

State of California
AIR RESOURCES BOARD

Resolution 10-27

June 24, 2010

Agenda Item No: 10-6-3

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 nonvehicular 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, chapter 3.2 commencing with section 39625 of the Health and Safety Code established the Proposition 1B: 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 to local agencies 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 39626.5(b) of the Health and Safety Code requires the local agencies receiving grants from ARB to award contracts and liquidate funds within set

timeframes or the funds revert back to the legislatively-controlled California Ports Infrastructure, Security, and Air Quality Improvement Account;

WHEREAS, section 39625.02(4)(b) of the Health and Safety Code specifies administrative costs, including audit and Program oversight costs for the agency administering the Program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the Program's costs;

WHEREAS, section 39625.3 of the Health and Safety Code and the Proposition 1B: Goods Movement Emission Reduction Program Guidelines for Implementation (Guidelines) provide that the Board may make Program funding available for loan or loan guarantee programs to be administered by any State agency, including ARB;

WHEREAS, on March 25, 2010, in Resolution 10-18, the Board adopted updated Guidelines, including overall funding targets, priorities for the use of Fiscal Year (FY) 2008-09 and FY2009-10 funds, project specifications, and project implementation deadlines;

WHEREAS, in Resolution 10-18 the Board directed ARB 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 delegated 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;

WHEREAS, in the process of developing the amendments to the Statewide Truck and Bus Regulation, ARB staff will evaluate new scientific information that may affect the benefits of replacement truck technology and make recommendations to revise new or used truck specifications to the Executive Officer as needed;

WHEREAS, in Resolution 10-18, the Board established the following funding priorities to be applied to the FY2008-09 and FY2009-10 funds:

- 1) Truck upgrade projects to quickly reduce the health risk in communities near high truck-traffic freeways, warehouse/distribution centers, ports, and rail yards.
- 2) Locomotive projects to cut the elevated, excess cancer risks in neighborhoods near rail yards, as identified in ARB's health risk assessments.
- 3) Ships at berth projects to further reduce diesel pollution in port-side communities and greenhouse gas emissions;

WHEREAS, the Guidelines provide that local agencies require an equipment owner to commit to a minimum of at least 90 percent California-only operation for truck projects;

WHEREAS, the Guidelines provide that the Board will hold a noticed public hearing to consider public testimony, written comments, and ARB staff's recommendations for funding local and State agency projects with the available Program monies;

WHEREAS, the Guidelines provide that the Board adopt a resolution approving a final list of primary local agency projects and corresponding funding amounts for each project;

WHEREAS, the Guidelines also provide that the Board may identify backup projects that may be awarded funding if agreements cannot be executed for one or more of the primary projects within the timeframe specified by the Board in the resolution, a local or State agency is unable to expend all of the Program funds or fulfill its obligations, or a local or State agency requests to terminate or transfer its grant;

WHEREAS, the backup projects may be additional local or State agency projects or increases in funding levels for the primary projects;

WHEREAS, the Guidelines also provide for the Board to recapture and reallocate funds according to the following hierarchy for allocating recaptured funds to Board-approved primary or backup projects:

- 1) The first priority is to fund, or increase funding for, a project affecting the same source category within the same trade corridor.
- 2) The second priority is to fund, or increase funding for, one or more source categories within the same trade corridor.
- 3) The third priority is to fund, or increase funding for, any eligible local agency project that fulfills the requirements of the Guidelines; this project may affect a different source category and a different trade corridor;

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 March 2010, ARB received approximately \$200 million in upfront bond proceeds;

WHEREAS, on April 15, 2010, ARB released a Notice of Funding Availability (NOFA) announcing that ARB has the cash available to award approximately \$200 million for new projects to local and State agencies and that as ARB receives additional cash in the future, the Board will consider further awards for the remaining appropriated funds;

WHEREAS, the NOFA requested applications by May 11, 2010 from local and State agencies involved in freight movement or air quality improvements associated with goods movement activities;

WHEREAS, ARB staff received applications for over \$1 billion in funding from seven local agencies and one State agency for projects that directly reduce air pollution through the use of cleaner equipment or alternative technologies;

WHEREAS, ARB staff reviewed the local and State agency applications, evaluated their consistency with the Guidelines and clarified any inconsistencies with applicants;

WHEREAS, ARB scored any competing local agency applications consistent with the requirements outlined in the Guidelines;

WHEREAS, on May 26, 2010, ARB released preliminary staff recommendations for the award of \$200 million in FY2008-09 (Phase 1) funds and the tentative allocation of \$275 million in additional (Phase 2) funds;

WHEREAS, from June 1, 2010 to June 3, 2010, ARB staff conducted three public workshops in Oakland, Fresno, and Long Beach;

WHEREAS, on June 17, 2010, ARB staff released the *2010 Funding Awards Staff Report* (Staff Report) for public review and comment;

WHEREAS, Table 1 of the Staff Report and Attachment A hereto details the list of primary projects that ARB staff recommends the Board adopt for Phase 1 funding;

WHEREAS, Attachment B lists projects that will serve as the backup projects to the primary projects;

WHEREAS, in consideration of the Staff Report, staff presentation, and public testimony and comments, the Board finds that adoption of the list of primary local agency projects shown in Attachment A and backup projects as shown in Attachment B:

- 1) Meet all applicable requirements and provisions of the adopted Guidelines, Resolution 10-18, Senate Bill 88 (Stats. 2007, ch.181), Assembly Bill 201 (Stats. 2007, ch. 187), all other conditions and criteria provided by the Legislature, all other applicable provisions of law, and Governor's Executive Order S-02-07;
- 2) 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;
- 3) Reduce an estimated 650 tons of diesel particulate matter (PM) and 29,000 tons of nitrogen oxides (NOx) that form ozone and fine particles (PM2.5) over the life of the projects; and
- 4) Leverage over \$200 million in match funding.

WHEREAS, the \$81 million identified in Attachment A for ships at berth/cargo equipment projects represents a substantial commitment of available funding for projects that may take up to four years to complete; and

WHEREAS, if the projects funded in the ships at berth/cargo equipment category are delayed, there is a risk that final payment cannot occur within the statutory maximum timeframe for liquidation, which would cause the funds to revert to the legislatively-controlled Program account and require reappropriation in a future budget.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the final list of primary local agency projects and corresponding Program funding amounts that total \$200 million, as set forth in Attachment A hereto and as further detailed in the Staff Report. The Board directs the Executive Officer, and his or her designee, to enter into grant agreements with these local agencies and take any other action the Executive Officer deems necessary to implement these projects.

BE IT FURTHER RESOLVED that the Board adopts backup projects for funding, or portions of those projects, as set forth in Attachment B hereto and as further detailed in the Staff Report. The funding for these projects may be prorated consistent with the Guidelines.

BE IT FURTHER RESOLVED that the Board directs that if there are funds reserved for ARB administration that ARB staff determines are not needed for that purpose, the Executive Officer or his or her designee shall re-direct those funds to supplement existing grants in proportion to the corridor allocations.

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer, and his or her designee, authority to select the projects to be funded from any recaptured funds to Board-approved primary or backup projects consistent with Program funding priorities and to enter into grant agreements with the local agencies.

BE IT FURTHER RESOLVED that the Board delegates 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 based on new information.

BE IT FURTHER RESOLVED that in any other case where additional funding becomes available for local agency projects, the Board delegates to the Executive Officer, authority to select the projects to be funded from the backup list and to enter into grant agreements with local agencies.

BE IT FURTHER RESOLVED that the Board directs ARB staff to closely monitor local agency implementation of grant agreements to ensure funds are being used effectively and expeditiously, and to implement the recapture provisions of the Guidelines if ARB staff believes that the grants cannot be fully utilized by the specified deadlines.

BE IT FURTHER RESOLVED that the Board recognizes the importance of using the \$81 million allocated to ships at berth/cargo equipment projects according to the requirements and timelines in the Guidelines, and directs ARB staff to provide local agencies with supplemental procedures as deemed necessary in order to ensure that these projects will be completed within the required timelines or funds are recaptured and reallocated to truck or locomotive projects, while preserving the overall funding total in each trade corridor consistent with the Board-adopted funding targets.

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 10-27, as adopted by the Air Resources Board.

Lori Andreoni, Clerk of the Board

Identification of Attachments to the Resolution

Attachment A: Proposition 1B Goods Movement Emission Reduction Program,
Final List of Primary Local Agency Projects to be Awarded
\$200 Million (FY 2008-2009 Funds)

Attachment B: Proposition 1B Goods Movement Emission Reduction Program,
Final List of Backup Projects (FY 2008-2009 Funds)

Attachment A

Attachment A. Final List of Primary Local Agency Projects to be Awarded \$200 Million (FY 2008-2009 Funds)

Fiscal Year	Grant #	Recipient Agency	Awarded Funds	Funding Category
08-09	G08GMLT1	South Coast Air Quality Management District	\$42,500,000	Heavy Duty Diesel Trucks
08-09	G08GMLS1	South Coast Air Quality Management District	\$61,300,000	Ships at Berth/Cargo Equipment
08-09	G08GMLL1	South Coast Air Quality Management District	\$6,200,000	Locomotives
		Corridor total	\$110,000,000	
08-09	G08GMCT1	San Joaquin Valley Air Pollution Control District	\$48,500,000	Heavy Duty Diesel Trucks
08-09	G08GMCT2	Sacramento Metropolitan Air Quality Management District	\$10,000,000	Heavy Duty Diesel Trucks
		Corridor total	\$58,500,000	
08-09	G08GMBT1	Bay Area Air Quality Management District	\$8,000,000	Heavy Duty Diesel Trucks
08-09	G08GMBS1	Bay Area Air Quality Management District	\$20,000,000	Ships at Berth/Cargo Equipment
		Corridor total	\$28,000,000	
08-09	G08GMST1	Imperial County Air Pollution Control District	\$3,000,000	Heavy Duty Diesel Trucks
08-09	G08GMSH1	San Diego Air Pollution Control District	\$500,000	Harbor Craft
		Corridor total	\$3,500,000	
		Grand Total	\$200,000,000	

Attachment B

Attachment B. Final List of Backup Projects (FY 2008-2009 Funds)

Administering Local Agency	Bond Funding	Funding Category
South Coast Air Quality Management District	Up to \$436,800,000	Heavy Duty Diesel Trucks
South Coast Air Quality Management District	Up to \$55,600,000	Ships at Berth/Cargo Equipment
South Coast Air Quality Management District	Up to \$30,900,000	Locomotives
San Joaquin Valley Air Pollution Control District	Up to \$315,000,000	Heavy Duty Diesel Trucks
San Joaquin Valley Air Pollution Control District	Up to \$77,200,000	Locomotives
Sacramento Metropolitan Air Quality Management District	Up to \$15,800,000	Heavy Duty Diesel Trucks
Sacramento Metropolitan Air Quality Management District	Up to \$41,200,000	Locomotives
Bay Area Air Quality Management District	Up to \$45,000,000	Heavy Duty Diesel Trucks
Bay Area Air Quality Management District	Up to \$39,100,000	Ships at Berth/Cargo Equipment
Bay Area Air Quality Management District	Up to \$3,900,000	Locomotives
Imperial County Air Pollution Control District	Up to \$8,400,000	Heavy Duty Diesel Trucks
San Diego Air Pollution Control District	Up to \$500,000	Harbor Craft
San Diego Air Pollution Control District	Up to \$22,100,000	Heavy Duty Diesel Trucks
Air Resources Board	Up to \$50,000,000	Heavy Duty Diesel Trucks