

AMENDED IN SENATE MAY 11, 2004
AMENDED IN SENATE APRIL 27, 2004
AMENDED IN SENATE APRIL 16, 2004
AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1247

Introduced by Senator Soto

February 12, 2004

An act to add and repeal Part 4.5 (commencing with Section 42950) of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Soto. Air pollution: ~~Incentive-Based Large Emission Reduction Program for Internal Combustion Engines.~~ *Large Emission Reduction Program for Internal Combustion Engines.*

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the state board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from heavy-duty onroad vehicles, off-road nonrecreation equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural

engines, and other high-emitting diesel engines in the state. Existing regulations adopted by the state board establish the Lower-Emission ~~Schoolbus~~ *School Bus* Program to reduce school children's exposure to air pollution emitted by older schoolbuses through a schoolbus replacement and infrastructure component and a particulate matter retrofit component for diesel schoolbuses, and establish various light-duty vehicle retirement programs to encourage voluntary retirement of older, high-emitting vehicles.

This bill would establish the ~~Incentive-Based~~ *Large Emission Reduction Program for Internal Combustion Engines* to reduce unhealthful air emissions from internal combustion engines through the application of financial ~~incentives-based~~ *incentive-based* programs. The program would be administered by the state board and *implemented by the state board and the districts*. The bill would establish the ~~Incentive-Based~~ *Large Emission Reduction Program for Internal Combustion Engines* Trust Fund in the State Treasury, and would make moneys in the trust fund available, upon appropriation by the Legislature, to carry out the purposes of the program. The bill would authorize moneys from the fund to be expended ~~on incentive programs including, but not limited to, the Carl Moyer Program,~~ *to provide grants to offset the incremental cost of projects that reduce oxides of nitrogen, reactive organic gases, and particulate matter from onroad vehicles, off-road equipment and vehicles, locomotives, diesel marine vehicles, stationary agricultural engines, and other high-emitting engine sources, through funding projects for specified heavy-duty sources, the Lower-Emission School Bus Program, light-duty vehicle programs, lawnmower electrification programs, and projects to retrofit or replace agricultural engines and pumps.*

The bill would require *the entity implementing the program in each district to adopt and annually update a plan to prioritize reductions of air pollutants based on the needs of the district, estimate the cost-effectiveness of programs, prioritize activities and projects to be funded, specify criteria or measures to determine grant eligibility, project allocations of funding, and identify how emission reductions will be applied to applicable state implementation plans.* The bill would also require each district that elects to participate in the program to establish funding priorities for pollution source reduction projects after considering specified requirements, coordinate with any local, state, or federal agency, or with any private organization, concerned with reducing emissions from internal combustion engines that it determines



appropriate, and identify potential sources of shared funding responsibilities. The bill would require that 50% of the moneys allocated to each district be expended in a manner that directly ~~addresses air pollution or health impacts resulting from the refining and combustion of gasoline and diesel fuel~~ *reduces air contaminants or the public health risks associated with air contaminants* in communities with the most significant exposure to ~~air-pollution~~ *contaminants*.

The bill would require the state board and the participating districts, commencing March 1, 2007, and *every 3 years thereafter*, until March 1, ~~2022~~ *2017*, inclusive, to provide an annual report to the Legislature on the program.

The bill would repeal these provisions on ~~December~~ *March 31, 2022* *2017*.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Internal combustion engines are the single largest source of
- 4 air pollution threatening the public health and environment of all
- 5 Californians.
- 6 (2) Air pollution control districts and air quality management
- 7 districts are primarily responsible for reducing the local health
- 8 effects associated with air pollution in their respective air basins.
- 9 (3) A number of regulatory and financial incentive programs
- 10 have been established to reduce emissions from internal
- 11 combustion engines on a cost-effective basis. Emission reduction
- 12 benefits of regulatory programs to reduce emissions from internal
- 13 combustion engines affect future engines and are slow in being
- 14 realized because of the rate at which older, dirtier engines are
- 15 retired or replaced. Emission reduction benefits can be accelerated
- 16 through financial incentive programs that target the retrofit or
- 17 replacement of older engines. There is, however, no
- 18 comprehensive program of financial incentives for reducing
- 19 emissions from internal combustion engines.
- 20 (4) It is, therefore, necessary that legislation be enacted to
- 21 establish a comprehensive financial incentives program to reduce
- 22 emissions from internal combustion engines based on a fair and



1 balanced mix of funding sources demonstrating a nexus with the
2 sources of emissions.

3 (5) The state’s air quality program has achieved significant
4 reductions in pollutant emissions from stationary sources, to the
5 point that mobile source emissions are the overwhelming cause of
6 air quality problems in many areas of the state. Despite very
7 significant improvements in both fuel performance and emission
8 standards of new gasoline and diesel powered vehicles, mobile
9 sources have become the dominant source of ozone producing air
10 emissions, accounting for nearly 70 percent of the state inventory.
11 Most of these emissions are from older or poorly-maintained
12 vehicles, particularly gross polluters, and exhaust from other
13 internal combustion engines.

14 (b) It is the intent of the Legislature in enacting the act adding
15 this section that the state board and districts in the state place
16 greater focus on obtaining emissions reductions from mobile
17 sources, especially from gross polluting mobile sources, and that
18 those mobile sources achieve their share of emission reductions in
19 order to improve air quality and achieve and maintain state and
20 federal air standards.

21 SEC. 2. Part 4.5 (commencing with Section 42950) is added
22 to Division 26 of the Health and Safety Code, to read:

23

24 ~~Part 4.5. Incentive-Based Emission Reduction Program for~~
25 ~~Internal Combustion Engines~~

26

27

28 *Part 4.5. Large Emission Reduction Program*

29

30 42950. (a) This part shall be known, and may be cited, as the
31 ~~Incentive-Based Emission Reduction Program for Internal~~
32 ~~Combustion Engines. Large Emission Reduction Program.~~

33 (b) The purpose of the program established by this part is to
34 reduce unhealthful air emissions from internal combustion
35 engines through the application of financial incentives-based
36 programs, relying to the greatest extent possible on existing
37 programs with proven cost-effective results. The program shall be
38 administered by the state board and the districts in accordance with
39 this part. The state board and the districts may request the



1 assistance of other state agencies with relevant expertise and
2 authority to achieve the goals and purposes of this part.

3 42951. For the purposes of this part, the following terms have
4 the following meanings:

5 (a) *“Accelerated light-duty vehicle retirement program”*
6 *means a program to identify and encourage voluntary retirement*
7 *of older, high-emitting vehicles and to assist in the repair and*
8 *replacement of defective emission control system parts that is*
9 *established by the state board or a district pursuant to Article 10*
10 *(commencing with Section 44100) of Chapter 5 of Part 5.*

11 (b) *“Btu” means British thermal unit.*

12 (c) *“Carl Moyer Program” means the Carl Moyer Memorial*
13 *Air Quality Standards Attainment Program established pursuant*
14 *to Chapter 9 (commencing with Section 44275) of Part 5.*

15 ~~(b)~~

16 (d) *“Cost-effectiveness” means dollars provided to a project*
17 *pursuant to this part for each ton of covered emissions reductions*
18 *attributed to a project or to the program as a whole. In calculating*
19 *cost-effectiveness, one-time grants of funds made at the beginning*
20 *of a project shall be annualized using a time value of public funds*
21 *or discount rate determined for each project by the state board,*
22 *taking into account the interest rate on bonds, interest earned by*
23 *state funds, and other factors as determined appropriate by the*
24 *state board. Cost-effectiveness shall be calculated by dividing*
25 *annualized costs by average annual emissions reductions in this*
26 *state. Emissions reductions shall include all covered emission*
27 *reductions in accordance with procedures determined by the state*
28 *board.*

29 (e) *“Covered emissions” include oxides of nitrogen (NO_x),*
30 *reactive organic gases (ROG), and particulate matter (PM) that*
31 *is emitted from covered engines.*

32 (f) *“Covered engine” includes any internal combustion engine*
33 *or electric motor and drive powering a covered source.*

34 (g) *“Covered source” includes onroad vehicles, off-road*
35 *recreational and nonrecreational equipment and vehicles,*
36 *locomotives, diesel marine vessels, stationary agricultural*
37 *engines, and, as determined by the state board, other high-emitting*
38 *diesel or gasoline engine categories.*

39 (h) *“Covered vehicle” includes any vehicle or piece of*
40 *equipment powered by a covered engine.*



- 1 (i) “Diesel fuel” means a liquid that is commonly or
2 commercially known or sold as fuel that is suitable for use in a
3 diesel-powered engine. A liquid meets this requirement if, without
4 further processing or blending, the liquid has practical and
5 commercial fitness for use in a diesel-powered engine.
- 6 ~~(e)~~
- 7 (j) *“District” means an air pollution control district, a unified*
8 *air pollution control district, or an air quality management*
9 *district.*
- 10 (k) “Fuel emulsification” means a fuel mixture approved by
11 the state board that includes, but is not limited to, water and certain
12 additives, with or without surfactants, to reduce emissions from
13 compression-ignition engines.
- 14 ~~(d) “Fund” means the Incentive-Based Emission Reduction~~
15 ~~Program for Internal Combustion Engines Trust Fund established~~
16 (l) *“Fund” means the Large Emission Reduction Trust Fund*
17 *established pursuant to Section 42953 42954.*
- 18 ~~(e)~~
- 19 (m) “Gasoline” means a volatile mixture of hydrocarbons,
20 generally containing small amounts of additives, suitable for use
21 as a fuel in spark-ignition internal combustion engines.
- 22 ~~(f)~~
- 23 (n) *“Incremental cost” means the cost of the project less a*
24 *baseline cost that would otherwise be incurred by the applicant in*
25 *the normal course of business. Incremental costs may include*
26 *added lease or fuel costs as well as incremental capital costs.*
- 27 (o) “Lawnmower electrification program” means a program
28 established by a district designed to replace high-emitting lawn
29 and garden equipment with zero-emission models.
- 30 ~~(g)~~
- 31 (p) *“Light-duty parts replacement” means replacing selected*
32 *emission control equipment on light-duty vehicles.*
- 33 (q) *“Local agency” includes a city, county, city and county,*
34 *special district, regional governmental organization, and any*
35 *other form of local government.*
- 36 (r) “Lower-Emission School Bus Program” means the
37 program by that name adopted by regulation by the state board on
38 December 7, 2000, and issued in April 2001, ~~as that program may~~
39 ~~be amended from time to time.~~



1 ~~(h) “Light-duty vehicle retirement program” means a program~~
2 ~~to identify and encourage voluntary retirement of older,~~
3 ~~high-emitting vehicles and to assist in the repair and replacement~~
4 ~~of defective emission control system parts that is established by the~~
5 ~~state board pursuant to Article 10 (commencing with Section~~
6 ~~44100) of Chapter 5 of Part 5. and as that program is authorized~~
7 ~~by this part.~~

8 (s) “Mobile Source Air Pollution Reduction Review
9 Committee” means the committee created by Section 44244.

10 (t) “NO_x” means oxides of nitrogen.

11 (u) “PM” means particulate matter.

12 (v) “Program” means the Large Emission Reduction Program
13 created by subdivision (a) of Section 42952.

14 (w) “Repower” means replacing an engine with a different
15 engine. The term repower, as used in this part, generally refers to
16 replacing an older, uncontrolled engine with a new,
17 emissions-certified engine, although replacing an older
18 emissions-certified engine with a newer engine certified to lower
19 emissions standards may be eligible for funding under this
20 program.

21 (x) “Retrofit” means making modifications to the engine and
22 fuel system that results in the retrofitted engine not having the same
23 specifications as the original engine.

24 (y) “ROG” means reactive organic gases.

25 42952. (a) There is hereby created the Large Emissions
26 Reduction Program. The overall general administration of the
27 comprehensive program shall be performed by the state board. The
28 state board may delegate implementation of the light-duty vehicle
29 program element to the districts. The state board shall delegate
30 implementation of all other elements of the comprehensive
31 program to the districts. Notwithstanding this delegation of
32 administration, each district may opt out of the administration of
33 the program, and the state board shall administer the program
34 within that district.

35 (b) The program shall provide grants to offset the incremental
36 cost of projects that reduce covered emissions from covered
37 sources in California, for all of the following:

38 (1) To fund projects that offset the incremental cost of
39 heavy-duty projects that reduce emissions of covered emissions
40 from heavy-duty covered sources in California.



1 (2) *The Lower-Emission School Bus Program.*

2 (3) *Accelerated light-duty vehicle retirement programs.*

3 (4) *Lawnmower electrification programs.*

4 (5) *Projects to retrofit, repair, or replace agricultural engines*
5 *and pumps.*

6 (c) *Regulations and guidelines for grant awards shall be*
7 *determined by the state board, in consultation with the districts, in*
8 *accordance with this part.*

9 (d) *The entity implementing the program in each district shall*
10 *adopt, and annually update, a plan at a duly noticed public*
11 *hearing that provides for all the following:*

12 (1) *Prioritizes the desired reductions in the individual air*
13 *pollutants comprising the covered emissions, based on the air*
14 *quality needs of the district.*

15 (2) *Estimates the relative cost-effectiveness of the programs*
16 *listed in subdivision (b). The administering entity may breakdown*
17 *each program into further categories at its discretion.*

18 (3) *Prioritizes the activities and projects to be funded for each*
19 *covered emission that is prioritized pursuant to paragraph (1), to*
20 *ensure that 80 percent of all expenditures would be prioritized*
21 *based on cost-effectiveness within the cost-effectiveness criteria.*

22 (4) *Specifies criteria or measures that will be applied to*
23 *determine eligibility for grant funding to ensure that the most*
24 *cost-effective projects will be funded. These criteria or measures*
25 *may include, but are not limited to, all of the following:*

26 (A) *Restricting grants to certain engine, motor, or vehicle*
27 *model-years.*

28 (B) *Sequencing of programmatic measures to ensure that the*
29 *most cost-effective programs are carried out earlier in the year.*

30 (C) *Expedited processing of grants for projects that the*
31 *administering entity determines are very cost-effective.*

32 (D) *Applying a more restrictive cost-effectiveness standard*
33 *than otherwise permitted by Section 42962 during the first two*
34 *years the program is operative.*

35 (5) *Projects the allocation of funding among the various*
36 *programs.*

37 (6) *Identifies how emission reductions will be credited to the*
38 *applicable state implementation plans.*

39 (7) *Grants an allocation of up to 20 percent of the total project*
40 *awards, at the discretion of the implementing entity, to a project if*



1 *the award meets the cost-effectiveness criteria specified in Section*
2 *42962.*

3 42953. Any new program undertaken by the state board or a
4 district pursuant to this part is subject to all of the following
5 requirements:

6 (a) The program shall reduce and mitigate emissions, and the
7 impacts of those emissions, from internal combustion engines.

8 (b) Any new mobile source program or any existing mobile
9 source program that is considered for funding shall demonstrate
10 cost-effectiveness expressed in dollars expended per ton of
11 emissions removed through use of a consistent transparent
12 methodology with statewide applicability for on- and off-road
13 diesel engines, light and medium-duty vehicles, or other internal
14 ~~combustion~~ *combustion* engines, as determined by the state board
15 pursuant to Section 42958. All projects shall meet applicable
16 specific cost-effectiveness criteria and 80 percent of all
17 expenditures shall be prioritized based on cost-effectiveness
18 within the cost-effectiveness criteria.

19 (c) Any new program shall demonstrate actual emission
20 ~~reductions, including, but not limited to, being both measurable~~
21 ~~and surplus, through application of realistic program assumptions~~
22 *reductions through the application of realistic program*
23 *assumptions.*

24 (d) Any new program shall be adopted by regulation by the
25 state board pursuant to Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
27 shall be consistent with the authority granted the state board
28 consistent with this division, and shall be implemented by districts
29 pursuant to the regulations adopted by the state board.

30 (e) Any new program shall be measured by its impact on ozone
31 and PM compliance with state and federal standards, rather than
32 by the type of fuel used by the motor or engine.

33 ~~(f) The implementation of any program shall provide~~
34 ~~environmental justice in accordance with subdivision (a) of~~
35 ~~Section 43023.5 to directly reduce ozone and PM concentrations~~
36 ~~in communities with the most significant exposure to ozone and~~
37 ~~PM concentrations, including, but not limited to, communities of~~
38 ~~minority or low income population.~~

39 ~~(g)~~



1 (f) In addition to achieving the air quality objectives pursuant
2 to this part, any program affecting the general public *or small*
3 *business* shall have convenience for the general public *or the small*
4 *business community* as an underlying principle.

5 ~~(h)~~

6 (g) Any new program shall have explicit quantifiable
7 objectives, and shall be accompanied by independent and external
8 periodic reviews of program performance and achievement of
9 targeted emissions reductions at expected costs.

10 ~~(i)~~

11 (h) Any new program shall consider issues of startup and
12 scalability, and the potential for the program to cause unintended
13 negative consequences.

14 ~~(j)~~

15 (i) Any new program that addresses emissions in a manner
16 similar to those reductions addressed in existing programs in the
17 same jurisdiction shall incorporate program reforms considered
18 necessary to improve the operational equity of the current program
19 and to meet the other principles described in this section.

20 ~~(k) Emission reductions from any funded and fully~~
21 ~~implemented projects or programs pursuant to this part shall be~~
22 ~~included in the state implementation plan, or any revision to that~~
23 ~~plan, that is submitted to the United States Environmental~~
24 ~~Protection Agency pursuant to the federal Clean Air Act (42~~
25 ~~U.S.C. Sec. 7401 et seq.).~~

26 ~~42953. (a) The Incentive-Based Emission Reduction~~
27 ~~Program for Internal Combustion Engines Trust Fund is hereby~~

28 ~~42954. (a) The Large Emission Reduction Program Trust~~
29 ~~Fund is hereby created in the State Treasury. Moneys in the trust~~
30 ~~fund shall be available, upon appropriation by the Legislature, to~~
31 ~~carry out the purposes of this part. In addition to moneys~~
32 ~~appropriated by the Legislature, the fund may accept moneys from~~
33 ~~other sources, including, but not limited to, federal and local~~
34 ~~agencies, and private sector sources.~~

35 (b) Notwithstanding Sections 16475, 16475.1, and 16480.6 of
36 the Government Code, all of the interest earned on money in the
37 trust fund shall be deposited in the trust fund.

38 (c) Not more than ~~2.5~~ 5 percent of the moneys deposited in the
39 fund may be used by districts for the cost of administering this
40 program.



1 ~~(d) Moneys in the fund shall be encumbered prior to December~~
2 ~~31, 2022. Grants may not be made by the state board or a district~~
3 ~~from the fund after that date.~~

4 ~~42954. Incentive programs eligible for funding from the fund~~
5 ~~include, but are not limited to, the following:~~

6 ~~(a) The Carl Moyer Program, including, but not limited to, fuel~~
7 ~~emulsification projects to the extent permissible under the~~
8 ~~program.~~

9 ~~(b) The Lower Emission School Bus Program.~~

10 ~~(c) Light-duty vehicle retirement programs.~~

11 ~~(d) Lawnmower electrification programs.~~

12 ~~(e) Projects to retrofit or replace agricultural engines and~~
13 ~~pumps.~~

14 *(d) Grants may not be made by the state board or a district from*
15 *the fund after December 31, 2014. Grant funds awarded prior to*
16 *December 31, 2014, that are not encumbered by December 31,*
17 *2016, shall revert to the General Fund.*

18 *(e) All program funds shall be encumbered two years from the*
19 *date of appropriation or date of contribution to the fund. No grants*
20 *may be made by districts using money reserved within the fund*
21 *after the date of appropriation.*

22 *(f) Funds reserved for a district that have not been encumbered*
23 *within two years of the date of appropriation shall revert back to*
24 *the state board, and thereafter shall be permanently allocated by*
25 *the state board to districts in proportion to the aggregate net*
26 *disbursements that the participating districts received during the*
27 *life of the grant program, to be used in accordance with the goals*
28 *and objectives of the grant program and to be granted by the*
29 *districts in accordance with the procedures and criteria in place*
30 *at the termination of the grant program or as subsequently*
31 *modified by the districts as needed to better meet the grant*
32 *program objectives and protect human health and welfare.*

33 *(g) To ensure that emission reductions are obtained as needed*
34 *from pollution sources, any moneys deposited in or appropriated*
35 *to the fund shall be segregated and administered as follows:*

36 *(1) _____ percent shall be allocated to the Lower-Emission*
37 *School Bus Program.*

38 *(2) The remainder of the funds shall be allocated by the state*
39 *board to heavy-duty projects, light-duty vehicle projects, and*
40 *nonheavy-duty off-road projects.*



1 (3) Not more than 3 percent of the moneys in the fund shall be
2 allocated to program support and outreach costs incurred by the
3 state board directly associated with implementing the program
4 pursuant to this part. These funds shall be allocated to the state
5 board in proportion to total program funds administered by the
6 state board.

7 (4) Not more than 2 percent of the moneys in the fund shall be
8 allocated to direct program outreach activities. The state board
9 may use these funds for program outreach contracts or may
10 allocate outreach funds to participating air districts in proportion
11 to each district's allocation from the fund. The state board shall
12 report on the use of outreach funds in their reports to the
13 Legislature pursuant to Section 42959.

14 (5) The balance shall be deposited in the fund to be expended
15 to offset added costs of new very low- or zero-emission vehicle
16 technologies, and emission reducing repowers, retrofits, and
17 add-on equipment for covered vehicles and engines.

18 (i) Moneys in the fund shall be allocated to a district that
19 submits an eligible application to the state board pursuant to
20 Sections 42965, 42966, and 42967. The state board shall
21 determine the maximum amount of annual funding from the fund
22 that each district may receive. This determination shall be made
23 based on a formula developed and approved jointly by the state
24 board and the California Air Pollution Control Officers
25 Association.

26 42955. Each district that participates in a program described
27 in Section ~~42954~~ 42952 shall do all of the following:

28 (a) Establish funding priorities for pollution source reduction
29 projects after considering all of the requirements described in
30 Section ~~42952~~ 42953 to help comply with federal and state
31 ambient air quality standards.

32 (b) Coordinate with any local, state, or federal agency, or with
33 any private organization, concerned with reducing emissions from
34 internal combustion engines that it determines to be appropriate.

35 (c) Identify potential sources of shared funding
36 responsibilities, including, but not limited to, any of the following
37 sources:

38 (1) State.

39 (2) Federal.

40 (3) Private.



1 ~~42956. Each district shall expend 50 percent of the moneys it~~
2 ~~receives from the fund in a manner that directly addresses air~~
3 ~~pollution or health impacts resulting from the refining and~~
4 ~~combustion of gasoline and diesel fuel in communities with the~~
5 ~~most significant exposure to air pollution, consistent with~~
6 ~~subdivisions (a) and (b) of Section 43023.5.~~

7 *42956. The administering entity in each district shall ensure*
8 *that not less than 50 percent of the funds are expended in a manner*
9 *that directly reduces air contaminants or reduces the public health*
10 *risks associated with air contaminants, including, but not limited*
11 *to, airborne toxics and particulate matter, in communities with the*
12 *most significant exposure to air contaminants or localized air*
13 *contaminants, or both, including, but not limited to, communities*
14 *of minority populations or low-income populations.*

15 42957. (a) The responsibilities of the state board or the
16 participating district, as applicable, with respect to programs
17 implemented pursuant to this part shall include management of
18 program funds and program oversight.

19 (b) The state board shall have primary responsibility for any
20 federal reporting aspects of each program.

21 (c) The responsibilities of a district shall include, but are not
22 limited to, local administration of project funds, monitoring
23 funded projects, and reporting results to the state board. Any
24 project funds awarded to a successful applicant shall be disbursed
25 by the district.

26 (d) The state board and the districts shall ensure that emissions
27 reductions achieved through the program are, to the extent
28 permissible under state and federal law, credited by the United
29 States Environmental Protection Agency to the appropriate
30 emission reduction objectives in the State Implementation Plan.
31 *The state board and the implementing districts shall cooperate to*
32 *update the applicable state implementation plans to take into*
33 *consideration the emission reductions resulting from the*
34 *implementation of the program as soon as practicable, but not*
35 *later than December 31, ____.*

36 42958. (a) The state board shall assist the districts with
37 developing procedures to monitor whether the emission
38 reductions projected in successful grant applications are achieved.
39 Monitoring procedures may include, but are not limited to, project
40 audits and the requirement that each grant recipient provide



1 information about the project on an annual basis as part of the grant
2 agreement between the state board or districts and the grant
3 recipient. The state board and the district shall minimize, to the
4 extent feasible, the information that is required from grant
5 recipients, and shall develop a simple and convenient format for
6 reporting the required information.

7 (b) The monitoring procedures developed pursuant to
8 subdivision (a) shall allow emission reductions generated to be
9 fully credited to air quality plans.

10 (c) The state board shall monitor district programs to ensure
11 that participating districts conduct their programs consistent with
12 the requirements described in Section ~~42952~~ 42953.

13 ~~42959.~~ Not later than March 1, 2007, and ~~each March 1 on~~
14 *March 1 every three years* thereafter until March 1, ~~2022~~ 2017,
15 inclusive, the state board, in cooperation with participating
16 districts, shall provide the Legislature with a program report. The
17 report shall include, but shall not be limited to, all of the following:

18 (a) A detailed review of the moneys received, moneys granted,
19 moneys reserved for grants based on project approvals, and shared
20 funding responsibilities, and the sources of those moneys.

21 (b) An estimate of future demand for grant moneys.

22 (c) A description of the overall effectiveness of the program in
23 delivering the emission reductions required by air quality plans,
24 including, but not limited to, the rate of progress plans and
25 milestone and conformity tests, as well as attainment and
26 maintenance plans.

27 ~~42960.~~ —

28 (d) *A list of any of the projects funded through the program that*
29 *were not implemented in accordance with the requirements of the*
30 *program and the final disposition of funds appropriated for those*
31 *projects.*

32 (e) *An external independent audit of the program measured*
33 *against program requirements as implemented by the state board*
34 *and the five largest districts based on district population.*

35 (f) *The report shall evaluate the effectiveness of the program in*
36 *soliciting and evaluating project applications, providing awards*
37 *in a timely manner, and monitoring project implementation. The*
38 *report shall describe any adjustments made to the project selection*
39 *criteria and recommend any further needed changes or*
40 *adjustments to the grant program, including changes in grant*



1 *award criteria, administrative procedures, or statutory provisions*
2 *that would enhance the effectiveness and efficiency of the grant*
3 *program.*

4 (g) *The state board shall request comments and hold public*
5 *meetings on each draft periodic report to obtain public comments.*
6 *The state board shall consider and respond to all significant*
7 *comments received in producing a final annual report.*

8 (h) *A final periodic report shall be published within 90 days*
9 *from the date of publication of each draft annual report.*

10 (i) *For the accelerated light-duty vehicle retirement program,*
11 *this reporting requirement supercedes the reporting requirement*
12 *described in subdivision (c) of Section 44104.5.*

13 42960. (a) *Eligible projects are any of the following:*

14 (1) *The purchase of new vehicles or covered engines.*

15 (2) *The emission-reducing retrofit of covered engines, or the*
16 *replacement of old engines powering covered sources with newer*
17 *engines certified to more stringent emissions standards than the*
18 *engine being replaced, or with electric motors or drives.*

19 (3) *The purchase and use of emission-reducing add-on*
20 *equipment or fuel emulsion that has been verified by the state*
21 *board for covered vehicles or engines.*

22 (4) *The development and demonstration of practical,*
23 *low-emission retrofit technologies, repower options, and*
24 *advanced technologies for covered engines and vehicles to the*
25 *extent that those projects contribute to emission reductions that are*
26 *creditable to federal and state implementation plans.*

27 (5) *Accelerated light-duty vehicle retirement, including, but*
28 *not limited to, detection of high-emitting vehicles.*

29 (6) *Light-duty parts replacement.*

30 (7) *The purchase of low-emission schoolbuses.*

31 (8) *Agricultural engines and pumps retrofit, repair or*
32 *replacement projects.*

33 (b) *No new purchase, retrofit, repower, add-on equipment or*
34 *fuel emulsion project may be funded under this part by federal,*
35 *state, or local funding if it is required by any local, state, or federal*
36 *statute, rule, regulation, memorandum of agreement or*
37 *understanding, or any other legally binding document, except that*
38 *an otherwise qualified project may be funded even if the State*
39 *Implementation Plan assumes that the change in equipment,*
40 *vehicles, or operations will occur, if the change is not required by*



1 a statute, regulation, or other legally binding document in effect
2 as of the date the grant is awarded. The cost-effectiveness shall be
3 calculated based on that time period that the project is not
4 required. No project funded by program funds from federal, state,
5 or local funding may be used for credit under any state or federal
6 emissions averaging, banking, or trading program. No emission
7 reduction generated by the program that is funded from federal,
8 state, or local funding may be used as marketable emission
9 reduction credits or to offset any emission reduction obligation of
10 any entity. Projects involving new engines that would otherwise
11 generate marketable credits under state or federal averaging,
12 banking, and trading programs shall include the transfer of credits
13 to the engine end user and the retirement of those credits toward
14 reducing air emissions in order to qualify for funding under the
15 program. A purchase of a low-emission vehicle or of equipment
16 pursuant to a corporate or a controlling board's policy, but not
17 otherwise required by law, shall generate surplus emissions
18 reductions and may be funded by the program.

19 (c) Eligible applicants may be any individual, company, or
20 public agency that owns one or more covered vehicles or engines
21 that operate primarily within California or otherwise contribute
22 to the ozone or particulate levels in California.

23 42961. The following criteria apply to all projects to be
24 funded through the program:

25 (a) Except for projects involving marine vessels, or light-duty
26 vehicles, 75 percent or more of vehicle miles traveled or hours of
27 operation shall be projected to be in California for at least five
28 years following the grant award. Projects involving marine vessels
29 and engines shall be limited to those that spend enough time
30 operating in California air basins over the lifetime of the project
31 to meet the cost-effectiveness criteria based on covered emissions
32 reductions in California, as provided in Section 42962. Projects
33 involving light-duty vehicles shall ensure that the vehicles
34 operated for a minimum of three years within California prior to
35 program participation.

36 (b) To be eligible, projects, except for school buses, shall meet
37 the cost-effectiveness per ton of covered emissions reduced
38 requirements of Section 42962.

39 (c) To be eligible, schoolbuses must meet the criteria
40 established pursuant to this part. Schoolbuses shall meet a



1 *cost-effectiveness of either \$ _____ per ton of NO_x plus PM or \$*
2 *_____ per ton of PM, consistent with the methodology determined*
3 *by the state board under the Lower-Emission School Bus Program.*
4 *The statewide funding allocation between natural gas and*
5 *conventionally fueled schoolbuses shall be proportioned on a*
6 *___:___ ratio, respectively.*

7 *(d) To be eligible, retrofits, repowers, installation of add-on*
8 *equipment, fuel emulsion, accelerated light-duty vehicle*
9 *retirement, and light-duty parts replacement for covered vehicles*
10 *shall be performed, or new covered vehicles delivered to the end*
11 *user, on or after the date the program is implemented.*

12 *(e) Retrofit technologies, new engines, and new vehicles shall*
13 *be certified for sale or under experimental permit for operation in*
14 *California. The state board shall adopt guidelines for determining*
15 *the base cost of any new engine, vehicle or control technology.*
16 *Base costs shall, at a minimum, include all features otherwise*
17 *required by local, state, or federal law.*

18 *(f) Repower projects that replace older, uncontrolled engines*
19 *with new, emissions-certified engines or that replace*
20 *emissions-certified engines with new engines certified to a more*
21 *stringent emissions standard are approvable subject to the other*
22 *applicable selection criteria. The state board shall determine*
23 *appropriate baseline emission levels for the uncontrolled engines*
24 *being replaced.*

25 *(g) Projects, retrofit, and add-on equipment projects that*
26 *document a reduction in covered emissions shall not increase any*
27 *other covered emissions compared to the applicable baseline*
28 *emissions accepted by the state board for that engine year and*
29 *application. The state board shall determine appropriate baseline*
30 *emission levels. Acceptable documentation shall be defined by the*
31 *state board. After study of available emission reduction*
32 *technologies and after public notice and comment, the state board*
33 *may revise the prohibition of allowing any increase of any other*
34 *pollutant provided for in this section to improve the ability of the*
35 *program to achieve its goals.*

36 *(h) (1) For heavy-duty projects, except for schoolbuses,*
37 *involving the purchase of new very low- or zero-emission vehicles*
38 *to an existing fleet, engines shall be certified to an optional*
39 *low-NO_x emissions standard established by the state board, except*
40 *as provided for in paragraph (2). For projects involving the*



1 replacement of an existing vehicle through a vehicle retirement
2 program or other similar program, the state board shall develop
3 guidelines as to how their cost-effectiveness shall be calculated.

4 (2) For projects involving the purchase of new very low- or
5 zero-emission covered vehicles for an existing fleet for which no
6 optional low-NO_x emission standards are available,
7 documentation shall be provided showing that the very-low or
8 zero-emission engine emits not more than 70 percent of the NO_x or
9 NO_x plus hydrocarbon emissions of a new engine certified to the
10 applicable baseline NO_x or NO_x plus hydrocarbon emission
11 standard for that engine and meets applicable particulate
12 standards. The state board shall specify the documentation
13 required. If no baseline emission standard exists for new vehicles
14 in a particular category, the state board shall determine an
15 appropriate baseline emission level for comparison.

16 (i) For light-duty parts replacement, the state board shall
17 determine appropriate criteria based on the efficiency and
18 effectiveness of replacement equipment, the cost, the
19 cost-effectiveness, and other criteria.

20 42962. The following requirements apply to all projects
21 funded by the program, except those projects involving the
22 purchase of schoolbuses:

23 (a) Grants may not be made for projects with a
24 cost-effectiveness, calculated in accordance with this section, of
25 less than \$_____ per ton of NO_x or \$_____ per ton of PM reduced in
26 California. For projects obtaining emission reductions for more
27 than one covered pollutant, the state board shall determine
28 appropriate cost-effectiveness methodologies.

29 (b) Only covered emission reductions that are deemed
30 attributable to an applicable implementation plan and that occur
31 in California shall be included in the cost-effectiveness
32 determination. The extent to which covered emissions generated
33 at sea contribute to air quality in California nonattainment areas
34 shall be incorporated into these methodologies based on a
35 reasonable assessment of currently available information and
36 modeling assumptions.

37 (c) The state board shall develop protocols for calculating the
38 surplus reductions in covered emissions in California from
39 representative project types over the life of the project.



1 (d) *The cost of the reductions in covered emissions is the*
2 *amount of the grant from the program, plus any other state funds,*
3 *or funds under the district’s budget authority or fiduciary control,*
4 *provided toward the project. The state board shall establish*
5 *reasonable methodologies for evaluating project*
6 *cost-effectiveness, taking into account a fair and reasonable*
7 *discount rate or time value of public funds.*

8 (e) *A grant may not be made that, net of taxes, provides the*
9 *applicant with funds in excess of the incremental cost of the*
10 *project. Incremental lease costs may be capitalized according to*
11 *guidelines adopted by the state board so that these incremental*
12 *costs may be offset by a one-time grant award.*

13 (f) *Funds under an implementing agency’s budget authority or*
14 *fiduciary control may be used to pay for the incremental cost of*
15 *liquid or gaseous fuel, other than standard gasoline or diesel, that*
16 *is integral to a covered emission reducing technology that is part*
17 *of a project receiving grant funding under the program. The fuel*
18 *shall be approved for sale by the state board and the Department*
19 *of Measurement Standards. The incremental fuel cost over the*
20 *expected lifetime of the vehicle may be offset by the district if the*
21 *project as a whole, including the incremental fuel cost, meets all*
22 *of the requirements of this part, including the maximum allowed*
23 *cost-effectiveness. The state board shall develop an appropriate*
24 *methodology for converting incremental fuel costs over the vehicle*
25 *lifetime into an initial cost for the purposes of determining project*
26 *cost-effectiveness. Incremental fuel costs may not be included in*
27 *project costs for fuels dispensed from any facility that was funded,*
28 *in whole or in part, from the fund.*

29 (g) *For purposes of determining any grant amount pursuant to*
30 *this part, the incremental cost of any new purchase, retrofit,*
31 *repower, or add-on equipment project shall be reduced by the value*
32 *of any current financial incentive that directly reduces the project*
33 *price, including any tax credits or deductions, grants, or other*
34 *public or private financial assistance or buy-down. Project*
35 *proponents applying for funding shall be required to state in their*
36 *application any other public or private financial assistance*
37 *provided to the project.*

38 (h) *For each year the program is in effect, the state board shall*
39 *adjust the maximum cost-effectiveness amount established in*



1 subdivision (a) and any per-project maximum set by the state board
2 to account for inflation.

3 42963. The following requirements are applicable to projects
4 involving light-duty vehicles or nonheavy-duty off-road sources:

5 (a) The state board shall develop protocols for calculating the
6 surplus covered emission reductions in California to help ensure
7 that they can be attributable to the applicable state
8 implementation plan.

9 (b) The state board shall establish reasonable methodologies
10 for evaluating cost-effectiveness consistent with the definition
11 contained in subdivision (d) of Section 42951 and with Section
12 42962, and with accepted methods, taking into account a fair and
13 reasonable discount rate or time value of public funds.

14 (c) For accelerated light-duty vehicle retirement projects, the
15 state board shall comply with the provisions of Article 10
16 (commencing with Section 44100) of Chapter 5 of Part 5.

17 42964. (a) The state board shall manage program funds and
18 shall provide program oversight. The state board shall produce
19 guidelines, protocols, and criteria for covered vehicle projects and
20 develop methodologies for evaluating project cost-effectiveness in
21 accordance with this part. The state board shall have primary
22 responsibility for the reporting aspects of the program.

23 (b) The responsibilities of a district may include any or all of
24 the following:

25 (1) Submission of an annual plan for projects or to be funded
26 by the program to the state board to address the district's priority
27 mobile source emission reduction goals and in compliance with
28 adopted air quality plans.

29 (2) Local administration of project funds.

30 (3) Monitoring funded projects.

31 (4) Reporting results to the state board in accordance with this
32 part.

33 (5) Disbursing project funds awarded to a successful applicant.

34 (c) Funds allocated to the South Coast Air Quality
35 Management District for purposes of this program by the Mobile
36 Source Air Pollution Reduction Review Committee may only be
37 used as matching funds upon approval, by minute action, of the
38 committee.



1 (d) *The state board shall work closely with the districts for the*
2 *duration of this program to maximize the ability of the program to*
3 *achieve its goals.*

4 *42965. The following grant criteria and guidelines are*
5 *applicable to heavy-duty projects, except those involving*
6 *schoolbuses.*

7 (a) *The state board shall establish grant criteria and guidelines*
8 *consistent with this part for covered vehicle projects as soon as*
9 *practicable, but not later than July 1, 2005. The adoption of*
10 *guidelines pursuant to this subdivision is exempt from the*
11 *rulemaking provisions of the Administrative Procedure Act,*
12 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
13 *Division 3 of Title 2 of the Government Code. The state board shall*
14 *solicit input and comment from the districts during the*
15 *development of the criteria and guidelines and shall make every*
16 *effort to develop criteria and guidelines that are compatible with*
17 *existing district programs and are also consistent with this part.*
18 *Guidelines shall include protocols to calculate project*
19 *cost-effectiveness. The grant criteria and guidelines shall include*
20 *safeguards to ensure that the project generates surplus emissions*
21 *reductions. Guidelines shall enable and encourage districts to*
22 *jointly fund projects that provide emissions reductions in more*
23 *than one district. The state board shall make draft criteria and*
24 *guidelines available to the public 45 days before final adoption,*
25 *and shall hold at least one public meeting to consider public*
26 *comments before final adoption.*

27 (b) *The state board, in consultation with the participating*
28 *districts, may propose revisions to the criteria and guidelines*
29 *established pursuant to subdivision (a) as necessary to improve the*
30 *ability of the program to achieve its goals. A proposed revision*
31 *shall be made available to the public 45 days before final adoption*
32 *of the revision and the state board shall hold at least one public*
33 *meeting to consider public comments before final adoption of the*
34 *revision.*

35 (c) *The state board shall develop guidelines for a district to*
36 *follow in applying for the reservation of funds, in accordance with*
37 *this part. It is the intent of the Legislature that district*
38 *administration of any reserved funds be in accordance with the*
39 *project selection criteria specified in Sections 42960, 42961, and*
40 *42962, and all other provisions of this part. The guidelines shall*



1 *be established and published by the state board as soon as*
2 *practicable, but not later than July 1, 2005.*

3 *(d) A district desiring a reservation of funds shall apply to the*
4 *state board following the application guidelines established*
5 *pursuant to this section. The state board shall approve or*
6 *disapprove a district application not later than 60 days after*
7 *receipt. Upon approval of any district application, the state board*
8 *shall simultaneously approve a reservation of funding for that*
9 *district to administer. Reserved funds shall be disbursed to the*
10 *district so that funding of a district-approved project is not*
11 *impeded.*

12 *(e) The state board shall specify a date each year when district*
13 *applications are due. If the eligible applications received in any*
14 *year oversubscribe the available funds, the state board shall*
15 *reserve funds on an allocation basis, pursuant to subdivision (b)*
16 *of Section 42954. The state board may accept a district application*
17 *after the due date for a period of months specified by the state*
18 *board. Funds may be reserved in response to those applications,*
19 *in accordance with this part, out of funds remaining after the*
20 *original reservation of funds for the year.*

21 *(f) Guidelines for a district application shall require*
22 *information from an applicant district to the extent necessary to*
23 *meet the requirements of this part, but shall otherwise minimize the*
24 *information required of a district.*

25 *(g) A district application shall be reviewed by the state board*
26 *immediately upon receipt. If the state board determines that an*
27 *application is incomplete, the applicant shall be notified within 10*
28 *working days with an explanation of what is missing from the*
29 *application. A completed application fulfilling the criteria shall be*
30 *approved as soon as practicable, but not later than 60 working*
31 *days after receipt.*

32 *42966. The following grant criteria and guidelines are*
33 *applicable to light-duty vehicle and nonheavy-duty off-road*
34 *projects:*

35 *(a) The state board shall establish grant criteria and guidelines*
36 *consistent with this part as soon as practicable, but not later than*
37 *March 1, 2006. The state board shall solicit input and comment*
38 *from districts and other stakeholders during the development of the*
39 *criteria and guidelines and shall make every effort to develop*
40 *criteria and guidelines that are compatible with existing district*



1 *programs and are also consistent with this part. The criteria and*
2 *guidelines shall include protocols to calculate project costs,*
3 *emission benefits, and cost-effectiveness. The criteria and*
4 *guidelines shall include safeguards to ensure that the project*
5 *generates surplus emission reductions.*

6 *(b) The state board may reserve funds for administration by a*
7 *district that adopts an eligible light-duty vehicle or nonheavy-duty*
8 *off-road program.*

9 *42967. The following grant application review process is*
10 *applicable to heavy-duty projects, except for those involving*
11 *schoolbuses.*

12 *(a) An application for a project grant shall be reviewed by the*
13 *administering district upon receipt. If the administering district*
14 *determines that an application is incomplete, the applicant shall*
15 *be notified within five working days with an explanation of what*
16 *is missing from the application. The date and time of receipt of*
17 *each application determined to be complete shall be recorded and*
18 *the completed application shall be evaluated with respect to the*
19 *appropriate project selection criteria. A district shall make every*
20 *effort to process an application and grant an award rapidly and to*
21 *coordinate project approval with any purchase or installation*
22 *timing constraint on an applicant. Notwithstanding any other*
23 *provision of this part, the administering district may determine*
24 *that an application is not in good faith, not credible, or not in*
25 *compliance with this part and its objectives.*

26 *(b) A participating district may request assistance from the*
27 *state board on an as-needed basis to clarify project evaluation*
28 *protocols or to obtain information necessary to properly evaluate*
29 *an application.*

30 *(c) Funds shall be awarded in conjunction with the execution*
31 *of a contract that obligates the state board or a participating*
32 *district to make the grant and obligates the grantee to take the*
33 *actions described in the grant application. A contract shall*
34 *incorporate the recapture provisions contained in subdivision (c)*
35 *of Section 42969.*

36 *42968. The state board and participating districts shall*
37 *institute an outreach program to inform potential participants,*
38 *technology suppliers, vendors, engine and equipment dealers and*
39 *distributors, fleet owners, industry organizations and*
40 *publications, districts, and rail and port organizations of the*



1 availability of grants, and of the requirements and objectives of the
2 grant program. The state board and participating districts shall
3 vigorously recruit grant applications and publish examples of
4 successful projects. Outreach efforts on the part of the state board
5 shall be coordinated with district outreach efforts.

6 42969. (a) The state board shall assist districts with
7 developing procedures to monitor whether the emission reductions
8 projected in successful grant applications are actually achieved.
9 Monitoring procedures may include project audits, and may also
10 include requirements, as part of the contract between the state
11 board or districts and the grant recipients, that each grant
12 recipient provide information about the project on an annual basis.
13 Information required from grant recipients should be minimized
14 and the format for reporting the information should be made
15 simple and convenient.

16 (b) The monitoring and auditing procedures shall be sufficient
17 to allow emission reductions generated to be fully credited to air
18 quality plans. The monitoring procedures shall contain provisions
19 for recapturing grant awards in proportion to any loss of emission
20 reductions or underachievement in dispensing qualifying fuel
21 compared with the reductions and fuel dispensing projected in the
22 grant application. Funds recaptured shall be deposited in the
23 accounts from which the funds were originally expended. From
24 time-to-time, monitoring and auditing procedures shall be revised
25 as appropriate to enhance program effectiveness.

26 (c) The state board shall monitor district programs to ensure
27 that participating districts conduct their programs consistent with
28 the criteria and guidelines established by the state board pursuant
29 to this part. The monitoring procedures shall contain provisions
30 for recapture of funds not yet awarded to approved projects if a
31 district fails to show that they are implementing a program
32 consistent with the approved program. If the state board
33 determines, pursuant to this subdivision, that moneys from the fund
34 allocated to a district should be recaptured, the state board shall
35 hold at least one public meeting to consider public comments prior
36 to recapturing the allocated funds. The state board shall make
37 every effort to assist districts in implementing programs in an
38 approved manner and shall only recapture allocated funds if these
39 efforts fail to address problems adequately. Recaptured funds shall



1 *be deposited in the fund. The state board shall not recapture funds*
2 *already awarded to approved projects.*

3 42970. If any provision of this part or the application thereof
4 to any person or circumstance is held invalid, it is the intent of the
5 Legislature that the invalidity not affect other provisions or
6 applications of the part that can be given effect without the invalid
7 provision or application, and to this end the provisions of this part
8 are severable.

9 ~~42961. This part shall remain in effect only until December~~
10 ~~31, 2022, and as of that date is repealed, unless a later enacted~~
11 ~~statute, that is enacted before December 31, 2022, deletes or~~
12 ~~extends that date.~~

13 42971. *This part shall remain in effect only until March 31,*
14 *2017, and as of that date is repealed, unless a later enacted statute,*
15 *that is enacted before March 31, 2017, deletes or extends that date.*

