

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

This mail-out presents changes to the Guidelines as additions in bold, italicized, underlined font, and as deletions in bold, italicized, strikethrough font. Please note that this mail-out should be reviewed in concert with Mail-Out # MSC 09-24, since this mail-out further adjusts some of the modifications that were made in that mail-out.

Executive Summary

Page 1.

The last sentence of the fourth paragraph is revised as follows:

*Some of these low-emitting new buses may be on the road by the end of the year, while every one of the new and retrofitted buses will be in service transporting California's school children no later than June 30, ~~2011~~ **2012**.*

Chapter I: Program Overview

Page 9. Section G.8. Timetable.

The last sentence of Section G.8 is revised as follows:

*The ARB anticipates some school bus projects will begin as early as fall 2008; however, all State program funding must be paid out by June 30, ~~2011~~ **2012**.*

Chapter III: Lower-Emission School Bus Replacement Program Requirements

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

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

*SB 88 which provides legislative direction for the expenditure of Lower-Emission School Bus Program funds requires that all pre-1977 model year buses be replaced first. Hence the replacement of buses manufactured prior to April 1, 1977, when federal motor vehicle safety standards applicable to school buses went into effect, is a priority for the school bus replacement program. Replacement buses must be delivered by April 1, ~~2011~~ **2012**.*

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

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

The introductory paragraph of Section G is revised as follows:

This section covers key program milestones and describes remediation plans and reconciliation requirements for the Lower-Emission School Bus Program. The dates listed in the timetable(s) in Appendix D are the final dates for execution of the designated activities conducted with State program funding.

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

The introductory paragraph of Section G.1 is revised as follows:

1. *Milestones*

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

3. Page 35. Section N. Process of Making Awards to Successful Applicants.

The second sentence of the first paragraph of Section N is revised as follows:

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

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

Section O is revised as follows:

- Page 39. First paragraph of Section O:

*The ARB will hold liable for liquidated damages the business entity responsible for a delay that results in the failure to deliver program-funded school buses to school districts by **April 1, 2011 2012**. Specifically, the liquidated damages will be in the amount of \$100 per day per bus for each day a bus is delivered after **April 1, 2011 2012**. The purpose of charging liquidated damages is to ensure a level playing field for all business entities that stand to profit from the sale of program-funded school buses, to minimize any potential risks to school districts, and to forestall delays in achieving emission benefits. Implementing agencies must review school districts' purchase orders for new buses to ensure that the purchase orders include the liquidated damages clause set forth in Appendix C: Minimum Contract Requirements of these Guidelines.*

- Page 39. The second paragraph of Section O:

For the air districts that self-implement the program, the liquidated damages will be administered through a withhold by the ARB of five percent of the total grant

fund award to each air district until after April 1, ~~2011~~ 2012. Upon confirmation by each air district that all program-funded buses have been delivered to school districts by April 1, ~~2011~~ 2012, the ARB will immediately release the remaining five percent of their respective grant awards to each air district. For each bus delivered late, the air districts shall reduce the grant payment to either the school bus distributor or the school district (depending on the contract arrangements for the payment of bus purchase orders) by \$100 per day per bus for each day a bus is delivered after the deadline. The ARB will retain an amount equal to the calculated liquidated damages from the applicable air district's grant withhold. Upon confirmation of final bus delivery to the school districts, the ARB will then release the remaining grant award balance, if any, to the air district.

5. Page 41. Section Q.2. Expenditures.

Section Q.2 is revised as follows:

2. *Expenditures*

A Lower-Emission School Bus Program grant award is not considered to be fully expended until all of the funds in the grant award have been paid out by the implementing agency by paying invoices associated with approved projects. The final deadline for full expenditure of Lower-Emission School Bus Program State program funds, including funds that are designated for the purchase of re-fueling infrastructure, is June 30, ~~2011~~ 2012. Any funds in the grant award that are not expended (paid out) by this date must be returned to the ARB. Any State program funding outstanding (i.e., has not been paid out) as of June 30, ~~2011~~ 2012 must be returned to the ARB within 60 days.

6. Page 42. Section Q.3.d. Expenditure Deadline.

Section Q.3.d is revised as follows:

(d) *Expenditure Deadline*

Because all Lower-Emission School Bus Program State program funds must be fully expended by June 30, ~~2011~~ 2012, interest earned on those funds must also be fully expended by this deadline. Earned interest that is not fully expended by June 30, ~~2011~~ 2012, must be returned to the ARB within 60 days from the deadline.

Appendix C: Minimum Contract Requirements

1. Page C-2. Section F.1. Project Completion.

The third sentence of Section F.1 is revised as follows:

The contract shall include a specified time frame in which project completion shall occur, so that the funds are fully expended by June 30, ~~2014~~ 2012.

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

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

For every day after April 1, ~~2014~~ 2012 in which a bus has not been delivered as specified in the contract, the school district shall be liable to the implementing agency for liquidated damages in the amount of \$100 per day per bus purchased with funds from the Lower-Emission School Bus Program.

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

For every day after April 1, ~~2014~~ 2012 in which a bus has not been delivered as specified in the contract, the school bus distributor/vendor shall be liable to the school district for liquidated damages in the amount of \$100 per day per bus purchased with funds from the Lower-Emission School Bus Program.

Appendix D: Lower-Emission School Bus Program Timetable

1. Title Page and p. D-1

The title of Appendix D is revised as follows:

Lower-Emission School Bus Program Timetable(s)

2. Page D-1

The first paragraph of Appendix D is revised as follows:

*This appendix **is contains** the **complete** Lower-Emission School Bus Program Timetable(s). The dates shown are the final dates for execution of the designated activities conducted with State program funding. **Please note that the header of each timetable indicates the State program funding source – that is, the specific installment of bond funding – to which the timetable applies.***

3. Table D-1

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

CONTINUED

| Table D-1 | |
|---|--|
| Lower-Emission School Bus Program Timetable | |
| for the First (April 2, 2009), Second (April 28, 2009 Build America Bonds (BAB)), Third (October 15, 2009 BABs), and Fourth (October 15, 2009 Non-BABs) Installments of Bond Funds | |
| Dates | Milestones^(a) |
| March 27-28, 2008 | Board approves air district allocations and Guidelines |
| April 30, 2008 | <p>Funds made available to air districts by ARB</p> <ul style="list-style-type: none"> • Grant Award and Authorization Forms mailed by ARB |
| Beginning May 2008 and ongoing | <p>Initial disbursements to air districts based on readiness (see Section J of Chapter V)</p> <p>Additional disbursements from ARB to air districts based on demonstrated need (see Section J of Chapter V)</p> <p>ARB/CAPCOA begins direct implementation of Program, where applicable</p> <p>Pre-1977 model year (MY) bus replacement projects must be funded before any other projects are funded</p> |
| November 1, 2009 | First semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| December 1, 2009 | Based upon November 1, 2009 demonstration of performance, ARB determines if direct implementation (by ARB/CAPCOA) of additional local programs is necessary |
| May 1, 2010 | Second semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |

| Table D-1 Lower-Emission School Bus Program Timetable for the First (April 2, 2009), Second (April 28, 2009 Build America Bonds (BAB)), Third (October 15, 2009 BABs), and Fourth (October 15, 2009 Non-BABs) Installments of Bond Funds | |
|--|---|
| June 30, 2010 | <p>Deadline for air districts to accept, by submitting fully executed grant amendments to the ARB, additional funding appropriated in the Budget Act of 2009</p> <p>Retrofit funding^(b) may no longer be available for school buses due to proposed In-Use On-Road Heavy-Duty Diesel Vehicles Regulation</p> <p>Retrofit funding^(b) must be fully expended</p> |
| November 1, 2010 | Third semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| April 1, 2011 | <p>Recommended deadline to order new buses to replace pre-1987 MY buses</p> <ul style="list-style-type: none"> • Pre-1977 MY bus replacement projects must be funded before any other projects are funded |
| May 1, 2011 | Fourth semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| November 1, 2011 | Fifth semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| April 1, 2012 | <ul style="list-style-type: none"> • All new buses delivered • Accompanying infrastructure should be completed |
| May 1, 2012 | Sixth semiannual report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| June 30, 2012 | <ul style="list-style-type: none"> • Deadline for full expenditure of Proposition 1B funds • 100% of funds paid out; all projects/equipment in operation • Funds outstanding as of this date must be returned to ARB within 60 days |
| November 1, 2012 | Final report due (i.e., information entered into database by air district; fiscal/program reconciled; air district prints and signs report and mails it to ARB) |
| <p>(a) This table contains a brief overview of milestones. Details regarding the criteria air districts must follow to meet these milestones are provided throughout these Guidelines.</p> <p>(b) AB 923 funds cannot be used for Lower-Emission School Bus Program retrofit projects.</p> | |