative records would be retained through June 30, 2023.

**Table 3-4
Administration and Outreach Costs and Documentation**

Allowable Cost	Required Documentation
Air district staff time	Personnel documentation that may include timesheets or output of labor tracking software; duty statements or job descriptions indicating percentage of staff time; or written summaries of Moyer Program staff activities with time estimates by activity or task.
Consultant fees	Consultant contracts and invoices
Printing and mailing costs	Receipts and invoices. Copies of solicitations and outreach materials indicating availability of grants
Travel expenses	Receipts and invoices. Travel cost criteria must be consistent with written air district travel policies for other air district programs, cited in the Policies and Procedures Manual or local administrative manual.
Indirect costs	Indirect cost calculation methodologies must be described or cited in the Policies and Procedures Manual or local administrative manual, and calculated costs must be documented.

- 3. Mitigation for Unallowable Costs.** An air district that charges 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.

K. Accounting Principles

Air districts must establish accounting practices for Moyer Program funds consistent with the requirements below, as early as practicable and no later than July 1, 2019.

- 1. Moyer Funds Account.** Moyer Program funds (Moyer funds) must be accounted for as separate funds within the air district’s general ledger following generally accepted accounting principles (GAAP). An air district receiving a total allocation of one percent or more of all Fiscal Year 2016-17 Moyer Program funds must use a Special Revenue Fund for Moyer funds accounting. Other air districts may use a Trust Fund.
- 2. Timing of Recognition in Financial Statements.** Moyer Program grants are voluntary non-exchange transactions to the air district. As such the air district should recognize revenues in the fiscal period when all eligibility requirements have been met and the resources are available. For reference see Governmental Accounting Standards Board (GASB) Statements 33 and 34.

3. Required Financial Statements. Financial statements containing at minimum the following account balances and transaction classes, as applicable, will be prepared at least annually.

(A) Balance Sheet:

- (1) Cash and Cash Equivalents (cash, investment pools, petty cash)
- (2) Moyer Program Fund Revenue Receivable (grant funding from ARB)
- (3) Recapture Revenue Receivable (recapture funds receivable from grant participants for unmet contractual obligations)
- (4) Salvage Revenue Receivable (revenue receivable from retired equipment sold or auctioned for scrap metal)
- (5) Accounts Payable (vendor invoices pending for Moyer projects)
- (6) Fund Balance
 - a. Restricted for Air District Projects
 - b. Restricted for State Reserve, Multi-District, RAP Projects
 - c. Restricted for Administration and Operating Costs

(B) **Statement of Revenues, Expenditures, and Changes in Fund Balance:**

- (1) Revenue Subsidiary Ledgers
 - a. Regular Moyer Funds Project Revenue
 - b. State Reserve and Multi-District Project Revenue
 - c. Rural Assistance Program Project Revenue
 - d. Administration and Operating Revenue
 - e. Recapture Revenue
 - f. Salvage Revenue
 - g. Interest Revenue
- (2) Expenditure Subsidiary Ledgers:
 - a. Project Expenditures (from regular Moyer grant, recapture, salvage, interest)
 - b. State Reserve and Multi-District Project Expenditures
 - c. Rural Assistance Program Project Expenditures
 - d. Administration and Operating Expenditures including indirect costs
- (3) Awards Returned: Moyer Program air district money returned to ARB for reallocation
- (4) Transfers In/Out

4. Interest Revenue. Any interest earned on investment of Moyer fund cash balances must be deposited in the Moyer funds account and used to fund

Moyer-eligible projects, or to fund administration up to the portion provided for in Health and Safety Code section 44299.1(c)-(d), or be remitted to ARB.

- (A) An air district electing not to invest Moyer Program fund cash balances but investing other cash balances should deposit the Moyer Program funds in a separate checking account to clearly indicate that no such moneys were invested.
- (B) When invested, Moyer Program funds should receive equitable pro-rated interest earned on the total funds invested. As State funds, Moyer Program funds may be invested only in accounts or instruments that reflect the risk appetite of the State. For reference see Office of the State Treasurer Local Agency Investment Guidelines. Any loss from investments not made in accordance with standards set forth in California Government Codes must be covered by the air district.

- 5. Recapture and Salvage Revenue.** Revenues earned or collected by the air district through Moyer Program resources, including revenues obtained through salvage and sale of scrapped equipment, must be reported and either retained as a supplemental source of funds for Moyer projects or forwarded to ARB for deposit to the Air Pollution Control Fund. If recaptured funds or salvage revenues are invested, such revenues must meet the requirements of Section K.4.(B) above. Air districts are not required to earn funds through program actions, or expected to base business decisions on their ability to generate returns or collect funds through program activity.
- 6. Expenditures for Moyer Program Projects.** All project expenditures out of the Moyer funds account must meet the Moyer Program Guidelines current at the time of contract execution, including any revisions to those Guidelines in effect at the time of contract execution.
- 7. Reporting Requirements.** No later than six months after the air district fiscal year end, the district will append to its Yearly Report a Balance Sheet and a Statement of Revenues, Expenditures and Changes in Fund Balance, in formats consistent with GAAP.
- 8. Records Retention.** Grant receipts and expenditure documents including invoices, contracts, vouchers, personnel and payroll records should be retained for five years after the grant liquidation period or the last recorded grant transaction, whichever is later.

L. Co-funding Moyer Program Projects with Other Funding Sources

- 1. Purpose.** Senate Bill 513 (Beall, 2015) provides new opportunities to co-fund Moyer Program projects with other funding sources. These Guidelines specify requirements that apply when multiple funding sources are proposed to support a Moyer Program eligible project. All co-funded projects must adhere to the Moyer Program objective to achieve cost-effective and surplus emission reductions to

be credited toward California's legally enforceable obligations in the SIP (H&SC § 44286(g)). There is no limit on the number of co-funding sources to fund a project as long as total project costs are not exceeded and the applicant cost share requirement is met.

- 2. Designation of Non-Moyer Funds:** Funds other than Moyer Program grant funds may be used to co-fund Moyer Program eligible projects, when all program criteria associated with each funding source are met. Funding sources are grouped into the following categories. Definitions of these categories can be found in Appendix B.
 - (A) Federal funds;
 - (B) State funds;
 - (C) Local funds;
 - (D) Penalty funds;
 - (E) Other applied funds.
- 3. Mitigation Funds.** Mitigation funds may be used to co-fund a Moyer project if an air district submits a request for a case-by-case determination in accordance with Section U and receives ARB approval.
- 4. Cost-effectiveness Calculation.** The non-Moyer funds described above are not required to be included in Moyer project cost-effectiveness calculations (H&SC § 44287.2(a)). Match funds and all AB 923 \$2 DMV Fees are required to be included in project cost-effectiveness calculations.
- 5. Applicant Cost Share.** An applicant that is not a public entity must provide at least 15 percent of a project's Moyer eligible cost from non-public sources. The applicant cost share cannot be covered through in-kind contributions. An air district may request a case-by-case determination from ARB to waive all or part of an applicant's cost share, in accordance with Section U. In its waiver request, an air district must identify the source(s) and amount(s) of the proposed project's funding and explain the reasons for the cost share waiver, discussing at a minimum either or both of the following factors:
 - (A) The public benefit of the project that is above and beyond the emission reductions achieved;
 - (B) How the project will advance newer and cleaner technology.
- 6. Applicant Disclosure and Payment.** The sum of project funding from all sources may not exceed the total project cost (H&SC § 44287.2(b)). Applicants must disclose all sources of funding applied for at the time of the Moyer project application, and again when submitting each invoice to the air district, prior to payment of Moyer Program grant funds (H&SC § 44283(g)). An air district may not issue payment of Moyer Program grant funds until all funding sources have

been identified and verified and the air district can ensure that the sum of the grants awarded to the project, including both Moyer and non-Moyer funds, does not exceed the total project cost.

- 7. Emission Reductions.** All covered emission reductions achieved from a project with multiple funding sources will be credited as reductions from the Moyer Program to ensure proper SIP accounting, improve the likelihood of federal credit, and avoid risk of double-counted reductions. Other emission reductions, such as greenhouse gases, may be claimed by other programs that co-fund a project.
- 8. Reporting of Project Data.** For co-funded projects an air district will report in CARL consistent with the reporting requirements of Section M. The air district will also report other co-funding sources and funding amounts. When reporting project funding sources to CARL, air districts will categorize certain co-funding sources as specified below.
 - (A) Funding from investor owned utilities will be reported as “other applied funds,” and funding from publicly owned utilities as “local funds.”
 - (B) Supplemental environmental project funds will be reported as “other applied funds.”
 - (C) Funds from local transit agencies will be reported as “local funds.”

M. Yearly Report

- 1. Reporting Requirement.** Each year by June 30, ARB will prepare and make available to air districts a certification form with instructions for completion of the Yearly Report. Air districts will complete, certify and submit the Yearly Report by August 29. An air district that has designated to another air district or the Rural Assistance Program all grant funds for all years covered in the Yearly Report is not required to complete a report.
- 2. Reporting in CARL.** Air districts will report project information in the Clean Air Reporting Log (CARL) database, either via CARL forms or batch import, sufficient to populate the required data fields and to calculate covered emission reductions and cost-effectiveness for source categories where required. The air district will ensure the information in CARL is complete, correct, and supported by documentation. The air district will report on projects funded in whole or part with these funds:
 - (A) Granted Moyer Program funds;
 - (B) Match funds;
 - (C) Interest and other non-grant revenues earned to support the Moyer Program;
 - (D) Multi-district and State Reserve funds;

- (E) Rural Assistance Program funds;
- (F) Non-Moyer funds as specified in Section L;
- (G) AB 923 \$2 DMV fees used for projects claimed for SIP credit;
- (H) Other funds that ARB oversees relative to the Moyer Program.

3. Report Content. The Yearly Report will include the following information as of June 30, the end of the past fiscal year:

- (A) Output generated by the Required Reports utility of CARL for the default years specified in the utility.
- (B) Contract execution and liquidation status of Moyer Program funds, including match funds, earned interest funds, multi-district and State Reserve funds, RAP funds, and other funds for which the air district has a Moyer Program obligation during the fiscal years covered by the report. Funds will be reported relative to the progress milestones identified in Sections N and O below.
- (C) A funding summary by project type of non-match projects funded with AB 923 \$2 MV fees when no SIP credit is claimed. Projects funded with AB 923 \$2 DMV fee funds not used as match and not claimed for SIP credit need not be entered into CARL, but the air district will summarize in the Yearly Report the amounts of such funds expended for each of the project categories identified in Section H.1.
- (D) For the most recent fiscal year, additional funds available to the Moyer Program from the following sources. These funds will be included in the target for the funding year due for liquidation in four years unless the air district directs ARB staff to include them in an earlier year target.
 - (1) The amount of any interest accrued on Moyer Program funds held in local accounts. An air district may choose to designate in the Yearly Report all or a portion of this interest for remittance to ARB.
 - (2) Funds recaptured from liquidated projects, including funds provided back to the air district following ARB enforcement actions, identified by project name and funding year.
 - (3) Non-grant revenue earned for the Moyer Program by the air district, such as from the sale of scrapped engines or equipment.
- (E) A list of any projects identified as non-performing and a brief narrative of any related enforcement actions.
- (F) The portion of match funds to be met through in-kind contributions, as provided in Section I.5.

4. Report Certification and Documentation. The air district APCO, Chief Financial Officer (CFO), and 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 APCO may also serve as the Moyer Program Administrator. The APCO may designate an alternate to the CFO if the designated alternate is someone other than the APCO or Program Administrator. The air district will maintain documents in support of the report at the air district office, and make them available to ARB staff upon request.

5. **Project Eligibility.** 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. 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.

N. Progress Tracking

1. **Progress Milestones.** To support timely emission reductions and track progress toward statutory fund liquidation requirements, air districts and ARB will work together to meet recommended progress milestones as follows. After execution of a grant agreement with ARB for Moyer Program funds, air districts will make every effort to have 50 percent of the project funds awarded under executed contract by June 30 of the next calendar year, and 100 percent of the project funds under executed contract by June 30 of the second calendar year after the agreement. Air districts will also make every effort to have 50 percent of project funds liquidated within two years, and 75 percent of project funds liquidated within three years. Similar progress milestones apply to any match funds associated with granted project funds. Progress will be reported in Yearly Reports. Table 3-5 shows an example of progress milestones for the 2018 Yearly Report.

**Table 3-5
Example Progress Milestones: 2018 Yearly Report**

Timeline	Fiscal Year	Funding Year	Milestone
1 year	2016-17	19	50% of project funds under executed contract
2 years	2015-16	18	100% of projects funds under executed contract
			50% of project funds liquidated
3 years	2014-15	17	75% of project funds liquidated
4 years	2013-14	16	100% of grant funds liquidated (Section O)

2. **Cumulative Tracking.** ARB will provide tools in CARL to track district progress toward milestones. Except in the case of a four-year funds liquidation deadline, districts may track progress on a cumulative basis. In the table above, for

example, an air district demonstrating the portion of funding year 17 project funds liquidated would count any funds liquidated from funding years 18 to 20.

- 3. Funding Targets.** To assist cumulative tracking and reporting, ARB will maintain in CARL appropriate progress tracking targets for each funding year. These funding targets will include the total funds required to meet contract execution and liquidation progress milestones. ARB will adjust progress tracking targets to account for the movement of funds into and out of an air district's account, including redirected funds, RAP grants, adjustments for in-kind match, and other changes agreed to in consultation with districts.
- 4. Execution Progress for Vouchers.** For Moyer voucher programs, the voucher issue date is used in lieu of executed contract date to gauge progress in contract execution.
- 5. Cancelled Contracts.** Any funds associated with an engine, vehicle, or equipment cancelled from a contract prior to the liquidation of the contract as a whole will no longer be considered executed beginning at the time of the cancellation.
- 6. Follow-up Actions.** Progress milestones are advisory in nature. ARB liaisons and management will work with air districts that do not demonstrate sufficient progress toward contract execution and project liquidation targets in the Yearly Report. When an air district cannot demonstrate at least one-half of funds are under contract after two years, and one-half of funds liquidated after three years, the district will append to the Yearly Report a progress statement. The statement will address the reasons for delays in executing contracts or completing payment for projects, and the schedule for follow-up actions. Such actions may include specific steps to improve progress or the redirection of funds to air districts better equipped to meet statutory liquidation deadlines.

O. Funding Year Liquidation

- 1. Liquidation Requirement.** By June 30 of each year, air districts must have liquidated all Moyer Program funds associated with the funding year four calendar years prior, as well as interest, recaptured funds, and other funds added to the funding target for that year. For example, funds awarded for Year 18 (fiscal year 2015-2016) must be fully liquidated by June 30, 2020. Before submitting the Yearly Report an air district may attempt to resolve an apparent liquidation shortfall by modifying in the CARL database the funding years from which funds are assigned to projects.
- 2. Match Liquidation.** Match funds must be liquidated by the same liquidation deadline as the Moyer Program funds with which they are associated regardless of the date such funds were collected by the air district.
- 3. Liquidation Terms.** Air districts are advised of the distinction between project liquidation used for cumulative progress tracking in Section N and funding year

liquidation as required in this section. Project liquidation is demonstrated when all funded equipment in a project are paid-in-full and post-inspected; liquidated projects are credited in cumulative progress tracking. Funding year liquidation is demonstrated when all funds assigned to a funding year have been paid out in full, with the exception of any withheld payments. Liquidated projects are credited in cumulative progress tracking.

4. **Data Completion.** A funding year that has been liquidated by an air district and all associated projects will be removed from cumulative tracking. Projects associated with liquidated funding years may not be revised in or removed from the CARL database after the funding year is liquidated, except in unusual circumstances following consultation with and written approval by ARB staff.
5. **Withheld Payments.** For completed projects for which all invoices have been paid except for a small amount withheld pending grantee reporting, both the paid funds and the withheld funds will be considered liquidated for the purpose of funding year liquidation. Withheld payment practices must be addressed 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 will be reported as recaptured funds.

P. Return and Reallocation of Funds

1. **Return of Unliquidated Funds.** If the Yearly Report identifies a liquidation shortfall that cannot be resolved through reassignment of liquidated funds from more recent years, and the remaining unliquidated funds are not under executed contract, the air district must submit and ARB must receive a check for the shortfall amount by September 28 (i.e., 90 days after the June 30 liquidation deadline and 30 days after the Yearly Report deadline). ARB will provide Instructions for the return of funds in the Yearly Report certification form. No additional disbursements will be made to the air district until funds subject to return have been received by ARB.
2. **Return of Other Funds.** An air district choosing to remit to ARB all or a portion of earned interest, or to return other funds following consultation with ARB, may do so following instructions in the Yearly Report certification form.
3. **Reallocation.** ARB will add funds returned by air districts to the subsequent cycle of Moyer Program funding, following the allocation requirements of Health and Safety Code section 44299.2.

Q. Program Nonperformance

1. **Monitoring Nonperformance.** As directed by Health and Safety Code section 44291(d), ARB monitors air district programs to ensure that participating air districts conduct their programs consistent with the criteria and guidelines established by the Board. Program non-performance is an air district's

non-compliance with program Guidelines or statute that is not corrected by the air district in a timely or satisfactory fashion. ARB may become aware of possible air district non-performance through Yearly Reports, Incentive Program Review, district self-reporting or other means. Examples of program non-compliance with program guidelines or statute include, but are not limited to, the following:

- (A) Failure to return unliquidated funds within 90 days of the liquidation deadline (H&SC § 44287(j));
- (B) Misuse of 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;
- (F) Other non-compliance with program guidelines or statute.

2. Nonperformance Procedures. When ARB determines that an air district program is not complying with program guidelines, the ARB liaison and manager will work with air district staff to understand the issues, and develop a plan and timeline to resolve them. If the ARB Branch Chief determines that the issues related to program nonperformance have not been resolved, ARB will send by email to the air district program contact a program nonperformance notification, that contains the following:

- (A) Description of the unresolved issues, including pertinent details such as names of involved persons and projects, dates, dollar amounts, and citations of relevant program guidelines sections, Health and Safety Code sections, and regulations; and
- (B) Possible solutions to the problem, if some have been identified, and/or an offer ARB assistance; and
- (C) Arrangements for a possible 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.

3. Withholding of Funds by ARB. Lacking satisfactory resolution of the issues that have resulted in the nonperformance notification, the ARB Executive Officer will determine if the nonperformance warrants withholding 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 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 withholding any funds.

R. Incentive Program Review

- 1. Purpose.** ARB conducts Incentive Program Reviews to help ensure that air district programs achieve expected emission reductions and are implemented in a manner consistent with these Guidelines and State law (H&SC § 44291, 39500). ARB Incentive Program Reviews place emphasis on collaboration with the affected air district in the review process. Features of this approach include a joint initial review of project files, ongoing and regular communication with air district staff throughout the file review process, and where possible an opportunity for districts to correct problems prior to their inclusion as findings in the final report.
- 2. Scale of Review.** ARB uses a risk-based approach to select specific air district programs and projects to review, and to select fiscal years within the scope of each review. Air districts are selected for Incentive Program Review based on identified need or with consideration of program funding amount. ARB's objective is to review over a five-year period air district programs receiving at least 80 percent of Moyer Program funds. Air district implementation of other State incentive programs will be selected as appropriate for review at the same time as the Moyer Program review.
- 3. Fiscal Compliance Audits.** ARB may also contract with independent auditors including the California Department of Finance Office of State Audits and Evaluations, to conduct audits of incentive program fiscal compliance. The independent auditors will conduct these audits in accordance with Generally Accepted Government Auditing Standards, and will prepare reports on the results of the audits including any findings. ARB retains final authority with respect to corrective measures and follow-up, in consultation with the air district.
- 4. ARB Responsibilities.** ARB will conduct Incentive Program Reviews in a manner that reflects its entrusted accountability and responsibilities.
 - (A) ARB will generally define the scope of a Moyer Program review to cover a period of up to five fiscal years not covered in the previous review. The scope of years within review may vary for other incentive programs. Once a funding year is reviewed, ARB will not review it again unless warranted. ARB may investigate possible fraud or misuse of funds in any program year.
 - (B) ARB will maintain open channels of communication with the air district during the review. ARB will fully explain the review's scope and procedure at the beginning of the process, discuss preferred channels of communication with the air district, inform the air district of potential issues as they unfold, provide full and ongoing opportunity for air district input, provide the air district opportunities to correct problems that arise during

the review process, thoroughly discuss any findings and recommendations with the air district before and during the exit interview, and provide the air district an opportunity to formally respond to the Incentive Program Review report.

- (C) To ensure objectivity and predictability, ARB will base its findings and recommendations on State law, applicable guidelines and Mail-Outs, grant agreements, email communications between ARB and the air district, the air district's Policies and Procedures Manual, case-by-case determinations, and the air district's local requirements.
- (D) All Incentive Program Review reports, air district responses, and related documents shall be made available to the public via posting on ARB's Moyer Program website.
- (E) ARB will conduct follow-up activities to ensure any deficiencies remaining following review are promptly and effectively mitigated. ARB will offer its assistance to air districts working to correct deficiencies.

5. Air District Responsibilities. Air district staff and management will participate in entrance and exit interviews, support collaborative review and open communication with ARB staff, ensure that program files and other requested information are available to reviewing staff of ARB and the Department of Finance, work to fully and promptly mitigate deficiencies identified during the review, work to resolve any disagreements, and request assistance from ARB as necessary.

6. DMV Fee Project Evaluation. AB 923 \$2 MV Fee projects are subject to Incentive Program Review or evaluation as follows:

- (A) A Moyer Program match project funded with the AB 923 \$2 MV Fees will be subject to the same review and oversight requirements and protocols as other 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 an Incentive Program Review. Evaluation of these projects will be limited to project eligibility. Any irregularities regarding non-match AB 923 \$2 MV Fee project eligibility will be reported separately from other Incentive Program Review findings.

S. Requirements for Project Applications

- 1. Data Required for CARL.** Project applications must include the information needed for calculation of project cost-effectiveness in the CARL database.
- 2. Existing Engine Usage.** Project applications must include documentation of existing engine usage, such as miles traveled, hours operated, or fuel consumed per year, for 24 months or as specified in these guidelines by source category.

This information will be used to evaluate project cost-effectiveness and the maximum grant award amount.

- 3. Active Duty Military Applicants.** If an applicant has been on active military duty at any time during the previous 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. Third Party Signature.** Applications must include a signature and date 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 and dates the application.
- 5. Applicant Certification.** 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 consistent with Section L.6. of this chapter, specifying 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 engine). The applicant must disclose to whom other applications were submitted, whether funds have been awarded or may be awarded, and the amount or potential amount of other funding.
 - (B) A regulatory compliance statement certifying that the applicant is currently in compliance with all federal, State, and local air quality rules and regulations at time of application submittal, and is not aware of any outstanding or pending enforcement actions.
- 6. Applicant Non-Disclosure.** 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 these Guidelines shall be disqualified from funding for that project from all sources within the control of an air district or ARB. The air district or ARB may also seek civil penalties for such non-disclosure.
- 7. Subsequent Applications.** 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.

T. Application Evaluation and Project Selection

1. **Review for Completeness.** Air districts must review all applications for completeness upon receipt, and notify an applicant within 30 working days of receipt if the application is not complete (H&SC § 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 as applicable, receipt date, and other project selection criteria must be maintained with the project file.
2. **Credibility.** Air districts are responsible for determining that project applications are credible, made in good faith, and in compliance with the Moyer Program and its objectives.
3. **Eligibility.** 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 the minimum requirements in the appropriate source category chapter, including:
 - (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 projects;
 - (E) Other documentation identified in the source category chapter.
4. **Application Tracking.** 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. Air districts not using CARL will track the information needed to populate required CARL data fields. A tracking system is not required for air districts receiving under one-half percent of the current fiscal year total Moyer Program Funds, or \$450,000, whichever is less.
5. **Project Selection.** After reviewing applications for project eligibility, the air district must follow its Policies and Procedures Manual in selecting projects to fund. Projects approved for funding must meet all applicable requirements of these guidelines.
6. **Communities with Most Significant Exposure.** Air districts with a population of one million or more residents must select projects from their applicant pools in a way that ensures that 50 percent or more of their Moyer Program funds are expended to reduce air pollution in communities with the most significant exposure to air pollution, including communities of minority and low-income populations (H&SC § 43023.5). Air districts may track this on a cumulative basis.
7. **Project Evaluation.** An air district must evaluate projects to ensure each project selected for funding meets the emission reduction and cost-effectiveness

requirements of the Moyer Program as applicable. Projects may not be funded when CARL indicates these requirements are not met. In such cases, an air district representative believing a project should qualify may contact his or her ARB liaison to further evaluate project eligibility.

- 8. Recordkeeping.** The air district must maintain a file for each project selected for funding. Files may be retained in an electronic format if complete and easily accessible. Unless otherwise specified by source category or in Section K.8., project files must be retained three years following 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 for unfunded projects must be kept a minimum of two years following the solicitation period, or two years from receipt if there is not a specified solicitation period.
- 9. Subsequent Application and Double-Counting.** Moyer Program participants that received funding and are still under contract may not apply for funding for the same project from the Moyer Program (including a Voucher Incentive Program), from the Proposition 1B 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 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 from previously funded projects must not be included as emissions benefits of any subsequent project for the Moyer Program (including a Voucher Incentive Program) or the Proposition 1B Goods Movement Emission Reduction Program.

U. Case-by-Case Determination Process

- 1. Limitations.** ARB Moyer Program staff may approve on a case-by-case basis a project that varies from specific requirements of these Guidelines only if such approval will not adversely affect achievement of surplus, quantifiable, enforceable and permanent emission reductions. Case-by-case approvals also may not result in an exceedance of the applicable cost-effectiveness limit, or reduce program transparency, or cause a violation of law or regulation. 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.
- 2. Procedure.** An air district may request ARB review of the project for a case-by-case determination using the procedure below. After receipt of all

information needed, ARB will respond to the air district within 15 business days with a determination or estimated date of determination.

- (A) The air district will submit the following to the Moyer Program air district liaison:
 - (1) A summary of the request, with reference(s) to the pertinent area(s) of the Guidelines for which the air district is asking for additional guidance and approval;
 - (2) Documents providing information essential to the determination, including but not limited to: baseline and new engine information; the associated ARB engine Executive Orders and/or U.S. EPA Certificates of Conformity for baseline and new engines; other related applicant information from a completed application;
 - (3) Other information and documents as requested by Moyer Program staff.
- (B) ARB will make one of the following determinations:
 - (1) Approved. Approval of a project does not imply or equate to “blanket approval” of other similar projects.
 - (2) Not Approved. Non-approval of a project does not imply or equate to “blanket non-approval” of other similar projects.
 - (3) No Action / Case-by-Case 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.

3. Public Availability and Recordkeeping. ARB will post on the Moyer Program website all case-by-case determinations submitted for review. Air districts will keep a copy of the determination, either approved or not approved, in the project file.

4. After Contract Execution. Air Districts should always attempt to request a case-by-case determination prior to contract execution. ARB will consider requests for case-by-case determination subsequent to contract execution only when an unforeseen event leads to a project or program element that varies from the requirements of these Guidelines.

V. Minimum Contract Requirements

1. General Requirements. Except as specified for on-road and off-road voucher incentive programs, air districts participating in the Moyer Program must execute contracts with prospective grantees who will receive funds under the Moyer Program. All Moyer Program project contracts must include the elements described in this section. Projects funded by the Moyer Program may not be used to generate a compliance extension or credit for regulatory compliance. All

executed project contracts and contract amendments must be kept in the air district's project files.

- 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. In any case where digital signature is used in lieu of original signature, the digital signature must comply with California Government Code section 16.5 and Title 2, California Code of Regulations, sections 22000 – 22005.
- 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 funding sources that they have applied for or received for a project, and that the grantee will notify the air district of additional sources of funding received for the total cost of the project, including any sources that become available after contract execution (H&SC § 44283(g)).
 - (B) Grantees that co-fund a project must meet all criteria associated with each funding source used to fund the project (H&SC § 44287(a)).
 - (C) A grantee that is not a public entity must provide at least 15 percent of a project's Moyer eligible costs from non-public sources (see Section L). The contract must prohibit the grantee from receiving grants and other funds that exceed the total project cost.
 - (D) A grantee may receive 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.
- 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 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, equipment, 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 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, equipment and/or engine that is verified or certified to achieve equivalent or greater reductions than the original project replacement vehicle, equipment and/or engine may be substituted with prior approval of the air district.
- (B) At least 24 months of documented and verified historic usage is required for the baseline engine, such as miles traveled, hours operated, or fuel consumed, and in this case usage is not required to be in the contract. If this information is not available, the air district may estimate the usage for the old engine and the estimated usage must be included in the contract.
 - (1) 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.
 - (2) 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 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 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 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, engine, and/or funded infrastructure 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 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 or equipment supplier for repowers and infrastructure projects, 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 equipment may not exceed the amount indicated on the project contract for that vehicle, engine, or 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 Y to be eligible for 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) 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.
- (B) The contract must inform the grantee that noncompliance with the reporting requirements will require on-site monitoring or inspection(s).

10. On-Site Inspections, Audits and Records. All contracts must include language that allows the air district, ARB, or their designee to conduct an inspection or audit of the project, including the engine, vehicle or equipment and associated records, during the contract term. Contracts must also require the owner to maintain and retain usage and other records associated with the project for at least three years after the end of the contract term.

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 or underutilization as agreed to in the contract (H&SC § 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 Moyer Program requirements and nonperformance with the contract.
- (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.

W. Project Pre-Inspection

1. Requirements. Upon confirming a project's eligibility the air district must complete a pre-inspection prior to contract execution, except as specified in this section.

- (A) All projects must be pre-inspected personally by air district staff, except that 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), equipment, and usage in lieu of a pre-inspection.

- (B) Air districts receiving less than one-half of one percent of the current fiscal year total 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. At least one project must be selected from each source category funded, however.

2. Documentation. 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 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.
- (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. Compliance Certification. No later than the time of pre-inspection the air 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. **Recordkeeping.** The air district must maintain a hard copy of the completed pre-inspection form in the air district's project file.
5. **Inspection after Contract Execution.** 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 only on a case-by-case basis. Case-by-case approval of such a procedure will 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.

X. Project Post-Inspection

1. **Requirement.** An air district must gather and document post-inspection information on all projects funded under the Moyer Program. For post-inspection of infrastructure projects, see Chapter 10 for further guidance.
 - (A) The air district will conduct a post-inspection after it receives an invoice for a project from the grantee or otherwise receives notice the project is complete. Information on the invoice must be consistent with the information gathered at the post-inspection. 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) When 20 or more vehicles are included in a vehicle replacement project for a public fleet or transit agency, the air district is not required to post-inspect each replacement vehicle, but must inspect no fewer than five percent 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, and ensure contract enforceability. Information sufficient to populate all required fields in CARL must be recorded. 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 air 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 startups 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.
- (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. Equipment Labels. Post-inspection of a retrofit device requires the collection of additional information from the labels affixed on both the retrofit device and the engine. If the proper labels are missing, payment may not be made until this is corrected. 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 may make payment once it gets approval from ARB regarding an approved alternate label 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. **Electric Motors.** 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. **Verification of Destruction.** The air district must verify that the existing (old) engine is destroyed and rendered permanently unusable and irreparable, consistent with requirements in the source category chapters of these guidelines and with the air district Policies and Procedures Manual.
 - (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.
5. **Consistency with Contract.** The air district must verify that the information collected in the post-inspection is consistent with the project contract.

Y. Project Invoice and Payment

1. **Prior to Payment.** Except as specified below, an air district will make payment for a project or equipment only after air district post-inspection finds the project or equipment in place and operational, and the district receives an invoice itemized in sufficient detail to ensure that only completed and eligible project costs are reimbursed, and other sources and amounts of funding for the project are reviewed to ensure the sum of all project funds does not exceed the total project cost (per Section L). Exceptions are limited to progress or partial payments in cases where the grantee provides the air district with sufficient evidence of completing milestones specified in the contract, consistent with conditions specified in air district Policies and Procedures. The air district must maintain a clear record of progress payments in the project file and in records of the district administration or fiscal unit. Progress payments include final payments that are withheld until all reporting requirements are met (also known as “withheld payments”).
2. **Eligible Costs.** Equipment and parts on engine repower or retrofit projects are eligible for funding only if they are required to ensure the effective installation and functioning of the new engine or retrofit, and are not part of typical vehicle or equipment maintenance or repair. Taxes and the installation and transport costs for eligible hardware are eligible for funding at the air district’s discretion. For labor expenses paid, the invoice must detail the number of hours charged and the hourly wage. See source category chapters for additional specification of eligible costs.

- 3. Ineligible Costs.** Ineligible repower costs include tires, axles, paint, brakes, and mufflers. See source category chapters for additional specification of ineligible costs.
- 4. Limitations on Applicant Action before Air District Approval.** An applicant may not order or make a down payment on a new engine, piece of equipment, or vehicle prior to contract execution or approval by the air district 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 written notification that any work performed is not guaranteed funding until a contract is executed. For infrastructure projects, discretionary costs may be accrued by an applicant prior to contract execution, but such costs are not reimbursable until after contract execution.
- 5. Invoice Procedures.** The air district will 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. Invoices received after the project post-inspection has been complete must be evaluated for consistency with the information gathered during the project post-inspection. Additional project invoicing requirements may also be included in the source category chapters of these guidelines.
- 6. On-Road Compliance Checks.** 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 payment may be made until the applicant provides proof to the air district that each violation has been corrected and each fine has been paid.
- 7. Regulatory Compliance.** 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 Airborne Toxic Control Measure), 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 source category chapter. Air districts are not to be held liable if a grantee falsifies this documentation.
- 8. Payment Recipients.** Payments typically will be made directly to the grantee. Payments may be made directly to a dealer or distributor only if such payment arrangements are specified in the contract.

Z. Grantee Annual Reporting

- 1. Requirement.** Air districts will require all grantees to submit annual reports within 18 months of the project post-inspection and annually thereafter for the term of the contract.
- 2. Report Format.** The air district will prescribe a format for the project annual report, to include the following information:
 - (A) Grantee 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 device (e.g., hour meter, odometer, or electronic monitoring unit).
 - (E) Except for projects in which usage is not required to be specified in the contract (as allowed per Section V.6.(B)(1) above), if usage is more than 30 percent below that identified in the project application, the grantee must describe any conditions that are likely to have affected project usage, such as weather, permits, or major maintenance. 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 BB(4).
- 3. Air District Review.** The air district will review the annual report for completeness, accuracy, and reported usage, and will maintain in the project file a copy of the report that is initialed and dated by the reviewing staff. An air district choosing an alternative method to indicate its review and approval of annual reports will specify the method in its Policies and Procedures Manual.
- 4. Unsatisfactory Reporting.** 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 will identify the project for audit as described in Section AA below.
- 5. Subsequent Grants.** Grantees that have not submitted complete required reports will not be granted funds for new Moyer Program projects until all reports are satisfactorily submitted.

AA. Air District Audit of Projects

- 1. Requirement.** The air district will conduct audits of projects funded with Moyer Program funds. On an annual basis these audits will include five percent of

active projects or 20 active projects (whichever is less), including any audits conducted following unsatisfactory annual reporting as described in Section Z.4.

2. **Project Inspection.** Audits must be completed by air district staff and will at a minimum include an inspection that verifies that the engines, equipment, and emission control devices paid for are still owned by the grantee named in the contract, are still 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 usage meter or fuel receipts.
3. **Multiple Equipment.** Audits of multiple equipment or engine projects of up to 25 pieces must include inspection of at least two pieces or equipment, and for projects of over 25 pieces must include inspection of at least five pieces.

BB. Nonperforming Projects

1. **Requirement.** The air district will work with nonperforming project grantees to ensure Moyer Program project requirements are met and emission reductions are achieved, consistent with procedures outlined in the district Policies and Procedures Manual. Air districts may consider unforeseen circumstances beyond the grantee's control in determining repercussions for nonperformance.
2. **Off-Road Contract Extension.** Off-road contracts for which 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 contracts that have been executed prior to August 15, 2008, and does not modify similar Moyer policy for other eligible categories.
3. **Recapturing Funds.** When an air district is not successful in gaining grantee compliance with the usage and program requirements specified in a contract, the district will make all reasonable efforts to recapture Moyer Program funds from the grantee. Recaptured funds will be reassigned to projects that achieve the shortfall in emission reductions or usage. The air district's efforts to recapture funds may be guided by circumstances such as suspected or actual fraud or misuse of funds, the amount of Moyer Program funding involved, or the ability of the grantee to repay the funds.
4. **Usage Threshold and Waiver Procedure.** The air district must take appropriate action to ensure emission reductions are realized for engines, equipment, vehicles or fleets, as well as usage for infrastructure projects. Except for projects in which usage is not required to be specified in the contract (as allowed per Section V.6.(B)), when average usage over a three year period for a contracted engine, equipment, vehicle or fleet is 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) 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 limit, consistent with the limit 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. (This option does not apply to infrastructure projects not subject to a cost-effectiveness limit.)
- (E) Grant a usage waiver, without penalty, to the grantee for a defined time period. The grantee must demonstrate to the air district's satisfaction that the engine, vehicle, or equipment is not being underutilized in favor of operating other, higher-polluting equipment, and that 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 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.
 - a. The air district will 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 will be documented in writing, approved by the Air Pollution Control Officer or designee, and included in the project file.
 - (3) For projects that include multiple pieces of equipment or engines the air district may review and recalculate the funded equipment collectively to see if the project as a whole has performed as expected. A waiver is not required in this event.

5. **Funds Recaptured Following ARB Enforcement.** Program funds recaptured from a project grantee as a result of a settlement agreement executed by ARB shall be returned to the air district that granted the funds. Any penalties resulting from a settlement agreement executed by ARB or the Attorney General shall be deposited in the Air Pollution Control Fund (H&SC § 44291(e)).