

State of California
AIR RESOURCES BOARD

Resolution 03-7

April 24 – 25, 2003

Agenda Item No.: 03-2-3

WHEREAS, section 39600 of the Health and Safety Code authorizes the Air Resources Board (ARB or Board) to do such acts as may be necessary for the proper execution of its powers and duties;

WHEREAS, in section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and, in sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically addressing the serious air pollution problem caused by motor vehicles;

WHEREAS, Measure M4 of the State Implementation Plan for Ozone, adopted by the Board on November 15, 1994, calls for incentives for the early introduction of lower-emission technologies for heavy-duty vehicles to achieve near-term emission reductions of oxides of nitrogen (NO_x);

WHEREAS, sections 44275 through 44299 of the Health and Safety Code, added by Assembly Bill 1571 (Villaraigosa; Stats. 1999, ch. 923), established the Carl Moyer Memorial Air Quality Standards Attainment Program (the Carl Moyer Program), to be administered by the ARB, regional and local air pollution control districts, and the California Energy Commission;

WHEREAS, the Governor and the Legislature appropriated \$114 million to fund the Carl Moyer Program for the first four years (\$25 million for 1998/1999, \$23 million for 1999/2000, \$50 million for 2000/2001, and \$16 million for 2001/2002);

WHEREAS, Proposition 40, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2003, allocates \$50 million over two years to the ARB to fund air district projects in accordance with the Carl Moyer Program;

WHEREAS, section 1(d) of Assembly Bill 1571 declares that steady progress in reducing particulate matter (PM) emissions is essential for meeting air quality goals;

WHEREAS, section 44287(b) of the Health and Safety Code authorizes the ARB to propose revisions to the Carl Moyer Program Guidelines when necessary to improve the program's ability to achieve its goals;

WHEREAS, section 44287(e) of the Health and Safety Code sets air districts' matching fund requirements at \$1 district funds for each \$2 from the Carl Moyer fund;

WHEREAS, section 44287(f) of the Health and Safety Code authorizes the ARB to adjust the ratio of the air districts' matching funds if necessary in order to maximize the benefits of the program in consideration of the financial resources of the district;

WHEREAS, section 44283(a) of the Health and Safety Code requires the cost-effectiveness of funded projects to be no more than \$12,000 per ton of NO_x reduced in California and section 44283(i) authorizes the Board to adjust the cost-effectiveness limit of the program to account for inflation;

WHEREAS, ARB staff has proposed revisions to the Carl Moyer Program Guidelines to ensure that projects funded with Proposition 40 funds continue to produce real, quantifiable, cost-effective, and enforceable emission reductions;

WHEREAS, staff held a public workshop on December 13, 2002, to consider public comment on the proposed revisions to the Carl Moyer Program guidelines and the final proposed revisions to the Carl Moyer Program Guidelines were made available to the public on February 27, 2003;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, section 43023.5 of the Health and Safety Code, added by Assembly Bill 1390 (Firebaugh; Stats. 2001, ch. 763), requires local air districts with populations of more than one million residents to allocate at least 50 percent of their Carl Moyer Program funds in a manner that directly benefits low-income communities and communities of color that are disproportionately affected by air pollution, and this requirement is reiterated in Proposition 40;

WHEREAS, a public hearing has been held in accordance with the requirements of the Health and Safety Code, and on the basis of comments on the record and the oral and written testimony presented at the hearing, the Board finds that:

1. The emission reductions resulting from the Carl Moyer Program are critical for California to fulfill its obligations under the State Implementation Plan; to attain state and national ambient air quality standards; to mitigate off-cycle emissions from diesel trucks; to enable local air districts to meet the requirements imposed by section 176 of the federal Clean Air Act and the EPA implementing regulations regarding transportation conformity plans; and to prevent the loss of federal highway dollars in California.
2. The Carl Moyer Program Guidelines should be updated on the basis of the ARB's and local air districts' experience over the last four years, as well as new emission inventories approved by the Board.
3. The cost-effectiveness limit for the Carl Moyer Program should be adjusted to \$13,600 per ton of NO_x reduced applicable for FY 2002/2003 and later in order to account for cost of living increases due to inflation only.

4. The Carl Moyer Program Guidelines should be revised to ensure that future cost-effective emission reductions from funded projects continue to be real, quantifiable and enforceable.
5. The Carl Moyer Program Guidelines should be revised so that local districts receiving only the minimum disbursement of \$100,000 this fiscal year can request a one-year waiver of the match fund requirement, provided they can demonstrate appropriate staff commitment for program implementation and administration.
6. The Carl Moyer Program Guidelines should be revised to add a new provision allowing districts to use as matching funds those monies under the districts' budgets that are committed to projects that focus exclusively on PM emission reductions.
7. Local air districts with greater than one million inhabitants shall allocate at least 50 percent of their Carl Moyer Program funds in a manner that directly benefits low-income communities and communities of color that are disproportionately affected by air pollution.
8. The NOx and PM emission factors for various engines should be updated in accordance with current industry data and where the ARB's new engine standards include NOx plus non-methane hydrocarbon limits, it is necessary to establish the NOx fraction of the standard.
9. The revised program guidelines should allow for the evaluation on a case-by-case basis of unique projects using technologies that offer real and quantifiable emission reduction benefits but fall outside the core project categories of engine replacement, repower, or retrofit projects so long as funding is not requested to comply with a regulation or any other legally binding agreement that requires the emission reductions.
10. Because Off-Road Tier 2 engines may not be technically and practically feasible for repower installation on some pre-2002 equipment, it is necessary and appropriate to revise the guidelines to include provisions that allow the use of engines meeting Tier 1 standards for some repower installations when this is the only feasible option.

WHEREAS, the Board also finds that the revisions to the Guidelines will beneficially affect human health and the environment by reducing emissions of PM, NOx, and toxic components of diesel exhaust and will not have any significant adverse impacts on the environment.

WHEREAS, the Board considered the guidelines at its March 23, 2003, public hearing and directed staff to explore alternative methodologies to determine allocation of Proposition 40 funding in response to air district concerns;

WHEREAS, the staff has considered alternative methodologies for funding allocations

as directed by the Board and, based on additional stakeholder input, determined to follow the original proposal for the current fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the revisions to the Carl Moyer Program Guidelines, included as Attachment A hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the board directs the Executive Officer to adopt the revisions set forth in Attachment A after incorporating conforming changes as appropriate, engine rebuilding provisions, and guidance regarding engines participating in Average Banking and Trading.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to work with the air pollution control districts to assess alternative methodologies to determine funding appropriations for future years.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to return to the Board in the winter of 2004 with a status report on the Carl Moyer Program and a proposal regarding the need to continue the program beyond the sixth year.

I hereby certify that the above is a true and correct copy of Resolution 03-7, as adopted by the Air Resources Board.

Stacey Dorais, Clerk of the Board

Identification of Attachments to the Resolution

Attachment A: Proposed Revisions to the Carl Moyer Program Guidelines adopted on March 27, 2003.