



CONSTRUCTION INDUSTRY
AIR QUALITY COALITION

March 20, 2008

Via Electronic Mail

Coalition Members

Chairman Mary Nichols
and Members of the Board
California Air Resources Board
1001 "I" Street
P. O. Box 2815
Sacramento, CA 95812



RE: Proposed Revisions to Carl Moyer Program Guidelines



Associated General Contractors
America-San Diego Chapter, Inc.

Dear Chairman Nichols and Members of the Board:



Building Industry Association
of Southern California

The Construction Industry Air Quality Coalition (CIAQC) supports revising the Carl Moyer Program Guidelines. Over the life of the program, Carl Moyer has effectively achieved significant emission reductions with investments that have benefited the residents of California. However, as the program moves forward as and California air quality regulations evolve, the program will experience fewer opportunities for success as the availability of eligible projects diminish.



California Dump Truck Owners
Association

The construction industry is keenly aware of this change. Over the last eight years, it has utilized \$200 million to re-power 2,500 pieces of off-road construction equipment and voluntarily reducing NOx emissions by 10,000 tons per year. As a consequence we are very familiar with the Moyer program as well as its strengths and weaknesses.



Engineering
Contractors Association

We applaud your staff's development of an off-road equipment replacement program. We believe including equipment replacement as a program option offers promise for those projects that an engine re-power just does not make economical sense. Engine repowers for off-road equipment have been the most common project type, but a majority of equipment cannot be repowered because of the unavailability of replacement engines that can fit the equipment. We do not anticipate that this situation will significantly change in the future. In addition, there are instances when repowering an older machine with a new engine (though programmatically cost-effective to replace the engine) will result in higher operational and maintenance costs as the machine's frame and components age over the project life, making the re-power too costly to pursue.



Engineering & General
Contractors Association



Engineering & Utility
Contractors Association

As currently proposed, however, we believe equipment replacement projects will have limited application. One reason for this is that new construction



Southern California
Contractors Association

equipment is expensive. While program incentive funds help offset the cost of replacing an older piece of equipment with a new one, the difference between the two can be large. Additionally the requirement to destroy the existing chassis can significantly reduce the salvage value of equipment being replaced, thereby reducing the equipment owner's ability to afford the purchase of the new equipment, even with incentive funding. Destroying the engine is sound air quality policy, as this is what produces emissions. The ability to retain the chassis will provide flexibility increasing salvage value and decrease the out of pocket cost for the replacement equipment. This is especially important as the upcoming off-road regulation will cost the construction industry billions of dollars in the coming years. Capital available to repower and retrofit existing equipment and purchase new equipment above and beyond that which will be required to comply with the regulation will be scarce at best. For these reasons, we recommend only the full destruction of the engine be required to satisfy the program and ensure that the emission reductions are real.

CIAQC also believes that the Carl Moyer Program would experience greater construction industry participation if projects were not constrained to geographical boundaries greater than those required overall in the program; 75% of total activity for the life of the project in California. Over the life of the program, there have been air district operational requirements that restrict the ability of funded equipment to move within the state to where the work is located. This dissuades contractors from applying for funding for some highly cost-effective projects that would result in real emission reductions in California. Therefore CIAQC recommends that CARB work with the local air districts that require projects operate at least 50 percent or more in the air district that funded the project to find an equitable solution that could result in additional voluntary emission reductions.

CIAQC also believes the Carl Moyer Program could potentially benefit by allowing the use of on-road engines in an off-road application. The off-road regulation recognizes the air quality benefits associated with on-road engines used in off-road equipment. Specifically, there is language in the rule allowing for the on-road standard to be used as the emission factor in the fleet average calculator - see excerpt "Engines certified to on-road standards should use the standard to which the engine is certified." The construction industry is just now beginning to install on-road engines for use in off-road equipment on a limited basis, but this shouldn't preclude the program from providing flexibility that could potentially result in cost effective emission reductions.

In addition to the recommendations above, CIAQC believes the Carl Moyer Program needs to be addressed more broadly and adjusted beyond the context of the Guidelines. Carl Moyer needs to be structurally reconstructed to move beyond the program limitations that will increase over time. We believe this kind of change would need to be addressed legislatively, and CIAQC hopes that your board would consider and support statutory changes as we recommend.

March 20, 2008
Chairman Nichols
Page Three

For a thorough discussion of this perspective, please see CIAQC's letter to Mrs. Sandra Berg dated February 19, 2008. A copy of the letter follows for your convenience as Attachment A.

Lastly, one correction to the Carl Moyer Program Guidelines Proposed 2008 Revision dated February 8, 2008 needs to be made on page V-3 Table 5-2. The Regulatory Requirements for Small fleets should read PM rather than NOx.

CIAQC appreciates the opportunity to provide its observations and recommendations to you on this important program. The construction industry has actively participated in the Carl Moyer Program resulting in significant emission reductions and wishes to continue to the extent possible in the future. We believe our recommendations will enhance the program and encourage future participation at a time when the availability of projects will begin to shrink. Please do not hesitate to contact me if you have any questions about our recommendations or wish to discuss these issues further at (626) 858-4611.

Sincerely,

A handwritten signature in black ink that reads "Michael W. Lewis". The signature is written in a cursive, flowing style.

Michael W. Lewis
Senior Vice-President

Attachment A



**CONSTRUCTION INDUSTRY
AIR QUALITY COALITION**

Coalition Members



February 19, 2008

Via Electronic Mail

Mrs. Sandra Berg, Member
California Air Resources Board
1001 "I" Street
P. O. Box 2815
Sacramento, CA 95812

RE: Amendments to Carl Moyer Program

Dear Board Member Berg:

On behalf of the Construction Industry Air Quality Coalition I would like to thank you for your leadership on the In-Use Off-Road rule and express our gratitude for including our industry as members of the Carl Moyer Task Force.

Over the last eight years, the construction industry has been able to utilize \$200 million to re-power 2,500 pieces of off-road construction equipment and voluntarily reduce NOx emissions by 10,000 tons per year. As a consequence we are very familiar with the Moyer program as well as its strengths and weaknesses.

When Carl Moyer began 10 years ago, it was designed as an incentive program for early reductions of NOx emissions from all mobile diesel sources. At that time it was important to establish priorities for the expenditure of the funds because there was such a large pool of potential projects available for funding. As regulatory efforts have expanded over the last decade, however, that pool of projects has shrunk dramatically as fewer and fewer engines remained eligible for funding. Naturally, many districts are having problems finding enough projects in order to spend their money in a timely basis, and are pushing for changes in the Moyer program that would streamline the process.

When there were fewer regulations and a large inventory of engines eligible for the Moyer program, it made sense to set priorities for funding that included cost effectiveness, hours of operation, geographic considerations (Environmental Justice) and matching funds requirements. Now that the inventory has shrunk so dramatically and the target industries have shifted, it is time to consider more structural changes to the Moyer program.

As an incentive program, the current guidelines are workable but probably need to be updated to reflect today's economic and technological realities. There is every reason to believe that companies will apply for incentive

Ms. Sandra Berg
February 19, 2008
Page Two

funding in the absence of any rule and be willing to share in the cost of the re-power of their equipment. It can make great business sense; it prolongs the life of the equipment and the public benefits from emission reductions that would not have occurred otherwise. It also makes sense for the agencies distributing the funds to have some way to measure the effectiveness of their investment, to prioritize the projects and to assure some equity in the distribution of the funds. We have probably made that process overly complicated with the current guidelines and we believe that your task force has made some useful recommendations to improve the program.

It is also our belief that we need to step back and look at the next decade of funding and revise the Moyer program to reflect the new paradigm in emission reductions. In the next ten years, virtually all the available equipment will be subject to some rule or regulation that will render most of it ineligible for Moyer incentive funding. That does not mean that there are not further reductions that might be achieved with some additional funding. The SOON program is an example of the effort to do that and we assume similar concepts will be included in subsequent rules adopted by your board.

However, the rules that apply to incentive funding will not work for programs that are “post” regulation, or “excess” to regulatory requirements. There are several reasons for that. By definition the rule making process has “wrung out” all the economic ability of the individual companies to comply and has pushed the regulated industry as a whole, as far and as fast as believed practical by CARB. To expect companies on top of that to commit additional resources to “excess” emission reductions, contradicts your own findings in adopting a rule and would seem to imply that the rule didn’t go far enough.

There are many locations in California that have severe air pollution levels that require emission reduction efforts beyond those necessary for the rest of the state. Those areas need tools to achieve these “excess” reductions that don’t have the same limitations as the early incentive programs. After all, we are told those emissions are more urgent and have greater health impacts. If those emissions are indeed so important then the Moyer program ought to be able to pay for 100% of the cost of reducing those “excess” emissions. It is unreasonable to expect the regulated community to pay for 100% of the cost of base rule compliance, and then, have the funds to contribute toward the cost of “excess” emission reductions.

We believe that the Moyer program needs statutory reconstruction. We would recommend that legislation be prepared that would create an additional category of Moyer funding that would not contain all the limitations now present in the incentive side of the program. This category would be for excess reductions only, not early incentive reductions. It would allow for 100% funding of these critical emission reductions. It would not need cost effectiveness criteria since these reductions are “excess” and critical to reaching the federal and state standards and cost should

Ms. Sandra Berg
February 19, 2008
Page Three

not be a consideration. There would be no need for environmental justice criteria since the base rule has already squeezed out all the emissions possible on an industry-wide scale. Simply put, any ton of emissions that is available ought to be eligible for "excess" Moyer funding regardless of its Environmental Justice issues, hours of operation, cost per ton or the ability of the owner to provide matching funding.

Clearly, we are moving into new territory with the current Moyer program. While it is important to update the current guidelines, without modifying the statute, the Moyer program will not be able to respond to the future regulatory environment and air quality needs. There appears to be a small window of time to seek the statutory changes we have recommended. We believe that a proposal coming from industry, the air districts and the ARB would be well received in the state legislature. The construction industry would like to seek your support and that of the task force in making those changes in this current legislative session.

We believe that the creation of this less restrictive "excess" emissions category will provide the flexibility that the air districts need to meet their emission reduction goals without further economic damage to the regulated industries that are being asked to participate in the effort.

We are available to discuss the matter at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Michael W. Lewis". The signature is written in a cursive, flowing style.

Mike Lewis,
Senior Vice-President
Construction Industry Air Quality Coalition

cc: CARB Board
SCAQMD Board
SJVAPCD Board