

State of California
AIR RESOURCES BOARD

**CONSIDER A MODIFICATION TO THE FISCAL YEAR 2015-16 FUNDING PLAN FOR
LOW CARBON TRANSPORTATION INVESTMENTS AND THE AIR QUALITY
IMPROVEMENT PROGRAM**

Resolution 15-52

October 22, 2015

Agenda Item No.: 15-8-5

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, Health and Safety Code section 44270 et seq. establishes the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007* (AB 118; Stats. 2007, ch. 750), which creates the Air Quality Improvement Program (AQIP), administered by ARB, to fund air quality improvement projects related to fuel and vehicle technologies with the primary purpose of funding projects to reduce criteria air pollutants, improve air quality, and provide funds for research to determine and improve the air quality impacts of alternative transportation fuels and vehicles, vessels, and equipment technologies;

WHEREAS, California Code of Regulations, title 13, section 2353, requires that an AQIP funding plan must be submitted to the Board annually for approval;

WHEREAS, Government Code section 16428.8 created the Greenhouse Gas Reduction Fund (GGRF) as a special fund in the State Treasury to receive all moneys, except for fines and penalties, collected by ARB from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of the California Code of Regulations, title 17;

WHEREAS, Health and Safety Code section 39712 requires that the moneys appropriated from GGRF shall only be used to further the regulatory purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code, consistent with law, and to facilitate the achievement of reductions of greenhouse gas (GHG) emissions in California and, where applicable and to the extent feasible, achieve additional co-benefits;

WHEREAS, the Governor's proposed FY 2015-16 State Budget appropriated \$350 million from GGRF to ARB for Low Carbon Transportation projects to accelerate the transition to low carbon freight and passenger transportation, with a priority for disadvantaged communities;

WHEREAS, Budget Act of 2015, Assembly Bill (AB) 93 (Weber, Chapter 10, Statutes of 2015) appropriated \$23 million to ARB implement AQIP projects;

WHEREAS, \$23 million in AQIP funding and proposed \$350 million GGRF funding were joined into one funding plan: *Fiscal Year 2015-16 Funding Plan for Low Carbon Transportation Investments and the Air Quality Improvement Program* (FY 2015-16 Funding Plan);

WHEREAS, the Board approved the FY 2015-16 Funding Plan on June 25, 2015 in Board Resolution 15-21;

WHEREAS, the Legislature had not appropriated GGRF funding to ARB at the time the Board approved the FY 2015-16 Funding Plan, so the GGRF funding for Low Carbon Transportation remained contingent upon appropriation of funds;

WHEREAS, the Legislature appropriated \$90 million from GGRF to ARB for Low Carbon Transportation in Senate Bill 101 (Committee on Budget and Fiscal Review, Chapter 321, Statutes of 2015), approved by the Legislature on September 11, 2015, and signed into law by the Governor on September 22, 2015;

WHEREAS, the Board-approved FY 2015-16 Funding Plan includes contingency provisions that funding allocations for each project be scaled up or down proportionately from the levels in the Funding Plan unless otherwise specifically directed by the Board or legislation in the event that the Legislature appropriates a Low Carbon Transportation total other than \$350 million;

WHEREAS, three Low Carbon Transportation projects identified in the FY 2015-16 Funding Plan – Clean Vehicle Rebate Project (CVRP), Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP), and Enhanced Fleet Modernization Program (EFMP) Plus-Up Pilot Projects to benefit disadvantaged communities – are already being implemented utilizing funding from the FY 2014-15 budget year approved as part of the *Fiscal Year 2014-15 Funding Plan for the Air Quality Improvement Program and Low Carbon Transportation Greenhouse Gas Reduction Fund Investments* in Board Resolution 14-18 and are receiving applications from consumers on an ongoing basis;

WHEREAS, additional project funding is needed to keep CVRP, HVIP, and the EFMP Plus-Up Pilot Projects to benefit disadvantaged communities in the South Coast and San Joaquin Valley regions running without disruption for consumers;

WHEREAS, staff has proposed a modification to the FY 2015-16 Funding Plan, as set forth in the Notice of Public Meeting to Consider a Modification to the Fiscal Year 2015-16 Funding Plan for Low Carbon Transportation Investments and the Air Quality Improvement Program, released October 9, 2015, Attachment A;

WHEREAS, staff proposes to modify the FY 2015-16 Funding Plan to allocate the \$90 million Low Carbon Transportation appropriation to CVRP, HVIP, and the EFMP Plus-Up Pilot Projects and defer implementation of the remaining Low Carbon Transportation funded projects until additional funds are appropriated by the Legislature, as described in Attachment A;

WHEREAS, Section 15.13 of the Budget Act of 2015 (AB 93) includes the restriction that: “No department shall encumber or commit more than 75 percent of any appropriation prior to the fourth cap and trade auction in the 2015–16 fiscal year. Upon determination of the final amount of auction proceeds after the fourth cap and trade auction, the Department of Finance shall make a final determination for the expenditure of the remaining auction proceeds,” thereby prohibiting ARB from encumbering or committing more than \$67.5 million of the \$90 million Low Carbon Transportation appropriation to projects prior to Department Finance’s determination after the fourth cap and trade auction of FY 2015-16;

WHEREAS, staff proposes to modify the contingency provisions in the FY 2015-16 Funding Plan to allow the Executive Officer the option to direct funding to CVRP, HVIP, EFMP Plus-Up Pilot Projects up to the funding allocations established in the FY 2015-16 Funding Plan if necessary to meet consumer demand to avoid funding lapses in the event the Legislature appropriates an amount less than the full \$350 million for FY 2015-16, as described in Attachment A;

WHEREAS, the Board finds that:

1. There is ongoing consumer demand for the three projects proposed for funding, CVRP, HVIP, and the EFMP Plus-Up Pilot Projects;
2. Allocating available funding to projects with an ongoing consumer demand is an appropriate approach for prioritizing the \$90 million appropriation from GGRF to ARB for Low Carbon Transportation and is an appropriate modification to the FY 2015-16 Funding Plan as adopted on June 25, 2015; and
3. Modifying the contingency provisions in the FY 2015-16 Funding to allow the Executive Officer the option to direct funding to CVRP, HVIP, EFMP Plus-Up Pilot Projects up to the funding allocations established in the FY 2015-16 Funding Plan if necessary to meet consumer demand in the event the Legislature appropriates an amount less than the full \$350 million for FY 2015-16 is an appropriate approach to avoid funding lapses for these projects.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed modification to the FY 2015-16 Funding Plan as set forth in Attachment A.

I hereby certify that the above is a true and correct copy of Resolution 15-52 as adopted by the Air Resources Board.

/s/

Tracy Jensen, Clerk of the Board

Resolution 15-52

October 22, 2015

Identification of Attachments to the Board Resolution

Attachment A: Notice of Public Meeting to Consider a Modification to the Fiscal Year 2015-16 Funding Plan for Low Carbon Transportation Investments and the Air Quality Improvement Program, released October 9, 2015.