

State of California  
Air Resources Board

**REVISIONS TO CARL MOYER AIR QUALITY STANDARD ATTAINMENT  
PROGRAM GUIDELINES**

Resolution 17-17

**April 27, 2017**

Agenda Item No.: 17-4-6

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

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

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

WHEREAS, section 44287(a)-(b) of the Health and Safety Code requires the Board to establish, update and adopt criteria and guidelines for the Carl Moyer Program in consultation with air pollution control and air quality management districts, including protocols to calculate cost-effectiveness and safeguards to ensure projects generate surplus emission reductions, and to propose for public review revisions as necessary to improve the ability of the program to achieve its goals;

WHEREAS, under Resolutions 08-22, 09-47, 10-19, 11-23 and 14-26, the Board has delegated to the Executive Officer the authority to interpret or clarify, and to adopt changes to, the Carl Moyer Program, provided that such changes are consistent with statute and the goals established by the Board;

WHEREAS regulations and rules adopted by ARB, the United States Environmental Protection Agency (U.S. EPA), and the air districts are the primary mechanisms to reduce emissions and achieve ambient air quality standards in California;

WHEREAS, the Carl Moyer Program complements the regulatory strategy by providing monetary incentives to obtain surplus emission reductions beyond those required by rules and regulations;

WHEREAS, the emission reductions resulting from the Carl Moyer Program are critical for enabling ARB and the air districts to fulfill their obligations under the SIP, to attain State and federal health-based air quality standards, and to reduce exposure to toxic air pollutants;

WHEREAS, section 44286 of the Health and Safety Code charges ARB with oversight responsibility and authority to ensure that the Carl Moyer Program is implemented in a manner consistent with program guidelines and state law and achieves emission reductions creditable in the SIP;

WHEREAS, Assembly Bill 8 (AB 8, Chapter 401, Statutes of 2014), enacted in 2014, fully reauthorized Carl Moyer Program funding due to sunset in 2015, extending it through 2023, and directed ARB to convene working groups to evaluate the policies and goals of the Program and to provide recommendations for changes;

WHEREAS, a working group established in response to AB 8, including air districts and Program stakeholders and chaired by ARB Board Member Sandra Berg, addressed emerging policy issues relating to the Carl Moyer Program and made recommendations for legislative changes to broaden the ability of the Program to contribute to achievement of State goals established in the SIP and other strategic planning documents;

WHEREAS, key working group recommendations were enacted into law in 2015 through Senate Bill 513 (SB 513, Chapter 610, Statutes of 2015);

WHEREAS, some changes enabled by SB 513 were adopted through Executive Officer action following a 45-day public review period and became effective January 1, 2016, including a new cost-effectiveness limit for school bus projects to align with funding levels used in California's Lower-Emission School Bus Program;

WHEREAS, broader Program changes based on the opportunities and new directions provided under SB 513 are proposed in the Carl Moyer Program 2017 Guidelines (2017 Guidelines);

WHEREAS, the changes proposed in the 2017 Guidelines reflect input from air districts and consultation with the public as set forth in section 44287 of the Health and Safety Code, including five public workshops held in three locations;

WHEREAS, changes in the Health and Safety Code made by SB 513 provide an opportunity to modernize the Program in ways that acknowledge the changing landscape of mobile source emissions control and serve California's commitment to emerging zero and near-zero emission technologies;

WHEREAS, section 44283(a)(1)(A)(ii) of the Health and Safety Code directs the Board to establish cost-effectiveness values that consider adopted air district and ARB control measures and the cost of emission control technologies such as very low or zero-emission vehicles;

WHEREAS, section 44283 of the Health and Safety Code provides the opportunity to establish cost-effectiveness limits in collaboration with air districts and the public that support both conventional technology projects and emerging advanced technology projects;

WHEREAS, cost-effectiveness limits as proposed will optimize the function of the Program for future project eligibility:

1. A base cost-effectiveness limit of \$30,000 per weighted ton of emission reductions will continue to support conventional engine replacement projects achieving early or extra emission reductions consistent with Health and Safety Code section 44281(a)(2); and
2. An optional advanced technology cost-effectiveness limit of up to \$100,000 per weighted ton of emissions reductions will enable broader purchase of the cleanest commercially available very low or zero-emission technologies in the marketplace consistent with Health and Safety Code section 44281(a)(1).

WHEREAS, the higher advanced technology cost-effectiveness limit is optional and will be used to fund the increment of emission reductions achieved beyond the required standard, for technologies that are zero-emission or provide reductions at the cleanest optional oxides of nitrogen standard, when certified or verified by ARB or U.S. EPA and commercially available;

WHEREAS, sections 44281 and 44282 of the Health and Safety Code provide increased opportunities to fund the installation of fueling or energy infrastructure to fuel or power covered sources and broaden deployment of very low or zero-emission technologies;

WHEREAS, section 44287.2 of the Health and Safety Code provides opportunities for Carl Moyer projects to be co-funded with other funding sources without penalty to the cost-effectiveness calculation, enabling air districts to combine multiple incentive funds to meet multiple program goals within safeguards that prevent project overpayment and double-counting of emission reductions;

WHEREAS, the proposed 2017 Guidelines update funding requirements for source categories that include heavy duty on-road vehicles, off-road equipment, stationary and

portable equipment, locomotives, marine engines, light-duty vehicles, and lawn and garden equipment, to further modernize eligibility criteria to reflect changing technology, regulations, and stakeholder input;

WHEREAS, the proposed 2017 Guidelines would also incorporate changes to clarify administrative procedures and reduce implementation burdens while maintaining program accountability elements;

WHEREAS, the proposed 2017 Guidelines include accounting requirements recommended by the California Department of Finance and consistent with generally accepted accounting principles, to help ensure continued proper handling of program resources and lower the cost of program audits.

WHEREAS, the proposed 2017 Carl Moyer Program would also retain longstanding principles of the Moyer Program that:

1. Ensure continued program accountability and good stewardship of public funds;
2. Ensure Moyer projects provide emission reductions that the U.S. EPA will find creditable in the SIP;
3. Emphasize emission reductions in communities with higher pollutant exposure, including communities of minority and low-income populations; and
4. Provide sufficient incentive to encourage California businesses to participate in and benefit from the program, getting surplus emission reductions within cost-effectiveness limits.

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed revisions to the 2017 Guidelines are not a "project" subject to CEQA review because the 2017 Guidelines constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). The Carl Moyer Program is a statewide program implemented by the local air districts. The districts receive grants from ARB but choose the projects to fund that best fit the needs of their community. Staff has further determined that even if the proposed 2017 Guidelines constituted a CEQA "project," ARB's approval of the 2017 Guidelines would be exempt from CEQA review under the California Code of Regulations, title 14, section 15061(b)(3) because it can be seen with certainty that

there is no possibility that the proposed revisions may have a significant adverse impact on the environment.

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 that:

1. The proposed 2017 Guidelines are consistent with statute and the goals established by the Board for the Moyer Program;
2. The proposed 2017 Guidelines reflect new legislation, new and revised State regulations, and programmatic recommendations received in consultation with air districts to ensure that cost-effective emission reductions from funded projects continue to be permanent, surplus, quantifiable, and enforceable;
3. The proposed 2017 Guidelines include an adjustment to Program cost-effectiveness limits, as authorized in section 44283(a)(1)(A)(ii) of the Health and Safety Code;
4. The proposed 2017 Guidelines provide flexibility to co-fund projects, as authorized in section 44287.2 of the Health and Safety Code;
5. The proposed 2017 Guidelines include additional opportunities to fund infrastructure projects as authorized in sections 44281 and 44282 of the Health and Safety Code;
6. The proposed 2017 Guidelines clarify and simplify administrative procedures for air district program implementation while maintaining the Program's core principles of achieving emission reductions that contribute to the attainment of ambient air quality standards and are creditable in the SIP;
7. The proposed 2017 Guidelines are not a project subject to CEQA because substantial evidence in the record shows that the 2017 Guidelines constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). Even if the proposed 2017 Guidelines constituted a CEQA "project," ARB's approval of the 2017 Guidelines would be exempt from CEQA review under the California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposed revisions may have a significant adverse impact on the environment;
8. No public comments were received to indicate that the proposed revisions to the 2017 Guidelines would cause any significant adverse impact on the environment; and
9. Delegation of authority to the Executive Officer or his or her designee to make changes to the 2017 Guidelines that are consistent with statute and the goals

established by the Board, with 45-day public review, is necessary to provide a rapid response to changes in the economy, technology and regulatory environment and to ensure effective implementation of the programs.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the revised 2017 Guidelines, as set forth in Attachment A-2 hereto;

BE IT FURTHER RESOLVED, that the provisions of the revised 2017 Guidelines, once formally adopted by the Board, shall be used for all projects funded with fiscal year 2017-18 and subsequent years' funds, and air districts may choose to apply them for previous year funds in contracts executed after the Board approval date;

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue coordinating ARB efforts with the air districts, grantees, and other interested persons to effectively implement ongoing and future projects;

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the United States Environmental Protection Agency to ensure that emission reductions from projects funded by the Carl Moyer Program are credited in California's SIP;

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to coordinate the Carl Moyer Program with regulatory programs and other incentive programs to provide clarity to the Board and stakeholders of how regulatory actions impact financial incentives;

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to update cost-effectiveness values each year based on the Consumer Price Index and United States Treasury securities and to consider whether cost-effectiveness limits should be updated in the future based on the costs of emissions control technologies, air district rules, and ARB regulations;

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer, or his or her designee, the authority to adopt changes to the 2017 Guidelines that he or she deems necessary, in response to regulatory Board actions and to ensure that the Guidelines remain effective and up-to-date, pursuant to section 44287 of the Health and Safety Code. Staff shall identify changes made under this authority when the Board considers the next comprehensive update to the Program Guidelines;

BE IT FURTHER RESOLVED, that the Board extends its appreciation to the air districts, environmental groups, industry groups and other interested parties that have worked with ARB staff to propose revisions to the 2017 Guidelines and improve the Carl Moyer Program.

I hereby certify that the above is a true and correct copy of Resolution 17-17 as adopted by the Air Resources Board.

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Rana McReynolds, Clerk of the Board

Resolution 17-17

April 27, 2017

**Identification of Attachment to the Resolution**

**Attachment A-1:** Carl Moyer Program Staff Report

**Attachment A -2:** Proposed Carl Moyer 2017 Guidelines (Volumes I and II), released on March 10, 2017, for 45-day public comment.