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CIAQC Comments regarding the Moyer Program Revisions before the Board March 27, 2008

Good Afternoon, Chairwoman Nichols and members of the Board. My name is Bill Davis and I am executive vice president of the Southern California Contractors Association and a member of the board of directors of the Construction Industry Air Quality Coalition.

There are a couple of suggestions we would like to make about the Moyer changes you have before you today.

First, we cannot support the amendment that equipment replacements must destroy the existing chassis. Destroying the engine is sound air quality policy, but the chassis is important for its salvage value and helping to reduce the cost of the new replacement machine. We recommend only requiring the destruction of the engine, not the entire replaced machine.

Second, the geographic constraints are a disincentive to participate in the program. Your guidelines require that the equipment operate in the state 75% of the life of the contract. The local air districts however, are allowed to adopt their own requirements and some require that the equipment remain in the district at least 75% of the time. For most contractors that own Moyer fundable equipment, that condition prevents them from participating in the program. So, those emission reductions are lost. There needs to be a more equitable criteria for establishing air district residency requirements.

Third, we believe that the program should allow the flexibility to install on-road engines in off-road equipment. Your recently adopted off-road rule allows such flexibility and it would appear that on-road engines may offer the opportunity to re-power far more types of off-road equipment than can currently be done with just off-road engines. We think there is enough potential benefit to ask that you make the Moyer guidelines and the Off-Road consistent.

Finally, we think you need to go a lot further than the mere guideline changes you are proposing today. The Moyer program needs to be structurally changed to keep pace with the regulatory environment. Fixing the guidelines, as you proposed to do today, is helpful, but it doesn't go far enough in making fundamental reforms to Moyer.

The current program is an incentive program that works fine for unregulated industries. But there are not many of those industries left in California.

The pool of available Moyer projects is shrinking rapidly as more and more industries are regulated and fewer and fewer can qualify for Moyer funding. This has certainly happened in the construction industry. While there are a few small and medium companies that might still qualify for Moyer funding, most are hoarding their resources to meet the challenges of complying with the CARB Off-Road rule.

The Moyer requirements are not conducive to post-regulated industries. The length of contracts, hours of operation, co-funding requirements, to name a few, don't work for over-compliance programs like SOON. If the Soon-type emissions reductions are really that important to achieve, then that priority should not be diminished by bureaucratic belt-and-suspender requirements.

The protections you need on the incentive side of the funding program are unnecessary on the over-compliance side. According to your own documents, those excess emissions are the difference between life and death for thousands of people. But according to the rules those lives are only important if there are matching funds, if the contract is seven years long and if the machine operates at least 1500 hours a year. With all of those conditions, it's hard to believe that anyone is really serious about those emissions.

Without some legislative changes to Moyer, Air Districts will experience more and more problems spending their Moyer funds. That would be unfortunate, given the financial commitment that the legislature has made to fund the Moyer Program.

ARB needs to take the lead in developing legislative changes to modernize the Moyer program. For example, we should create an entirely separate category of funding in Moyer for over-compliance efforts. It shouldn't contain all the conditions associated with the incentive side of the program. It would provide the opportunity for successful extra emission reduction programs. It would eliminate the overwhelming obstacles to making the SOON program work, and it would provide the opportunity for similar reduction efforts in other regulations.

Without ARB'S involvement and direction however, it is unlikely that the legislature will make the broad changes necessary to keep the Moyer Program relevant to your clean air efforts.