State of California
AIR RESOURCES BOARD

Executive Order G-10-007
March 2010

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, chapter 3.2 commencing with section 39625 of the Health and Safety Code established the Goods Movement Emission Reduction Program (Program) to implement the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, also known as Proposition 1B, which authorizes one billion dollars ($1,000,000,000) in bond-funded incentives for ARB to reduce emissions associated with the movement of freight along California's trade corridors;

WHEREAS, on February 28, 2008, the Board adopted ARB Resolution 08-12 approving the *Proposition 1B Goods Movement Emission Reduction Program: Guidelines for Implementation* (Program Guidelines) for Fiscal Year (FY) 2007-08 funds;

WHEREAS, in Resolution 08-12, and Resolution 08-6 adopted on May 22, 2008, the Board approved a list of primary local agency projects with corresponding Program funding amounts, and directed the Executive Officer, or his or her designee, to enter into grant agreements with those local agencies and to take any other action the Executive Officer deemed necessary to implement those projects;

WHEREAS, ARB staff executed twenty-one grant agreements for the primary local agency projects in June 2008, consistent with Resolutions 08-6 and 08-12, and the local agencies began work to implement these grants;

WHEREAS, the California Department of Finance issued Budget Letter 08-33 on December 18, 2008, directing all State entities implementing General Obligation bond programs (including Proposition 1B) to cease authorizing any new grants or obligations for bond projects, to suspend all projects, and to instruct all grant recipients not to enter into any new agreements or contracts that would be funded from bond monies;

WHEREAS, in a letter dated December 23, 2008, the Executive Officer instructed local agencies implementing Program grant agreements to suspend entering into any new equipment project contracts or expending funds for existing contracts because ARB is not authorized to approve payments until such time as ARB has access to bond funds;

WHEREAS, in Spring 2009, ARB received $111 million in upfront proceeds from the March and April bond sales and authorized a subset of projects utilizing these funds to restart while other projects remained suspended pending availability of additional funds;

WHEREAS, in Fall 2009, ARB received $139 million in upfront proceeds from October bond sales and authorized the remainder of the projects utilizing these funds to restart;

WHEREAS, the delays in availability of bond funds prevented the local agencies from moving forward with timely Program implementation and some local agencies requested changes to their projects to ensure that all of the FY2007-08 funds can be spent within the statutory deadlines to quickly reduce the health risk from goods movement in impacted communities;

WHEREAS, in Resolution 09-40, adopted on May 28, 2009, the Board affirmed the existing authority of ARB staff to interpret or clarify the Program Guidelines and delegated to the Executive Officer, or his or her designee, the authority to adopt changes to the Program Guidelines that he or she deems necessary to enable effective implementation of the Program, provided that such changes are consistent with statute and the goals established by the Board. The Board also directed staff to identify those changes when the Board considers the next comprehensive update to the Program Guidelines;

WHEREAS, the Board's Drayage Truck Rule (California Code of Regulations, title 13, division 3, chapter 1, article 3 §2027) requires trucks serving ports and intermodal rail yards to be upgraded to cleaner models through replacement and/or retrofit beginning January 1, 2010; and

WHEREAS, the Executive Officer finds that the combination of the delay in bond funding and the 2010 compliance deadline in the Drayage Truck Rule created an extraordinary circumstance that requires one-time exceptions to the Program Guidelines to provide feasible timelines and a workable process to expedite drayage truck upgrades.

NOW, THEREFORE, BE IT ORDERED that pursuant to the delegation of authority by the Board in Resolution 09-40, the Executive Officer hereby adopts the modifications to the Program Guidelines shown in Attachment A for implementation of local agency projects awarded FY2007-08 funds.

BE IT FURTHER ORDERED that the Executive Officer directs staff to identify these modifications, along with any proposed revisions, as part of the staff's proposal for the March 25, 2010 Board hearing to consider changes to the adopted Program Guidelines.

Executed this 24 day of MARCH 2010, at Sacramento, California.

James N. Goldstene
Executive Officer

ATTACHMENT A
INTERIM CHANGES TO PROPOSITION 1B: GOODS MOVEMENT EMISSION REDUCTION PROGRAM GUIDELINES
June 2009 - March 2010

MODIFICATIONS TO THE PROGRAM GUIDELINES

All Source Categories

- **Backup Projects.** Conform to 2009 changes in State law that allow a local agency to fund backup equipment projects on an ARB-approved competitively ranked list if executed equipment contracts fall through to reduce fund reversion.

- **Timing to Open Additional Solicitation.** Upon approval by ARB staff, allow a local agency to open an additional solicitation before the earlier solicitation is closed out, provided that there is adequate funding available for all eligible projects within the earlier solicitation.

Trucks

- **Timing for Scrappage.** Align with the Carl Moyer Program to allow 60 days for a licensed dismantler to destroy the old truck, to accommodate the large volume of trucks being replaced.

- **Payment Prior to Scrappage.** Allow the local agency to make payment to the equipment owner or dealer upon successful post-inspection of the new equipment and local agency verification that that the old truck has been delivered to the dismantler or is in the custody of an authorized representative.

- **Lease-to-Own Programs.** Allow ARB staff to approve alternative approaches and streamline the review process for truck lease-to-own programs that are consistent with the intent of the Guidelines. This includes legal structures that provide for compliance with the Program requirements via a contract between the local agency and the lessor, together with a lease rider between the lessor and each lessee that establishes the local agency's ability to enforce the Program requirements on that lessee.

- **Project Life.** Fix an inadvertent change made via Board Resolution 09-40 to the project life for replacement of trucks serving ports and intermodal rail yards. The correct project life is 5 years or 350,000 miles, whichever comes first.

Locomotives

- **Eligibility - Prior California Operation.** Allow an applicant to meet the prior California operation requirement by demonstrating that the company has operated locomotives of similar emissions and horsepower in California's trade corridors for the past two years.

- **Class I Railroads Operating in the South Coast Air Basin**. Clarify how Class I railroads subject to the 1998 Memorandum of Understanding (MOU) to reduce locomotive emissions in the South Coast Air Basin may compete for Program funding to upgrade locomotives that operate in that region. Any locomotive upgraded with Program funds shall be excluded from the calculation of each railroad's fleet average NOx emissions level under the 1998 MOU for the duration of the project life.

- **Timing of Equipment Order.** Allow railroads to receive grants for locomotives that are pre-ordered as part of the company's national equipment procurement cycle, prior to the Program contract. The executed contract then commits the railroad to "tether" the new purchase in California.

LIMITED EXCEPTIONS TO THE PROGRAM GUIDELINES (for the identified projects receiving Fiscal Year 2007-08 funds)

Trucks Serving Ports and Rail Yards - All Agencies

- **Retrofit Funding.** Authorize local agencies to fund retrofits installed on trucks serving ports and intermodal rail yards between July 1, 2009 and April 30, 2010, for applications submitted in 2008 or 2009.

- **Timing of Equipment Order.** Upon approval by ARB staff, provide local agencies the option to allow equipment owners to submit purchase orders (at their own risk) for new equipment prior to execution of contract, if conditions defined by ARB staff are met.

Trucks Serving Ports and Rail Yards - South Coast District - Grant G07GMLP3-03
(First Solicitation Only)

- **Non - owner applicants.** Allow non-owner applicants to compete for funding in a second competitively ranked tier following all eligible, on time applications from owners.

- **Application signature.** Allow the registered owner of the old truck at the time of application to sign the application after submittal.

Trucks Serving Ports and Rail Yards - Bay Area District - Grant G07GMBP1

- **Reimbursements.** Allow the District to reimburse equipment owners for port truck replacements and retrofits completed after submittal of grant applications in 2008 and 2009, but prior to execution of contracts.

- **Extended Retrofit Funding.** Authorize the District to fund retrofits installed between April 30, 2010 and June 30, 2010 on less than 300 trucks that are active in the Bay Area's supplemental drayage truck grant process if the owners had not ordered retrofits by December 31, 2009.