

State of California
AIR RESOURCES BOARD

Community Air Protection Incentives 2019 Guidelines

Resolution 19-12

May 23, 2019

Agenda Item No.: 19-5-4

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB 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 CARB as the air pollution control agency for all purposes set forth in federal law and gives CARB 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 quality management and air pollution control districts (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 CARB to conduct public hearings and to provide assistance to the air districts;

WHEREAS, section 44391.2 was added to the Health and Safety Code when the Governor signed Assembly Bill (AB) 617, (C. Garcia, Chapter 136, Statutes 2017), which requires a new program to monitor and reduce air pollution at or near sensitive receptor locations pursuant to section 42705.5 (a) of the Health and Safety Code and disadvantaged communities pursuant to section 39711 of the Health and Safety Code;

WHEREAS, Government Code section 16428.8 created the Greenhouse Gas Reduction Fund (GGRF) as a special fund in the State Treasury to receive all moneys, except for fines and penalties, collected by CARB from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with section 38500) of the Health and Safety Code and specified in sections 95800 to 96022, inclusive, of the California Code of Regulations, title 17;

WHEREAS, Health and Safety Code section 39712 requires that the moneys appropriated from GGRF shall only be used to further the regulatory purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code, consistent with law, and to facilitate the achievement of reductions of greenhouse gas (GHG) emissions in California and, where applicable and to the extent feasible, achieve additional co-benefits;

WHEREAS, Health and Safety Code section 39712 identifies potential investment areas for moneys appropriated from GGRF and Health and Safety Code section 38590.1(a) lists the Legislature's priorities for investing Cap-and-Trade auction proceeds;

WHEREAS, Health and Safety Code section 39716 requires the Department of Finance, on behalf of the Governor, and in consultation with CARB and any other relevant State entity, to develop and submit to the Legislature by May 14, 2013, a three-year investment plan, consistent with the requirements of Health and Safety Code section 39712, that identifies near-term and long-term GHG emission reduction goals and targets by sector, analyzes gaps in current State strategies for meeting GHG reduction goals by sector, and identifies priority investments that facilitate GHG reductions and that the investment plan be updated every three years;

WHEREAS, the Department of Finance, on behalf of the Governor, submitted to the Legislature the Cap-and-Trade Auction Proceeds Second Investment Plan: Fiscal Years 2016-17 through 2018-19 in January 2016 as required by Health and Safety Code section 39716, and the investment plan identifies the need for further investments in innovative technologies and pioneering strategies to lay the foundation for aggressively decarbonizing the State's transportation system and investments that support further reductions in criteria pollutants, air toxics, and short-lived climate pollutants from the transportation sector, including investments in agricultural trucks and equipment;

WHEREAS, Health and Safety Code section 39718 requires that moneys in GGRF shall be appropriated through the annual Budget Act consistent with the investment plan developed and submitted pursuant to Health and Safety Code section 39716;

WHEREAS, Health and Safety Code section 39715 requires CARB, in consultation with the California Environmental Protection Agency, to develop funding guidelines for administering agencies that receive appropriations from GGRF. CARB approved these guidelines on September 24, 2015, and published the Cap-and-Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments on December 21, 2015, and a supplement to these Guidelines on December 30, 2017. CARB released the Funding Guidelines for the agencies administering California Climate Investments on August 30, 2018;

WHEREAS, Item 3900-101-3228 in Section 2.00 of the Budget Act of 2017 appropriates \$255 million from the GGRF to CARB as "Community Air Protection" funds, including \$250 million for subsequent distribution to specified air districts, for use in implementing projects pursuant to the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program), with discretion to use up to 40 percent of funds to incentivize clean trucks in accordance with the *Proposition 1B: Goods Movement Emission Reduction Program Guidelines* (Proposition 1B Program Guidelines);

WHEREAS, AB 1550 (Chapter 369, Statutes 2016) requires at least 25 percent of GGRF funds go to projects located within and benefitting disadvantaged communities, and at least an additional 10 percent to projects located within and benefitting low-income households or communities;

WHEREAS, the Board has set the following targets for the Community Air Protection (CAP) incentives to meet and strive to exceed these statewide targets for benefits to priority populations: no less than 70 percent of funds will go to projects that are located in and provide direct, meaningful and assured benefits to SB 535 disadvantaged communities (Chapter 830, Statutes of 2012), and no less than 80 percent of funds will go to projects that are located in and provide direct, meaningful and assured benefits to residents of AB 1550 communities (Chapter 369, Statutes of 2016);

WHEREAS, regulations and rules adopted by CARB, 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, sections 44275 through 44299.2 of the Health and Safety Code establish the Moyer 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, the Moyer Program complements the regulatory strategy by providing monetary incentives to obtain surplus emission reductions before or beyond those required by rules and regulations;

WHEREAS, section 44287(a)-(b) of the Health and Safety Code requires the Board to establish, update and adopt criteria and guidelines for the Moyer Program in consultation with air 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, 14-26, and 17-17, the Board has delegated to the Executive Officer the authority to interpret or clarify, and to adopt changes to, the Moyer Program, provided that such changes are consistent with statute and the goals established by the Board;

WHEREAS, the Board approved revised *Carl Moyer Program Guidelines* (Moyer Guidelines) on April 27, 2017, with new limits on project cost-effectiveness and new flexibility to implement infrastructure projects and to co-fund projects with other incentive programs, with the goal of advancing clean air technologies to reduce emissions throughout California;

WHEREAS, section 39626(a)(1) of the Health and Safety Code requires the Board to develop guidelines, in consultation with stakeholders, to implement the Proposition 1B Goods Movement Emission Reduction Program (Proposition 1B Program);

WHEREAS, on February 28, 2008, in Resolution 08-12, the Board directed CARB staff, following each future appropriation of funds, to evaluate the adopted Proposition 1B 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, in Resolution 15-20, the Board adopted updated Proposition 1B Program Guidelines including new options and higher funding amounts for zero and near-zero equipment to advance clean air technologies;

WHEREAS, the Moyer Program is the primary vehicle for the implementation of Budget Act of 2017 requirements for new projects that can achieve early actions in support of Health and Safety Code section 44391.2;

WHEREAS, the *Community Air Protection Funds Supplement to the Carl Moyer Program 2017 Guidelines* (CAP Supplement) was created to enable the Moyer Guidelines to better serve the needs of AB 617 and immediately begin the implementation of projects to reduce emissions in disadvantaged and low-income communities;

WHEREAS, CARB staff based the CAP Supplement on the feedback and comments received from community groups and other stakeholders that participated in four public workshops that were held in February 2018 in cooperation with the three largest air districts, and the California Air Pollution Control Officers Association;

WHEREAS, the CAP Supplement serves the goals of AB 617 and the requirements of AB 1550, including the direction of project funds to disadvantaged and low-income communities;

WHEREAS, the CAP Supplement is intended to broaden participation in the Moyer Program by enabling the program to cover a larger share of project costs, and by adding flexibility for school bus projects and for transport refrigeration units that are a source of emissions at ports, warehouses and distribution centers;

WHEREAS, the Budget Act of 2018 appropriated \$245 million of GGRF to CAP incentives and expanded project source types beyond Moyer Program projects and Proposition 1B Program clean truck projects to include stationary source projects and additional projects developed by air districts through a public process with community input consistent with Community Emissions Reduction Programs created pursuant to AB 617;

WHEREAS, the proposed *Community Air Protection Incentives 2019 Guidelines* (CAP Guidelines) have been circulated with a staff report for public comment, for a period of 30 days prior to Board consideration, and the Board has reviewed public comments received prior to and at the Board hearing;

WHEREAS, CARB'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 CARB 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 CAP Guidelines is not a "project" subject to CEQA review, because the Guidelines will constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). CAP incentives are implemented statewide by the local air districts. The air districts receive grants from CARB but choose the projects to fund that best fit the needs of their community. Staff has further determined that even if the proposed CAP Guidelines constituted a CEQA "project," CARB's approval of the 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 the proposed Guidelines may have a significant adverse impact on the environment; and

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 CAP Guidelines are consistent with the goals of the Budget Act of 2017 and the Budget Act of 2018;
2. It is appropriate that the CAP Guidelines may be used along with the Moyer Guidelines as modified by the CAP Supplement, and the Proposition 1B Program Guidelines for all projects funded with CAP incentives allocated by the Budget Act of 2018;
3. The CAP Supplement should be incorporated into the CAP Guidelines to continue to provide direction and guidance to air districts for mobile source incentives, including necessary non-substantive changes as well as additional flexibility for zero-emission school bus projects;
4. Delegation of authority to the Executive Officer or his or her designee to make changes to the CAP Guidelines is necessary to ensure that these Guidelines remain effective and up-to-date, while being responsive to Community Emissions Reduction Programs developed pursuant to AB 617;

5. The proposed guidelines were developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;
6. The proposal is consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income; and
7. The proposed CAP Guidelines are not a "project" subject to CEQA review, because the Guidelines constitute a government funding mechanism or other government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment (California Code of Regulations, title 14, section 15378(b)(4)). CAP incentives are implemented statewide by local air districts. The air districts receive grants from CARB but choose the projects to fund that best fit the needs of their community. Staff has further determined that even if the proposed CAP Guidelines constituted a CEQA "project," CARB's approval of the 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 the proposed Guidelines may have a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed CAP Guidelines, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the provisions of the proposed CAP Guidelines, once formally adopted by the Board, shall be used along with the Moyer Guidelines, the CAP Supplement, and the Proposition 1B Program Guidelines, for all projects funded with CAP incentives allocated by the Budget Act of 2018. Projects would be implemented according to the proposed CAP Guidelines and the Moyer Guidelines as modified by the CAP Supplement.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue consultation with local residents and community groups on community needs and how the CAP incentives can be used to meet those needs.

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

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

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to coordinate the Moyer Program with regulatory programs and other incentive programs

to provide clarity to the Board and stakeholders regarding how regulatory actions impact financial incentives.

BE IT FURTHER RESOLVED that the Board approves the adoption of the CAP Guidelines, to ensure that these Guidelines, along with the Moyer Guidelines as modified by the CAP Supplement, remain effective and up-to-date. Staff shall continue to identify project source types to meet community needs and goals of the Community Air Protection Program. Furthermore, the Board delegates authority to the Executive Officer, or his or her designee, to modify the CAP Guidelines, including modifications to existing categories or the addition of new categories as needed. This would allow for continued progress in bringing immediate air quality benefits to impacted communities, and to ensure that staff can efficiently address and implement newly identified concerns in a timely manner.

BE IT FURTHER RESOLVED that the Board extends its appreciation to the community members, air districts, environmental groups, industry groups and other interested parties that have worked with CARB staff to develop the CAP Guidelines.

BE IT FURTHER RESOLVED that the Board provided the following direction at the meeting of the Board held on May 23, 2019:

1. The Board hereby directs the Executive Officer to work with the air districts to ensure incentive funds distributed pursuant to this action are targeted in a way that prioritizes communities most impacted by cumulative pollution burden, so that no less than 70 percent of all funding benefits disadvantaged communities; this targeting should focus on vehicles and equipment that actually operate in the community.
2. The Board hereby directs the Executive Officer to work with the air districts to ensure incentive funds distributed pursuant to this action are utilized in accordance with feedback received during community outreach completed in the process of implementing AB 617.
3. The Board hereby directs the Executive Officer to work with the air districts to ensure incentive funds distributed pursuant to this action are targeted in a way that prioritizes zero-emission vehicles or infrastructure wherever feasible.
4. The Board hereby directs that biannually the Executive Officer or his/her designee will provide to the Board and make available to the public a summary explanation of any and all modifications, and/or additional categories made and added to the CAP guidelines.

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May 23, 2019

Identification of Attachment to the Board Resolution

Attachment A*: Proposed *Community Air Protection Incentives 2019 Guidelines*, released on April 19, 2019.

*Attachment A is NOT attached to the proposed resolution; it is simply described on this page.