

State of California
AIR RESOURCES BOARD

Resolution 10-18

March 25, 2010

Agenda Item No: 10-3-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 39003 of the Health and Safety Code charges the Board with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solution to air pollution, and to systematically attack the serious problem caused by motor vehicles, which is the major source of air pollution in many areas of the State;

WHEREAS, sections 39666 and 39667 of the Health and Safety Code authorize the Board to adopt regulations and measures to reduce emissions of toxic air contaminants from vehicular and non-vehicular sources;

WHEREAS, sections 43013 and 43018 of the Health and Safety Code direct the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources, including marine vessels to the extent permitted by federal law, to attain State air quality standards by the earliest practicable date;

WHEREAS, the ships, harbor craft, trucks, locomotives, and equipment that move international and domestic goods ("goods movement") throughout California are substantial contributors to transportation-related emissions in the State;

WHEREAS, these emissions are a public health concern at both regional and community levels, and contribute to adverse health effects such as cardiac and respiratory diseases, a greater number of asthma and bronchitis episodes, increased risk of cancer, and premature death;

WHEREAS, Chapter 3.2 (commencing with section 39625) of Part 2, Division 26 of the Health and Safety Code establishes the Goods Movement Emission Reduction Program (Program) to implement the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, also known as Proposition 1B, which authorizes one billion dollars (\$1,000,000,000) in bond-funded incentives for ARB to reduce emissions associated with the movement of freight along California's trade corridors;

WHEREAS, section 39625.5(b)(1) of the Health and Safety Code requires the Board to allocate funds in a manner that gives priority to emission reduction projects that achieve the earliest possible reduction of health risk in communities with the highest health risks from goods movement facilities;

WHEREAS, section 39625.3 of the Health and Safety Code allows for Program funding mechanisms to include grants, loans, and loan guarantees, and section 39625.1(a) provides that any State agency, including ARB, may administer a loan or loan guarantee program;

WHEREAS, section 39626 of the Health and Safety Code requires the Board to develop guidelines, in consultation with stakeholders, to implement the Program;

WHEREAS, on February 28, 2008, in Resolution 08-12, the Board adopted Program Guidelines for Implementation, including overall funding targets, priorities for the use of Fiscal Year (FY) 2007-08 funds, project specifications, and project implementation deadlines;

WHEREAS, on February 28, 2008 and May 22, 2008, the Board awarded all of the FY2007-08 funds to local agencies;

WHEREAS, on May 28, 2009, the Board adopted Resolution 09-40, which amended the Guidelines to support effective Program implementation, affirmed the existing authority of ARB staff to interpret or clarify the Program Guidelines, and delegated to the Executive Officer, or his or her designee, the authority to adopt changes to the Program Guidelines that he or she deems necessary to enable effective implementation of the Program, provided that such changes are consistent with statute and the goals established by the Board. Resolution 09-40 also directs staff to identify those changes when the Board considers the next comprehensive update to the Program Guidelines;

WHEREAS, the Legislature appropriated \$500 million in Program funding for FY2008-09 and FY2009-10 in Items 3900-001-6054 and 3900-491 of the Budget Act of 2009;

WHEREAS, in Resolution 08-12, the Board directed ARB staff, following each future appropriation of funds, to evaluate the adopted Program Guidelines, including but not limited to the project specifications, and to develop any necessary updates in a public process culminating in Board consideration at a noticed public hearing;

WHEREAS, ARB staff released the first Draft Concept Paper to share staff's preliminary ideas for changes to the Program on November 14, 2008, and subsequently conducted five public workshops throughout the State to receive and consider public comments;

WHEREAS, ARB staff released a second Draft Concept Paper describing the potential Guidelines changes on February 18, 2010 and subsequently conducted five public workshops throughout the State to receive and consider public comments;

WHEREAS, on March 16, 2010, ARB staff released the Proposed Update to the Proposition 1B: Goods Movement Emission Reduction Program Guidelines for Implementation (Program Guidelines), and accompanying Staff Report that describes the basis for the proposed changes;

WHEREAS, the Proposed Update reflects current State fiscal policy for bond programs, expands the project choices, increases access for truckers to grants and supplemental financing, aligns and simplifies truck incentive programs, and reduces paperwork;

WHEREAS, the Board finds that the proposed Program Guidelines and Staff Report:

1. Reflect the current state of technology and appropriate incentive levels to achieve early and/or extra emission reductions;
2. Include several mechanisms to increase access to funding for owners of small truck fleets through loans and/or loan guarantee programs;
3. Align with other truck incentive programs, including the Carl Moyer Program;
4. Redirect funding from drayage trucks to other trucks and ships at berth projects;
5. Reduce the administrative burden for equipment owners and local agencies implementing the Program; and
6. Maintain transparency and public accountability.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the Proposed Program Guidelines for Implementation as set forth in Attachment A, with the changes to the project specifications, category funding targets and additional modifications set forth in Attachment B.

BE IT FURTHER RESOLVED that the Staff Report released March 16, 2010 shall serve as an additional supplemental reference to aid in interpreting the Program Guidelines.

BE IT FURTHER RESOLVED that the Program Guidelines are comprehensive and replace the initial Guidelines adopted on February 28, 2008, but the Staff Report released in January 2008 remains in effect as a supplemental reference that describes the basis for the Program structure and requirements.

BE IT FURTHER RESOLVED that the Board adopts the following funding priorities for FY2008-09 and FY2009-10 funds as shown in the Program Guidelines:

1. Truck upgrade projects to quickly reduce the health risk in communities near high truck-traffic freeways, warehouse/distribution centers, ports, and rail yards. These projects also provide significant reductions to help meet federal air quality standards for fine particulate matter and ozone. To support cost-effective early compliance with ARB's truck rules, the truck funds need to be front-loaded.
2. Locomotive projects to cut the elevated, excess cancer risks in neighborhoods near rail yards, as identified in ARB's health risk assessments. The California

State Implementation Plan relies on incentives and other mechanisms to accelerate the use of cleaner locomotives to attain federal air quality standards in the South Coast and San Joaquin Valley.

3. Ships at berth projects to further reduce diesel pollution in port-side communities, and cut greenhouse gas emissions. To comply with the January 2014 requirements of ARB's rule, multi-year projects to install electric infrastructure to provide shore-based power to ships at berth must start soon. With incentives, some of these installations may be able to begin operation early and to achieve extra reductions each year through greater use.

BE IT FURTHER RESOLVED that the Board delegates to the ARB Executive Officer, or his or her designee, the authority to approve a loan and loan guarantee program consistent with the Program Guidelines.

BE IT FURTHER RESOLVED that the Board delegates to the ARB Executive Officer, or his or her designee, the authority to approve truck reuse proposals that he or she finds meet all of the following conditions, consistent with the Program Guidelines:

1. The proposal will deliver an equivalent or greater air quality benefit in California (compared to scrappage of the middle-aged truck), and ensure that any truck reused in California is equipped with an ARB-verified Level 3 PM filter to provide a localized health benefit.
2. The proposal is consistent with the principles and goals of this Program.
3. The proposal will not substantially increase the Program administration workload.

BE IT FURTHER RESOLVED that the Board directs staff to evaluate the specifications for truck projects following any Board amendments to the Statewide Truck and Bus Regulation and recommend to the Executive Officer any changes needed. The Board delegates to the Executive Officer, or his or her designee, the authority to make appropriate changes to the truck equipment project specifications, consistent with the intent of the Program Guidelines.

BE IT FURTHER RESOLVED that the Board delegates to the ARB Executive Officer or his or her designee, the authority to establish the conditions and processes for a local agency to request a "letter of no prejudice" from ARB staff that would allow the agency to advance its own funding for approved incentive projects at its own risk; these projects would not gain an advantage or higher priority for funding by ARB as bond monies become available.

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer, or his or her designee, the authority to recapture and reallocate funds previously awarded by the Board to a local or State agency, according to the terms and conditions defined in the Program Guidelines. The ARB Executive Officer, or his or her designee, may

amend or terminate an executed grant or interagency agreement or establish a new grant or interagency agreement to implement this policy, consistent with the Program Guidelines.

BE IT FURTHER RESOLVED that the Board affirms the existing authority of ARB staff to interpret or clarify the Program Guidelines and delegates to the Executive Officer, or his or her designee, the authority to adopt changes to the Program Guidelines that he or she deems necessary to enable effective implementation of the Program, provided that such changes are consistent with statute and the goals established by the Board. Staff shall identify those changes when the Board considers the next comprehensive update to the Program Guidelines.

BE IT FURTHER RESOLVED that the Board finds that the Program Guidelines will ensure that funds are allocated in a manner that gives priority to emission reduction projects that achieve the earliest possible reduction of health risk in communities with the highest health risks from goods movement facilities.

BE IT FURTHER RESOLVED that the Board finds that the Program Guidelines will ensure Proposition 1B funds are supplemented and matched with funds from federal, local, and private sources to the maximum extent feasible.

BE IT FURTHER RESOLVED that the Board directs ARB staff to continue fostering involvement with all interested parties – public and private – to gain input and to ensure continuing program transparency and accountability.

I hereby certify that the above is a true and correct copy of Resolution 10-18, as adopted by the Air Resources Board.

Sandra Bannerman, Clerk of the Board

Identification of Attachments to the Resolution

Attachment A: Proposition 1B: Goods Movement Emission Reduction Program, Proposed Guidelines for Implementation, released March 16, 2010.

Attachment B: Staff's Suggested Modifications to the Original Proposed Guidelines for Implementation.

ATTACHMENT A

**PROPOSITION 1B: GOODS MOVEMENT EMISSION REDUCTION PROGRAM,
PROPOSED GUIDELINES FOR IMPLEMENTATION, DATED MARCH 2010**

ATTACHMENT B
STAFF'S SUGGESTED MODIFICATIONS TO THE ORIGINAL PROPOSAL

Presented at the March 25, 2010 Hearing of the Air Resources Board

Public Hearing to Consider Adopting the Update for
Proposition 1B: Goods Movement Emission Reduction Program:
Guidelines for Implementation

Shown below are the staff's suggested modifications to the original proposal in the Proposition 1B: Goods Movement Emission Reduction Program, Proposed Guidelines for Implementation, released March 16, 2010 ("proposed Program Guidelines"). Staff will release a final version of the Updated Program Guidelines that reflects all modifications made by staff pursuant to the Board's direction.

Equipment project contracts, page 94:

Change: for FY2008-09 and later funds, provide 18 months for local agencies to execute equipment project contracts.

California operation for harbor craft and locomotives, multiple pages:

Change: allow 90% California operation for harbor craft and locomotives, at the local agency's option. These projects will receive 20% less funding than the levels specified in Appendix B for locomotives and Appendix D for commercial harbor craft. They require the installation of GPS units and reporting as specified by ARB staff.

Truck equipment project specifications, page A-1:

Change: allow drayage trucks with MY2004-2006 engines to be eligible to apply for the priority drayage truck funding to install NOx and PM retrofits.

Specifications for ships at berth, page C-1:

Change: make electric utility costs eligible for Program funding.

Initial expenditures for local agency administration funds, page 45:

Change: increase initial funding for truck grants to 90%.

General corrections:

Change: minor corrections to ensure internal consistency, and fix any spelling or grammatical errors.