

## Specific Implementation Deadline-Related Revisions to the 2008 Lower-Emission School Bus Program Guidelines

This Advisory presents changes to the Guidelines as additions in bold, italicized, underlined font, and as deletions in bold, italicized, strikethrough font.

### Chapter I: Program Overview

#### Page 7. Section G.5. School Bus Replacements.

The first paragraph of Section G.5 is revised as follows:

*All school buses eligible for replacement must be replaced with 2007 model year or newer buses equipped with engines certified to 1.4 grams per brake horsepower-hour (g/bhp-hr) NO<sub>x</sub> or cleaner and 0.01 g/bhp-hr PM. Because pre-1977 model year public school buses predate federal safety standards, they are a priority to replace. Consistent with previous guidelines, public school districts will not be required to provide match funds when replacing these buses. ~~Applicants must enter into contracts with the implementing agency and have new buses ordered for pre-1977 model year replacements by February 1, 2009.~~*

### Chapter III: Lower-Emission School Bus Replacement Program Requirements

#### Page 14. Section A.2. Buses Eligible for Replacement.

The second paragraph of Section A.2 is revised as follows:

*SB 88 which provides legislative direction for the expenditure of Lower-Emission School Bus Program funds requires that all pre-1977 model year buses be replaced first. Hence the replacement of buses manufactured prior to April 1, 1977, when federal motor vehicle safety standards applicable to school buses went into effect, is a priority for the school bus replacement program. ~~Local air districts must commit by fully executed contract, all of their State program funds designated for pre-1977 model year school bus replacements by February 1, 2009. In addition, all replacement buses for pre-1977 model year buses must be paid for and in operation no later than February 1, 2010. Replacement buses must be delivered by April 1, 2011.~~*

### Chapter V: Administrative Responsibilities of Air Districts and the ARB in Implementing the Lower-Emission School Bus Program

#### 1. Page 28. Section G. Milestones and Timetable for State Program Funding.

The introductory paragraph of Section G is revised as follows:

*This section covers key program milestones, ~~an abridged timetable (Table V-1), and describes remediation plans and reconciliation requirements,~~ for the Lower-Emission*

School Bus Program. The dates listed in **Table V-1** the timetable in Appendix D are the final dates for execution of the designated activities conducted with State program funding. ~~The expanded timetable is provided in Appendix D.~~

2. Page 28. Section G.1. Milestones.

Section G.1 is revised as follows:

1. Milestones

This section further describes some of the major performance milestones set forth in the **expanded** program timetable (Appendix D). Air districts must meet these milestones in order to demonstrate progress in meeting the goals of the Lower-Emission School Bus Program.

- Beginning on **April 30, 2008**, the ARB will make State program funds available to air districts by mailing Grant Award and Authorization Forms to air districts. An air district may begin requesting funds after its Policies and Procedures Manual (see Section K) is approved by the ARB. An air district must provide the documents listed in Section J.1 to receive its initial disbursement.
- Beginning **February November 1, 2009**, when the air districts' first semiannual reports are due, ARB will perform a needs assessment to check each air district's progress and ability to implement a local program.
- By **March December 1, 2009**, based upon air districts' **February November 1, 2009** demonstration of performance, the ARB will determine if direct implementation – that is implementation of a local program by the ARB, with CAPCOA's assistance – of additional local programs is necessary. The funds spent within each air district will be the same regardless of what organization implements the program.
- ~~August 1, 2009. If an air district does not meet the milestone(s) for this date, then the air district must submit a remediation plan to the ARB.~~
- ~~February 1, 2010. If an air district does not meet the milestone(s) for this date, then the air district must submit a remediation plan to the ARB.~~
- ~~August 1, 2010. If an air district does not meet the milestone(s) for this date, then the air district must submit a remediation plan to the ARB.~~

3. Page 29. Section G.1. Table V-1. Abridged Lower-Emission School Bus Program Timetable.

Table V-1, the Abridged Lower-Emission School Bus Program Timetable, is deleted.

4. Page 30. Section G.2. Remediation Plans

Section G.2 is revised as follows:

*2. Remediation Plans*

~~*ARB staff will meet with non-performing districts and develop remediation plans with the objective of meeting program goals, recognizing that the situation will be different in each district.*~~

**ARB staff will review air districts' semiannual reports to monitor program implementation and to identify any causes for concern about the timely expenditure of available funds. Based on the content of the reports (or on the failure to submit reports regarding available State program funds), ARB staff reserves the right to meet – via teleconference or in person – with air districts to develop remediation plans with the objective of meeting program goals, recognizing that the situation will be different in each district.**

5. Section N. Process of Making Awards to Successful Applicants.

Section N is revised as follows:

- Page 35. Second sentence of the first paragraph of Section N:

*The implementing agency shall determine the application due dates necessary to complete the program according to the **expanded** program timetable in Appendix D.*

- Page 38. Third sentence of Section N.3.b:

*Reports must be submitted (i.e., entered into the bond accountability database, printed, signed, and mailed) by the dates listed in **Table V-1 and** Appendix D.*

6. Section O. Liquidated Damages for Late Delivery of School Buses.

Section O is revised as follows:

- Page 39. First paragraph of Section O:

*The ARB will hold liable for liquidated damages the business entity responsible for a delay that results in the failure to deliver program-funded school buses to school districts by **February 1, 2010 (for pre-1977 model year bus replacements) or** April 1, 2011 **(for 1977-1986 model year bus replacements)**. Specifically, the liquidated damages will be in the amount of \$100 per day per bus for each day a bus is delivered after **February 1, 2010 (for pre-1977 model year bus replacements) or** April 1, 2011 **(for 1977-1986 model***

~~year bus replacements~~). The purpose of charging liquidated damages is to ensure a level playing field for all business entities that stand to profit from the sale of program-funded school buses, to minimize any potential risks to school districts, and to forestall delays in achieving emission benefits. Implementing agencies must review school districts' purchase orders for new buses to ensure that the purchase orders include the liquidated damages clause set forth in Appendix C: Minimum Contract Requirements of these Guidelines.

- Page 39. Third sentence of the second paragraph of Section O:

*For each bus delivered late, the air districts shall reduce the grant payment to either the school bus distributor or the school district (depending on the contract arrangements for the payment of bus purchase orders) by \$100 per day per bus for each day a bus is delivered after the ~~applicable~~ deadline.*

### **Appendix C: Minimum Contract Requirements**

#### **Page C-4. Section M. New Bus Purchase Delivery Deadlines and Liquidated Damages**

- The third paragraph of Section M is revised as follows:

*For every day after ~~insert applicable deadline: April 1, 2011 or February 1, 2010~~ in which a bus has not been delivered as specified in the contract, the school district shall be liable to the implementing agency for liquidated damages in the amount of \$100 per day per bus purchased with funds from the Lower-Emission School Bus Program.*

- The fourth paragraph of Section M is revised as follows:

*For every day after ~~insert applicable deadline: April 1, 2011 or February 1, 2010~~ in which a bus has not been delivered as specified in the contract, the school bus distributor/vendor shall be liable to the school district for liquidated damages in the amount of \$100 per day per bus purchased with funds from the Lower-Emission School Bus Program.*

### **Appendix D: Lower-Emission School Bus Program Expanded Timetable**

1. Title Page and p. D-1

The title of Appendix D is revised as follows:

*Lower-Emission School Bus Program ~~Expanded~~ Timetable*

2. Page D-1

The first paragraph of Appendix D is revised as follows:

*This appendix is the complete Lower-Emission School Bus Program Timetable. ~~It is an expanded version of the abridged timetable that is presented in Table V-1 of these Guidelines.~~ The dates shown are the final dates for execution of the designated activities conducted with State program funding.*

3. Table D-1

Table D-1, the “Expanded Lower-Emission School Bus Program Timetable,” is deleted and replaced with the following table.

**CONTINUED**

<b>Table D-1 Lower-Emission School Bus Program Timetable</b>	
<b>Dates</b>	<b>Milestones<sup>(a)</sup></b>
March 27-28, 2008	Board approves air district allocations and Guidelines
April 30, 2008	<p><b>Funds made available to air districts by ARB</b></p> <ul style="list-style-type: none"> <li>• Grant Award and Authorization Forms mailed by ARB</li> </ul>
Beginning May 2008 and ongoing	<p><b>Initial disbursements to air districts based on readiness</b> (see Section J of Chapter V)</p> <p><b>Additional disbursements from ARB to air districts based on demonstrated need</b> (see Section J of Chapter V)</p> <p><b>ARB/CAPCOA begins direct implementation of Program, where applicable</b></p> <p><b>Pre-1977 model year (MY) bus replacement projects must be funded before any other projects are funded</b></p>
June 30, 2008	<b>100% of funds encumbered by ARB through Grant Award and Authorization Forms</b>
November 1, 2009	<b>First semiannual report due</b> (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB)
December 1, 2009	<b>Based upon November 1, 2009 demonstration of performance, ARB determines if direct implementation (by ARB/CAPCOA) of additional local programs is necessary</b>
April 1, 2010	<p><b>Recommended deadline to order new buses to replace pre-1987 MY buses</b></p> <ul style="list-style-type: none"> <li>• Pre-1977 MY bus replacement projects must be funded before any other projects are funded</li> </ul>
May 1, 2010	<b>Second semiannual report due</b> (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB)

<b>Table D-1 Lower-Emission School Bus Program Timetable</b>	
June 30, 2010	<p><b>Retrofit funding<sup>(b)</sup> may no longer be available for school buses due to proposed In-Use On-Road Heavy-Duty Diesel Vehicles Regulation</b></p> <p><b>Retrofit funding<sup>(b)</sup> must be fully expended</b></p>
November 1, 2010	<b>Third semiannual report due</b> (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB)
April 1, 2011	<b>All new buses delivered and infrastructure completed</b>
May 1, 2011	<b>Fourth semiannual report due</b> (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB)
June 30, 2011	<ul style="list-style-type: none"> <li>• Deadline for full expenditure of Proposition 1B funds</li> <li>• 100% of funds paid out; all projects/equipment in operation</li> <li>• Funds outstanding as of this date must be returned to ARB within 60 days</li> </ul>
November 1, 2011	<b>Final report due</b> (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB)
<p>(a) This table contains a brief overview of milestones. Details regarding the criteria air districts must follow to meet these milestones are provided throughout these Guidelines.</p> <p>(b) AB 923 funds cannot be used for Lower-Emission School Bus Program retrofit projects.</p>	