

State of California
Air Resources Board

November 17, 2005

Resolution 05-58

Agenda Item No: 05-11-4

WHEREAS, sections 44275 through 44299.2 of the Health and Safety Code establish the Carl Moyer Memorial Air Quality Standards Attainment Program to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen (NO_x), particulate matter (PM), and reactive organic gases (ROG) from qualifying sources in California;

WHEREAS, section 44287 of the Health and Safety Code requires the Air Resources Board (ARB or Board) to establish grant criteria and guidelines for the Carl Moyer Program in consultation with the air pollution control and air quality management districts (air districts) and to revise the guidelines as necessary to improve the ability of the program to achieve the maximum amount of emission reductions feasible;

WHEREAS, section 39600 of the Health and Safety Code directs ARB to do such acts as may be necessary to carry out its powers and duties;

WHEREAS, section 39605 of the Health and Safety Code authorizes ARB to conduct public hearings and to provide assistance to the air districts;

WHEREAS, section 39602 of the Health and Safety Code designates ARB as the air pollution control agency for all purposes set forth in federal law and has given ARB the responsibility for preparing the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) by coordinating the activities of the air districts as necessary to comply with the federal Clean Air Act (42 U.S.C. section 7401 et seq.);

WHEREAS, the California Clean Air Act, in section 40910 et seq. of the Health and Safety Code, requires ARB and the air districts to adopt and implement plans to achieve the state ambient air quality standards by the earliest practicable date;

WHEREAS, section 43018 of the Health and Safety Code directs ARB to achieve the maximum degree of emission reduction possible from motor vehicles and other mobile sources;

WHEREAS, the Board has identified a number of reactive organic gases emitted from motor vehicles or engines and the PM from diesel fueled engines as toxic air contaminants;

WHEREAS, the Board has approved several risk-reduction plans, guidelines, and strategies for reducing inhalable PM and ozone-precursors and considers the reduction of diesel PM an urgent priority;

WHEREAS, section 43023.5 of the Health and Safety Code establishes environmental justice guidance for the expenditures of funds under the Carl Moyer Program;

WHEREAS, the Board adopted "Policies and Actions for Environmental Justice" in 2001 to establish a framework for improving air quality and reducing emissions in all California communities, especially in low-income and minority communities;

WHEREAS, Governor Schwarzenegger has directed ARB to work with ports, railroads, other goods movement facilities, air districts, local communities, and the U.S. Environmental Protection Agency to develop an innovative program, including financial and regulatory incentives, to reduce air pollution at ports;

WHEREAS, while ARB and air district regulations are the primary mechanism to reduce emissions and achieve ambient air quality standards in California, the Carl Moyer Program complements the regulatory strategy by providing monetary incentives to obtain surplus emission reductions earlier than they are required by rules and regulations;

WHEREAS, a primary goal of the Board as expressed in its 2001 Strategic Plan is to promote the development, commercialization, and use of zero and near-zero emission technologies (i.e. to substitute electrical power for internal combustion);

WHEREAS, recent legislation has provided substantial, sustained funding that can be directed to the Carl Moyer Program, and has supplied additional opportunities and requirements which the criteria and guidelines should address;

WHEREAS, Assembly Bill 923 (Firebaugh/Pavley; Stats. 2004, ch. 707), in section 44229(b) of the Health and Safety Code, authorizes nonattainment districts to use additional funding from a discretionary motor vehicle registration fee surcharge to remediate air pollution harms created by motor vehicles;

WHEREAS, section 44229(b)(2) of the Health and Safety Code also authorizes the air districts to use part of the vehicle registration fee surcharge for the new purchase, retrofit, repower, or add-on of equipment for previously unregulated agricultural sources of pollution for a limited period of time and requires any such grants to comply with Carl Moyer Program guidelines;

WHEREAS, AB 923, in section 42889 of the Public Resources Code, authorizes ARB to expend a portion of the fee on new tires to fund projects that mitigate or remediate air pollution caused by tires;

WHEREAS, SB 467 (Lowenthal; Stats. 2005, ch. 209; effective January 1, 2006) directs ARB to revise the Carl Moyer Program guidelines to facilitate projects for the exchange of equipment powered by internal combustion engines to equipment utilizing zero-emission technologies to the extent the emission reductions are surplus, real, quantifiable, and enforceable;

WHEREAS, ARB staff has proposed a 2005 Revision to the Carl Moyer Guidelines in order to implement AB 923 and SB 467 and to make other appropriate changes; the proposed 2005 Revision is set forth in Attachment A hereto;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project or activity that may have a significant adverse impact on the environment may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, ARB has consulted with the air districts at numerous meetings; has held three series of public workshops on the proposed revisions to the Carl Moyer Program guidelines; has consulted with potential grant fund applicants, engine manufacturers, equipment suppliers, utilities, and the public; and has complied with the requirements set forth in section 44287 of the Health and Safety Code;

WHEREAS, in consideration of the staff report and the oral and written comments received from the air districts, interested parties and the public, the Board finds:

1. The emission reductions resulting from the Carl Moyer Program are critical for enabling ARB and the air districts to fulfill our obligations under the State Implementation Plan, to attain state and federal health-based air quality standards, and to reduce exposure to toxic air pollutants;
2. Vehicles subject to Smog Check and the motor vehicle registration fee emit NOx and ROG, which combine in the atmosphere to form ozone, and PM10; and tires emit PM10;
3. Ozone is a powerful oxidant that can damage the respiratory tract causing inflammation and irritation and inducing symptoms such as coughing, chest tightness, shortness of breath and the worsening of asthma symptoms [California Air Resources Board, Staff Report: Review of California Ambient Air Quality Standards for Ozone, March 11, 2005; McConnell, R. et al. "Asthma in exercising children exposed to ozone: A cohort study," *Lancet*, 359; 386-391];
4. Strong links have been demonstrated between elevated fine particulate levels and premature deaths, hospital admissions, emergency room visits, and asthma attacks [California Air Resources Board and Office of Environmental Health Hazard Assessment, Staff Report: Public Hearing to Consider Amendments to

the Ambient Air Quality Standards for Particulate Matter and Sulfates, May 3, 2002];

5. The Carl Moyer Program and other incentive projects funded by the Smog Check fee, the tire fee, and the added \$2 motor vehicle registration fee are cost-effective and technically feasible means for remediating the air pollution harms caused by light-, medium-, and heavy-duty motor vehicles, engines, and tires by reducing emissions of the same pollutants that result from the use of these sources;
6. It is appropriate for ARB to exercise oversight over local air district administration of the Carl Moyer Program and the additional \$2 motor vehicle registration fee authorized by Assembly Bill 923;
7. It is important to encourage the maximum technologically feasible and cost-effective emission reductions for each Carl Moyer Program project;
8. Encouraging zero-emission projects in the Carl Moyer Program will support the Board's policy of promoting zero emission technologies;
9. The ARB and local districts should strive to increase opportunities for small businesses to participate in the Carl Moyer Program;
10. The proposed Guidelines include criteria for funding Carl Moyer Program light-duty vehicle projects through the voluntary accelerated vehicle retirement regulations;
11. A planned South Coast Air Quality Management District program to evaluate a remote sensing program to detect gross-polluting light-duty vehicles will provide information to assist in revisions to the voluntary accelerated vehicle retirement regulations;
12. The proposed Guidelines include criteria for funding on-road heavy-duty fleet modernization through the Carl Moyer Program;
13. The proposed Guidelines include formalization of the administrative procedures, a revision to the cost-effectiveness formula to include ROG and PM, an adjustment to the cost-effectiveness threshold to \$14,300 per weighted ton of emission reductions, and updates to project criteria to reflect new regulatory requirements and emission rates;
14. The proposed Guidelines include project criteria for new source categories such as transportation refrigeration units and large spark-ignited engines;
15. The proposed Guidelines require air districts to comply with the environmental justice requirements contained in Health and Safety Code section 43023.5 in the funding of Carl Moyer Program projects; and

16. This action will have a beneficial, rather than an adverse, impact on the environment by supplementing the regulatory program of ARB and the air districts to deliver emission reductions of criteria and toxic air pollutants that would not otherwise have occurred.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the 2005 Revisions to the Carl Moyer Program Guidelines, as set forth in Attachment A hereto, with the modifications set forth in Attachment B hereto, in order to implement the requirements of the 2004 legislation described above and to make other appropriate changes.

BE IT FURTHER RESOLVED, that the Board approves the establishment of the Agricultural Assistance Program, to be governed in accordance with the Carl Moyer Program Guidelines.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to coordinate ARB efforts with the air districts, grantees, and other interested persons to effectively implement ongoing and future projects and to facilitate and encourage zero-emission projects.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to develop, approve, and implement criteria for funding non-engine agricultural projects, as authorized by section 44275(a)(7) of the Health and Safety Code, if and when such projects can provide emission reductions that are real, surplus, quantifiable, and enforceable.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to develop and implement a pilot program to address the zero-emission projects authorized by SB 467 and to evaluate how to incorporate criteria for these projects into the next revisions to the Carl Moyer Program guidelines.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the U.S. Environmental Protection Agency to ensure that emission reductions from projects funded by the Carl Moyer Program are credited in California's State Implementation Plan.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to return to the Board with modifications to the voluntary accelerated vehicle retirement regulation, along with a status report on the remote sensing program in the South Coast Air Basin, in approximately one year.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to initiate a programmatic evaluation of the Carl Moyer Program early in 2006 to ensure that appropriate and effective processes and systems are in place to achieve and account for the disbursement, expenditure, and, if necessary, the recapture of public monies.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to investigate ways to assist small business to participate in the Carl Moyer Program and to inform the Board of progress.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to develop and approve ministerial technical amendments to the Carl Moyer Program, including but not limited to changes necessary to reflect new regulatory requirements that may pertain to covered source categories, to update emission factors, and to reflect current technology.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to evaluate fleet modernization criteria in light of the unique characteristics of school buses and to report to the Board on progress in early 2006.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to complete the drafting of the modifications to the originally proposed revisions identified by staff at this Board meeting, consulting with interested parties such as the California Air Pollution Control Officers Association and districts, and to provide those final modifications in a report to the Board at its December 8, 2005 meeting.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to convene a Carl Moyer Program Advisory Group, including representatives of the districts, environmental and community groups, and affected industries, to provide input on the issues of the statutory requirement that Moyer funds target only surplus emission reductions, increasing the cap on reimbursement of district administrative costs, and fuel neutrality; the Executive Officer shall report back to the Board in 2006 with recommendations, including legislative proposals if appropriate.

BE IT FURTHER RESOLVED, that the Board extends its appreciation to the air districts that worked with ARB staff and other interested parties to revise the guidelines and improve the Carl Moyer Program.

I hereby certify that the above is a true and correct copy of Resolution 05-58, as adopted by the Air Resources Board.

Lori Andreoni, Clerk of the Board

Resolution 05-58

November 17, 2005

Identification of Attachments to the Board Resolution

Attachment A: The Carl Moyer Program Guidelines, Proposed Revision 2005, released September 30, 2005.

Attachment B: Staff's Suggested Modifications to the Carl Moyer Program Guideline Revisions, as presented at the November 17, 2005 Board meeting.