

AMENDED IN SENATE JUNE 1, 2004
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, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Soto. Air pollution: Large Emission Reduction Program.

Existing

(1) *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 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 Large Emission Reduction Program to reduce unhealthful air emissions from internal combustion engines through the application of financial 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 Large Emission Reduction Program 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 to provide grants to offset the incremental cost of projects that reduce oxides of nitrogen, reactive organic gases, ~~and~~ *or* 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 reduces air contaminants or the public health risks associated with air contaminants in communities with the most significant exposure to air contaminants.

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

The bill would repeal these provisions on March 31, 2017.

(2) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. 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.



1 (4) It is, therefore, necessary that legislation be enacted to
2 establish a comprehensive financial incentives program to reduce
3 emissions from internal combustion engines based on a fair and
4 balanced mix of funding sources demonstrating a nexus with the
5 sources of emissions.

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

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

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

26
27 Part 4.5. Large Emission Reduction Program

28
29 42950. (a) This part shall be known, and may be cited, as the
30 Large Emission Reduction Program.

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



1 42951. For the purposes of this part, the following terms have
2 the following meanings:

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

9 (b) “Btu” means British thermal unit.

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

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

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

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

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

36 (h) “Covered vehicle” includes any vehicle or piece of
37 equipment powered by a covered engine.

38 (i) “Diesel fuel” means a liquid that is commonly or
39 commercially known or sold as fuel that is suitable for use in a
40 diesel-powered engine. A liquid meets this requirement if, without



1 further processing or blending, the liquid has practical and
2 commercial fitness for use in a diesel-powered engine.

3 (j) “District” means an air pollution control district, a unified
4 air pollution control district, or an air quality management district.

5 (k) “Fuel emulsification” means a fuel mixture approved by
6 the state board that includes, but is not limited to, water and certain
7 additives, with or without surfactants, to reduce emissions from
8 compression-ignition engines.

9 (l) “Fund” means the Large Emission Reduction Trust Fund
10 established pursuant to Section 42954.

11 (m) “Gasoline” means a volatile mixture of hydrocarbons,
12 generally containing small amounts of additives, suitable for use
13 as a fuel in spark-ignition internal combustion engines.

14 (n) “Incremental cost” means the cost of the project less a
15 baseline cost that would otherwise be incurred by the applicant in
16 the normal course of business. Incremental costs may include
17 added lease or fuel costs as well as incremental capital costs.

18 (o) “Lawnmower electrification program” means a program
19 established by a district designed to replace high-emitting lawn
20 and garden equipment with zero-emission models.

21 (p) “Light-duty parts replacement” means replacing selected
22 emission control equipment on light-duty vehicles.

23 (q) “Local agency” includes a city, county, city and county,
24 special district, regional governmental organization, and any other
25 form of local government.

26 (r) “Lower-Emission School Bus Program” means the
27 program by that name adopted by regulation by the state board on
28 December 7, 2000, and issued in April 2001, and as that program
29 is authorized by this part.

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

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

33 (u) “PM” means particulate matter.

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

36 (w) “Repower” means replacing an engine with a different
37 engine. The term repower, as used in this part, generally refers to
38 replacing an older, uncontrolled engine with a new,
39 emissions-certified engine, although replacing an older
40 emissions-certified engine with a newer engine certified to lower



1 emissions standards may be eligible for funding under this
2 program.

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

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

7 42952. (a) There is hereby created the Large Emissions
8 Reduction Program. The overall general administration of the
9 comprehensive program shall be performed by the state board. The
10 state board may delegate implementation of the light-duty vehicle
11 program element to the districts. The state board shall delegate
12 implementation of all other elements of the comprehensive
13 program to the districts. Notwithstanding this delegation of
14 administration, each district may opt out of the administration of
15 the program, and the state board shall administer the program
16 within that district.

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

20 (1) To fund projects that offset the incremental cost of
21 heavy-duty projects that reduce emissions of covered emissions
22 from heavy-duty covered sources in California.

23 (2) The Lower-Emission School Bus Program.

24 (3) Accelerated light-duty vehicle retirement programs.

25 (4) Lawnmower electrification programs.

26 (5) Projects to retrofit, repair, or replace agricultural engines
27 and pumps.

28 (c) Regulations and guidelines for grant awards shall be
29 determined by the state board, in consultation with the districts, in
30 accordance with this part.

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

34 (1) Prioritizes the desired reductions in the individual air
35 pollutants comprising the covered emissions, based on the air
36 quality needs of the district.

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



- 1 (3) Prioritizes the activities and projects to be funded for each
2 covered emission that is prioritized pursuant to paragraph (1), to
3 ensure that 80 percent of all expenditures would be prioritized
4 based on cost-effectiveness within the cost-effectiveness criteria.
- 5 (4) Specifies criteria or measures that will be applied to
6 determine eligibility for grant funding to ensure that the most
7 cost-effective projects will be funded. These criteria or measures
8 may include, but are not limited to, all of the following:
- 9 (A) Restricting grants to certain engine, motor, or vehicle
10 model-years.
- 11 (B) Sequencing of programmatic measures to ensure that the
12 most cost-effective programs are carried out earlier in the year.
- 13 (C) Expedited processing of grants for projects that the
14 administering entity determines are very cost-effective.
- 15 (D) Applying a more restrictive cost-effectiveness standard
16 than otherwise permitted by Section 42962 during the first two
17 years the program is operative.
- 18 (5) Projects the allocation of funding among the various
19 programs.
- 20 (6) Identifies how emission reductions will be credited to the
21 applicable state implementation plans.
- 22 (7) Grants an allocation of up to 20 percent of the total project
23 awards, at the discretion of the implementing entity, to a project
24 if the award meets the cost-effectiveness criteria specified in
25 Section 42962.
- 26 42953. Any new program undertaken by the state board or a
27 district pursuant to this part is subject to all of the following
28 requirements:
- 29 (a) The program shall reduce and mitigate emissions, and the
30 impacts of those emissions, from internal combustion engines.
- 31 (b) Any new mobile source program or any existing mobile
32 source program that is considered for funding shall demonstrate
33 cost-effectiveness expressed in dollars expended per ton of
34 emissions removed through use of a consistent transparent
35 methodology with statewide applicability for on- and off-road
36 diesel engines, light and medium-duty vehicles, or other internal
37 combustion engines, as determined by the state board pursuant to
38 Section 42958. All projects shall meet applicable specific
39 cost-effectiveness criteria and 80 percent of all expenditures shall



1 be prioritized based on cost-effectiveness within the
2 cost-effectiveness criteria.

3 (c) Any new program shall demonstrate actual emission
4 reductions through the application of realistic program
5 assumptions.

6 (d) Any new program shall be adopted by regulation by the
7 state board pursuant to Chapter 3.5 (commencing with Section
8 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
9 shall be consistent with the authority granted the state board
10 consistent with this division, and shall be implemented by districts
11 pursuant to the regulations adopted by the state board.

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

15 (f) In addition to achieving the air quality objectives pursuant
16 to this part, any program affecting the general public or small
17 business shall have convenience for the general public or the small
18 business community as an underlying principle.

19 (g) Any new program shall have explicit quantifiable
20 objectives, and shall be accompanied by independent and external
21 periodic reviews of program performance and achievement of
22 targeted emissions reductions at expected costs.

23 (h) Any new program shall consider issues of startup and
24 scalability, and the potential for the program to cause unintended
25 negative consequences.

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

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

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



- 1 (c) Not more than 5 percent of the moneys deposited in the fund
2 may be used by districts for the cost of administering this program.
- 3 (d) Grants may not be made by the state board or a district from
4 the fund after December 31, 2014. Grant funds awarded prior to
5 December 31, 2014, that are not encumbered by December 31,
6 2016, shall revert to the General Fund.
- 7 (e) All program funds shall be encumbered two years from the
8 date of appropriation or date of contribution to the fund. No grants
9 may be made by districts using money reserved within the fund
10 after the date of appropriation.
- 11 (f) Funds reserved for a district that have not been encumbered
12 within two years of the date of appropriation shall revert back to
13 the state board, and thereafter shall be permanently allocated by
14 the state board to districts in proportion to the aggregate net
15 disbursements that the participating districts received during the
16 life of the grant program, to be used in accordance with the goals
17 and objectives of the grant program and to be granted by the
18 districts in accordance with the procedures and criteria in place at
19 the termination of the grant program or as subsequently modified
20 by the districts as needed to better meet the grant program
21 objectives and protect human health and welfare.
- 22 (g) To ensure that emission reductions are obtained as needed
23 from pollution sources, any moneys deposited in or appropriated
24 to the fund shall be segregated and administered as follows:
 - 25 (1) ____ percent shall be allocated to the Lower-Emission
26 School Bus Program.
 - 27 (2) The remainder of the funds shall be allocated by the state
28 board to heavy-duty projects, light-duty vehicle projects, and
29 nonheavy-duty off-road projects.
 - 30 (3) Not more than 3 percent of the moneys in the fund shall be
31 allocated to program support and outreach costs incurred by the
32 state board directly associated with implementing the program
33 pursuant to this part. These funds shall be allocated to the state
34 board in proportion to total program funds administered by the
35 state board.
 - 36 (4) Not more than 2 percent of the moneys in the fund shall be
37 allocated to direct program outreach activities. The state board
38 may use these funds for program outreach contracts or may
39 allocate outreach funds to participating air districts in proportion
40 to each district's allocation from the fund. The state board shall



1 report on the use of outreach funds in their reports to the
2 Legislature pursuant to Section 42959.

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

7 ~~(i)~~

8 (h) Moneys in the fund shall be allocated to a district that
9 submits an eligible application to the state board pursuant to
10 Sections 42965, 42966, and 42967. The state board shall
11 determine the maximum amount of annual funding from the fund
12 that each district may receive. This determination shall be made
13 based on a formula developed and approved jointly by the state
14 board and the California Air Pollution Control Officers
15 Association.

16 42955. Each district that participates in a program described
17 in Section 42952 shall do all of the following:

18 (a) Establish funding priorities for pollution source reduction
19 projects after considering all of the requirements described in
20 Section 42953 to help comply with federal and state ambient air
21 quality standards.

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

25 (c) Identify potential sources of shared funding
26 responsibilities, including, but not limited to, any of the following
27 sources:

28 (1) State.

29 (2) Federal.

30 (3) Private.

31 42956. The administering entity in each district shall ensure
32 that not less than 50 percent of the funds are expended in a manner
33 that directly reduces air contaminants or reduces the public health
34 risks associated with air contaminants, including, but not limited
35 to, airborne toxics and particulate matter, in communities with the
36 most significant exposure to air contaminants or localized air
37 contaminants, or both, including, but not limited to, communities
38 of minority populations or low-income populations.

39 42957. (a) The responsibilities of the state board or the
40 participating district, as applicable, with respect to programs



1 implemented pursuant to this part shall include management of
2 program funds and program oversight.

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

5 (c) The responsibilities of a district shall include, but are not
6 limited to, local administration of project funds, monitoring
7 funded projects, and reporting results to the state board. Any
8 project funds awarded to a successful applicant shall be disbursed
9 by the district.

10 (d) The state board and the districts shall ensure that emissions
11 reductions achieved through the program are, to the extent
12 permissible under state and federal law, credited by the United
13 States Environmental Protection Agency to the appropriate
14 emission reduction objectives in the State Implementation Plan.
15 The state board and the implementing districts shall cooperate to
16 update the applicable state implementation plans to take into
17 consideration the emission reductions resulting from the
18 implementation of the program as soon as practicable, but not later
19 than December 31, ____.

20 42958. (a) The state board shall assist the districts with
21 developing procedures to monitor whether the emission
22 reductions projected in successful grant applications are achieved.
23 Monitoring procedures may include, but are not limited to, project
24 audits and the requirement that each grant recipient provide
25 information about the project on an annual basis as part of the grant
26 agreement between the state board or districts and the grant
27 recipient. The state board and the district shall minimize, to the
28 extent feasible, the information that is required from grant
29 recipients, and shall develop a simple and convenient format for
30 reporting the required information.

31 (b) The monitoring procedures developed pursuant to
32 subdivision (a) shall allow emission reductions generated to be
33 fully credited to air quality plans.

34 (c) The state board shall monitor district programs to ensure
35 that participating districts conduct their programs consistent with
36 the requirements described in Section 42953.

37 42959. Not later than March 1, 2007, and on March 1 every
38 three years thereafter until March 1, 2017, inclusive, the state
39 board, in cooperation with participating districts, shall provide the



1 Legislature with a program report. The report shall include, but
2 shall not be limited to, all of the following:

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

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

7 (c) A description of the overall effectiveness of the program in
8 delivering the emission reductions required by air quality plans,
9 including, but not limited to, the rate of progress plans and
10 milestone and conformity tests, as well as attainment and
11 maintenance plans.

12 (d) A list of any of the projects funded through the program that
13 were not implemented in accordance with the requirements of the
14 program and the final disposition of funds appropriated for those
15 projects.

16 (e) An external independent audit of the program measured
17 against program requirements as implemented by the state board
18 and the five largest districts based on district population.

19 (f) The report shall evaluate the effectiveness of the program in
20 soliciting and evaluating project applications, providing awards in
21 a timely manner, and monitoring project implementation. The
22 report shall describe any adjustments made to the project selection
23 criteria and recommend any further needed changes or
24 adjustments to the grant program, including, *but not limited to*,
25 changes in grant award criteria, administrative procedures, or
26 statutory provisions that would enhance the effectiveness and
27 efficiency of the grant program.

28 (g) The state board shall request comments and hold public
29 meetings on each draft periodic report to obtain public comments.
30 The state board shall consider and respond to all significant
31 comments received in producing a final annual report.

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

34 (i) For the accelerated light-duty vehicle retirement program,
35 this reporting requirement supercedes the reporting requirement
36 described in subdivision (c) of Section 44104.5.

37 42960. (a) Eligible projects are any of the following:

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

39 (2) The emission-reducing retrofit of covered engines, or the
40 replacement of old engines powering covered sources with newer



1 engines certified to more stringent emissions standards than the
2 engine being replaced, or with electric motors or drives.

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

6 (4) The development and demonstration of practical,
7 low-emission retrofit technologies, repower options, and
8 advanced technologies for covered engines and vehicles to the
9 extent that those projects contribute to emission reductions that are
10 creditable to federal and state implementation plans.

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

13 (6) Light-duty parts replacement.

14 (7) The purchase of low-emission schoolbuses.

15 (8) Agricultural engines and pumps retrofit, repair or
16 replacement projects.

17 (b) No new purchase, retrofit, repower, add-on equipment or
18 fuel emulsion project may be funded under this part by federal,
19 state, or local funding if it is required by any local, state, or federal
20 statute, rule, regulation, memorandum of agreement or
21 understanding, or any other legally binding document, except that
22 an otherwise qualified project may be funded even if the State
23 Implementation Plan assumes that the change in equipment,
24 vehicles, or operations will occur, if the change is not required by
25 a statute, regulation, or other legally binding document in effect as
26 of the date the grant is awarded. The cost-effectiveness shall be
27 calculated based on ~~that~~ *the* time period that the project is not
28 required. No project funded by program funds from federal, state,
29 or local funding may be used for credit under any state or federal
30 emissions averaging, banking, or trading program. No emission
31 reduction generated by the program that is funded from federal,
32 state, or local funding may be used as marketable emission
33 reduction credits or to offset any emission reduction obligation of
34 any entity. Projects involving new engines that would otherwise
35 generate marketable credits under state or federal averaging,
36 banking, and trading programs shall include the transfer of credits
37 to the engine end user and the retirement of those credits toward
38 reducing air emissions in order to qualify for funding under the
39 program. A purchase of a low-emission vehicle or of equipment
40 pursuant to a corporate or a controlling board's policy, but not



1 otherwise required by law, shall generate surplus emissions
2 reductions and may be funded by the program.

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

7 42961. The following criteria apply to all projects to be
8 funded through the program:

9 (a) Except for projects involving marine vessels, or light-duty
10 vehicles, 75 percent or more of vehicle miles traveled or hours of
11 operation shall be projected to be in California for at least five
12 years following the grant award. Projects involving marine vessels
13 and engines shall be limited to those that spend enough time
14 operating in California air basins over the lifetime of the project
15 to meet the cost-effectiveness criteria based on covered emissions
16 reductions in California, as provided in Section 42962. Projects
17 involving light-duty vehicles shall ensure that the vehicles
18 operated for a minimum of three years within California prior to
19 program participation.

20 (b) To be eligible, projects, except for schoolbuses, shall meet
21 the cost-effectiveness per ton of covered emissions reduced
22 requirements of Section 42962.

23 (c) To be eligible, schoolbuses must meet the criteria
24 established pursuant to this part. Schoolbuses shall meet a
25 cost-effectiveness of either \$ ____ per ton of NO_x plus PM or \$
26 ____ per ton of PM, consistent with the methodology determined
27 by the state board under the Lower-Emission School Bus Program.
28 The statewide funding allocation between natural gas and
29 conventionally fueled schoolbuses shall be proportioned on a
30 __:__ ratio, respectively.

31 (d) To be eligible, retrofits, repowers, installation of add-on
32 equipment, fuel emulsion, accelerated light-duty vehicle
33 retirement, and light-duty parts replacement for covered vehicles
34 shall be performed, or new covered vehicles delivered to the end
35 user, on or after the date the program is implemented.

36 (e) Retrofit technologies, new engines, and new vehicles shall
37 be certified for sale or under experimental permit for operation in
38 California. The state board shall adopt guidelines for determining
39 the base cost of any new engine, vehicle or control technology.



1 Base costs shall, at a minimum, include all features otherwise
2 required by local, state, or federal law.

3 (f) Repower projects that replace older, uncontrolled engines
4 with new, emissions-certified engines or that replace
5 emissions-certified engines with new engines certified to a more
6 stringent emissions standard are approvable subject to the other
7 applicable selection criteria. The state board shall determine
8 appropriate baseline emission levels for the uncontrolled engines
9 being replaced.

10 (g) Projects, retrofit, and add-on equipment projects that
11 document a reduction in covered emissions shall not increase any
12 other covered emissions compared to the applicable baseline
13 emissions accepted by the state board for that engine year and
14 application. The state board shall determine appropriate baseline
15 emission levels. Acceptable documentation shall be defined by the
16 state board. After study of available emission reduction
17 technologies and after public notice and comment, the state board
18 may revise the prohibition of allowing any increase of any other
19 pollutant provided for in this section to improve the ability of the
20 program to achieve its goals.

21 (h) (1) For heavy-duty projects, except for schoolbuses,
22 involving the purchase of new very low- or zero-emission vehicles
23 to an existing fleet, engines shall be certified to an optional
24 low-NO_x emissions standard established by the state board, except
25 as provided for in paragraph (2). For projects involving the
26 replacement of an existing vehicle through a vehicle retirement
27 program or other similar program, the state board shall develop
28 guidelines as to how their cost-effectiveness shall be calculated.

29 (2) For projects involving the purchase of new very low- or
30 zero-emission covered vehicles for an existing fleet for which no
31 optional low-NO_x emission standards are available,
32 documentation shall be provided showing that the very-low or
33 zero-emission engine emits not more than 70 percent of the NO_x
34 or NO_x plus hydrocarbon emissions of a new engine certified to the
35 applicable baseline NO_x or NO_x plus hydrocarbon emission
36 standard for that engine and meets applicable particulate
37 standards. The state board shall specify the documentation
38 required. If no baseline emission standard exists for new vehicles
39 in a particular category, the state board shall determine an
40 appropriate baseline emission level for comparison.



1 (i) For light-duty parts replacement, the state board shall
2 determine appropriate criteria based on the efficiency and
3 effectiveness of replacement equipment, the cost, the
4 cost-effectiveness, and other criteria.

5 42962. The following requirements apply to all projects
6 funded by the program, except those projects involving the
7 purchase of schoolbuses:

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

14 (b) Only covered emission reductions that are deemed
15 attributable to an applicable implementation plan and that occur in
16 California shall be included in the cost-effectiveness
17 determination. The extent to which covered emissions generated
18 at sea contribute to air quality in California nonattainment areas
19 shall be incorporated into these methodologies based on a
20 reasonable assessment of currently available information and
21 modeling assumptions.

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

25 (d) The cost of the reductions in covered emissions is the
26 amount of the grant from the program, plus any other state funds,
27 or funds under the district's budget authority or fiduciary control,
28 provided toward the project. The state board shall establish
29 reasonable methodologies for evaluating project
30 cost-effectiveness, taking into account a fair and reasonable
31 discount rate or time value of public funds.

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

37 (f) Funds under an implementing agency's budget authority or
38 fiduciary control may be used to pay for the incremental cost of
39 liquid or gaseous fuel, other than standard gasoline or diesel, that
40 is integral to a covered emission reducing technology that is part



1 of a project receiving grant funding under the program. The fuel
2 shall be approved for sale by the state board and the Department
3 of Measurement Standards. The incremental fuel cost over the
4 expected lifetime of the vehicle may be offset by the district if the
5 project as a whole, including the incremental fuel cost, meets all
6 of the requirements of this part, including the maximum allowed
7 cost-effectiveness. The state board shall develop an appropriate
8 methodology for converting incremental fuel costs over the
9 vehicle lifetime into an initial cost for the purposes of determining
10 project cost-effectiveness. Incremental fuel costs may not be
11 included in project costs for fuels dispensed from any facility that
12 was funded, in whole or in part, from the fund.

13 (g) For purposes of determining any grant amount pursuant to
14 this part, the incremental cost of any new purchase, retrofit,
15 repower, or add-on equipment project shall be reduced by the
16 value of any current financial incentive that directly reduces the
17 project price, including any tax credits or deductions, grants, or
18 other public or private financial assistance or buy-down. Project
19 proponents applying for funding shall be required to state in their
20 application any other public or private financial assistance
21 provided to the project.

22 (h) For each year the program is in effect, the state board shall
23 adjust the maximum cost-effectiveness amount established in
24 subdivision (a) and any per-project maximum set by the state
25 board to account for inflation.

26 42963. The following requirements are applicable to projects
27 involving light-duty vehicles or nonheavy-duty off-road sources:

28 (a) The state board shall develop protocols for calculating the
29 surplus covered emission reductions in California to help ensure
30 that they can be attributable to the applicable state implementation
31 plan.

32 (b) The state board shall establish reasonable methodologies
33 for evaluating cost-effectiveness consistent with the definition
34 contained in subdivision (d) of Section 42951 and with Section
35 42962, and with accepted methods, taking into account a fair and
36 reasonable discount rate or time value of public funds.

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



1 42964. (a) The state board shall manage program funds and
2 shall provide program oversight. The state board shall produce
3 guidelines, protocols, and criteria for covered vehicle projects and
4 develop methodologies for evaluating project cost-effectiveness
5 in accordance with this part. The state board shall have primary
6 responsibility for the reporting aspects of the program.

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

9 (1) Submission of an annual plan for projects ~~to~~ to be funded
10 by the program to the state board to address the district's priority
11 mobile source emission reduction goals and ~~in~~ *its* compliance with
12 adopted air quality plans.

13 (2) Local administration of project funds.

14 (3) Monitoring funded projects.

15 (4) Reporting results to the state board in accordance with this
16 part.

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

18 (c) Funds allocated to the South Coast Air Quality
19 Management District for purposes of this program by the Mobile
20 Source Air Pollution Reduction Review Committee may only be
21 used as matching funds upon approval, by minute action, of the
22 committee.

23 (d) The state board shall work closely with the districts for the
24 duration of this program to maximize the ability of the program to
25 achieve its goals.

26 42965. The following grant criteria and guidelines are
27 applicable to heavy-duty projects, except those involving
28 schoolbuses.

29 (a) The state board shall establish grant criteria and guidelines
30 consistent with this part for covered vehicle projects as soon as
31 practicable, but not later than July 1, 2005. The adoption of
32 guidelines pursuant to this subdivision is exempt from the
33 rulemaking provisions of the Administrative Procedure Act,
34 Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code. The state board shall
36 solicit input and comment from the districts during the
37 development of the criteria and guidelines and shall make every
38 effort to develop criteria and guidelines that are compatible with
39 existing district programs and are also consistent with this part.
40 Guidelines shall include protocols to calculate project



1 cost-effectiveness. The grant criteria and guidelines shall include
2 safeguards to ensure that the project generates surplus emissions
3 reductions. Guidelines shall enable and encourage districts to
4 jointly fund projects that provide emissions reductions in more
5 than one district. The state board shall make draft criteria and
6 guidelines available to the public 45 days before final adoption,
7 and shall hold at least one public meeting to consider public
8 comments before final adoption.

9 (b) The state board, in consultation with the participating
10 districts, may propose revisions to the criteria and guidelines
11 established pursuant to subdivision (a) as necessary to improve the
12 ability of the program to achieve its goals. A proposed revision
13 shall be made available to the public 45 days before final adoption
14 of the revision and the state board shall hold at least one public
15 meeting to consider public comments before final adoption of the
16 revision.

17 (c) The state board shall develop guidelines for a district to
18 follow in applying for the reservation of funds, in accordance with
19 this part. It is the intent of the Legislature that district
20 administration of any reserved funds be in accordance with the
21 project selection criteria specified in Sections 42960, 42961, and
22 42962, and all other provisions of this part. The guidelines shall
23 be established and published by the state board as soon as
24 practicable, but not later than July 1, 2005.

25 (d) A district desiring a reservation of funds shall apply to the
26 state board following the application guidelines established
27 pursuant to this section. The state board shall approve or
28 disapprove a district application not later than 60 days after
29 receipt. Upon approval of any district application, the state board
30 shall simultaneously approve a reservation of funding for that
31 district to administer. Reserved funds shall be disbursed to the
32 district so that funding of a district-approved project is not
33 impeded.

34 (e) The state board shall specify a date each year when district
35 applications are due. If the eligible applications received in any
36 year oversubscribe the available funds, the state board shall
37 reserve funds on an allocation basis, pursuant to subdivision (b) of
38 Section 42954. The state board may accept a district application
39 after the due date for a period of months specified by the state
40 board. Funds may be reserved in response to those applications, in



1 accordance with this part, out of funds remaining after the original
2 reservation of funds for the year.

3 (f) Guidelines for a district application shall require
4 information from an applicant district to the extent necessary to
5 meet the requirements of this part, but shall otherwise minimize
6 the information required of a district.

7 (g) A district application shall be reviewed by the state board
8 immediately upon receipt. If the state board determines that an
9 application is incomplete, the applicant shall be notified within 10
10 working days with an explanation of what is missing from the
11 application. A completed application fulfilling the criteria shall be
12 approved as soon as practicable, but not later than 60 working days
13 after receipt.

14 42966. The following grant criteria and guidelines are
15 applicable to light-duty vehicle and nonheavy-duty off-road
16 projects:

17 (a) The state board shall establish grant criteria and guidelines
18 consistent with this part as soon as practicable, but not later than
19 March 1, 2006. The state board shall solicit input and comment
20 from districts and other stakeholders during the development of
21 the criteria and guidelines and shall make every effort to develop
22 criteria and guidelines that are compatible with existing district
23 programs and are also consistent with this part. The criteria and
24 guidelines shall include protocols to calculate project costs,
25 emission benefits, and cost-effectiveness. The criteria and
26 guidelines shall include safeguards to ensure that the project
27 generates surplus emission reductions.

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

31 42967. The following grant application review process is
32 applicable to heavy-duty projects, except for those involving
33 schoolbuses.

34 (a) An application for a project grant shall be reviewed by the
35 administering district upon receipt. If the administering district
36 determines that an application is incomplete, the applicant shall be
37 notified within five working days with an explanation of what is
38 missing from the application. The date and time of receipt of each
39 application determined to be complete shall be recorded and the
40 completed application shall be evaluated with respect to the



1 appropriate project selection criteria. A district shall make every
2 effort to process an application and grant an award rapidly and to
3 coordinate project approval with any purchase or installation
4 timing constraint on an applicant. Notwithstanding any other
5 provision of this part, the administering district may determine
6 that an application is not in good faith, not credible, or not in
7 compliance with this part and its objectives.

8 (b) A participating district may request assistance from the
9 state board on an as-needed basis to clarify project evaluation
10 protocols or to obtain information necessary to properly evaluate
11 an application.

12 (c) Funds shall be awarded in conjunction with the execution
13 of a contract that obligates the state board or a participating district
14 to make the grant and obligates the grantee to take the actions
15 described in the grant application. A contract shall incorporate the
16 recapture provisions contained in subdivision (c) of Section
17 42969.

18 42968. The state board and participating districts shall
19 institute an outreach program to inform potential participants,
20 technology suppliers, vendors, engine and equipment dealers and
21 distributors, fleet owners, industry organizations and publications,
22 districts, and rail and port organizations of the availability of
23 grants, and of the requirements and objectives of the grant
24 program. The state board and participating districts shall
25 vigorously recruit grant applications and publish examples of
26 successful projects. Outreach efforts on the part of the state board
27 shall be coordinated with district outreach efforts.

28 42969. (a) The state board shall assist districts with
29 developing procedures to monitor whether the emission
30 reductions projected in successful grant applications are actually
31 achieved. Monitoring procedures may include project audits, and
32 may also include requirements, as part of the contract between the
33 state board or districts and the grant recipients, that each grant
34 recipient provide information about the project on an annual basis.
35 Information required from grant recipients should be minimized
36 and the format for reporting the information should be made
37 simple and convenient.

38 (b) The monitoring and auditing procedures shall be sufficient
39 to allow emission reductions generated to be fully credited to air
40 quality plans. The monitoring procedures shall contain provisions



1 for recapturing grant awards in proportion to any loss of emission
2 reductions or underachievement in dispensing qualifying fuel
3 compared with the reductions and fuel dispensing projected in the
4 grant application. Funds recaptured shall be deposited in the
5 accounts from which the funds were originally expended. From
6 time-to-time, monitoring and auditing procedures shall be revised
7 as appropriate to enhance program effectiveness.

8 (c) The state board shall monitor district programs to ensure
9 that participating districts conduct their programs consistent with
10 the criteria and guidelines established by the state board pursuant
11 to this part. The monitoring procedures shall contain provisions
12 for recapture of funds not yet awarded to approved projects if a
13 district fails to show that they are implementing a program
14 consistent with the approved program. If the state board
15 determines, pursuant to this subdivision, that moneys from the
16 fund allocated to a district should be recaptured, the state board
17 shall hold at least one public meeting to consider public comments
18 prior to recapturing the allocated funds. The state board shall make
19 every effort to assist districts in implementing programs in an
20 approved manner and shall only recapture allocated funds if these
21 efforts fail to address problems adequately. Recaptured funds shall
22 be deposited in the fund. The state board shall not recapture funds
23 already awarded to approved projects.

24 42970. If any provision of this part or the application thereof
25 to any person or circumstance is held invalid, it is the intent of the
26 Legislature that the invalidity not affect other provisions or
27 applications of the part that can be given effect without the invalid
28 provision or application, and to this end the provisions of this part
29 are severable.

30 42971. This part shall remain in effect only until March 31,
31 2017, and as of that date is repealed, unless a later enacted statute,
32 that is enacted before March 31, 2017, deletes or extends that date.

33 *SEC. 8. This act is an urgency statute necessary for the*
34 *immediate preservation of the public peace, health, or safety*
35 *within the meaning of Article IV of the Constitution and shall go*
36 *into immediate effect. The facts constituting the necessity are:*



1 *In order to reduce unhealthful emissions from internal*
2 *combustion engines as soon as possible, it is necessary that this act*
3 *take effect immediately.*

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