

**CONSTRUCTION
INDUSTRY
AIR
QUALITY
COALITION**

December 13, 2006

Dr. Joe Cassmassi
South Coast Air Quality Management District
21865 Copley Drive
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Coalition Members



Associated General
Contractors of California



Building Industry Association
of Southern California



Engineering
Contractors Association



Southern California
Contractors Association

Dear Dr. Cassmassi:

The Construction Industry Air Quality Coalition appreciates this opportunity to provide comments on the Draft 2007 AQMP that affect construction and development activities of our members. Our comments address fourteen proposed measures that impact construction equipment, construction practices and construction projects.

Our Coalition has been working for the past two years with the California Air Resources Board on its proposed construction equipment modernization and portable equipment regulations to reduce construction emissions. We have also engaged in an ongoing dialog with SCAQMD management on proposed Residential Wood Burning and New Development and Redevelopment Project control measures included in the Draft AQMP.

The comments below reflect our understanding of the complexity of reducing construction and mobile source emissions that we have gained from this involvement:

IV-B-59, OFFRD-01, Construction/Industrial Fleet Modernization

This District measure calls for the California Air Resources Board to require all older construction equipment engines be replaced to meet 2010 on-road engine standards by 2014, a four-year phase-in period. On December 4, 2006 CARB released a draft construction off-road equipment regulation that will likely go before the CARB board for consideration for adoption in April 2007. CARB's measure will establish a goal to achieve an 85% reduction of all construction particulate emissions by 2020 as a result of extremely challenging requirements for engine retrofitting, repowering and replacement. CIAQC estimates that complying with CARB's draft rule would cost the California construction industry about \$16.5 billion between 2012 and 2020 and in the process force three-fourths of our contractors to shut down. As an affordable alternative, CIAQC is proposing a regulation that would reduce PM emissions statewide 75% by 2015 with a Tier 1 fleet PM emission average and a Tier 3 fleet PM emission average by 2025. This proposal would also result in significant reductions in NOx.

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CARB's draft rule already represents an extremely significant reduction in construction emissions, and going beyond that level as proposed by the District would result in serious economic hardship and interruptions in the delivery of cleaner new development to support growth in the air basin.

IV-A-26, FUG-03, Further Emission Reductions from Cutback Asphalts

CIAQC members use cutback asphalts in road building and paving maintenance. The use of asphalt for roadways and other paved applications provides an essential public service. The AQMD is recommending further evaluating seasonal use restrictions for certain asphalts and or limiting use to certain applications. Restrictions on the use and application of certain asphalts will significantly increase the costs of maintaining and building public infrastructure and create logistical circumstances that could prevent public services from being fulfilled. For example, a requirement to apply certain asphalts only during the cooler winter season would further restrict the limited time available of public works departments and contractors hired by municipalities due to higher incidents of rain, shorter daylight hours available to crews to perform work and the employment challenges with creating "seasonal employees" would significantly increase costs. The AQMP should note that significant direct and indirect costs would be associated with this proposal and that it would create serious logistical challenges that would impact the reliable delivery of essential public services.

IV-A-40, CMB-03, Further NOx Reductions from Space Heaters

Our primary concern with this measure is that both the emission standard and the timeframe for manufacturer compliance recommended in the AQMP be achievable in a cost-effective fashion. In particular, our member developers and contractors want to avoid a circumstance in which compliant space heaters are not commercially available by the compliance deadline. Project delays would have a significant impact on project costs, which would make affordable housing more costly and less available.

The proposed compliance date of 2011 provides only four years for manufacturers to move from 40 nanograms/joule down to 14 nanograms/joule of NOx emissions, and gain safety and performance certifications required before the units can be sold or installed.

We urge the District to adjust the compliance deadline consistent with its experience on taking low emission gas-fired water heaters from prototype to certification, which required an additional 18 to 24 months to complete testing, safety and performance evaluations.

IV-A -50, BCM-02, PM Emission Hot Spots – Localized Control Programs

Our members are supportive of this measure to assist the Rubidoux area in reducing PM emissions, so long as the control measures are reasonable and cost-effective. Paving, landscaping and other features of the development process are part of the solution. Yet other control measures included in the AQMP, such as cutback asphalt use limitations and seasonal prohibitions may work at cross-purposes to this measure. Proposed construction equipment modernization standards and deadlines that are so aggressive that they will result in a shortage of usable equipment will also interfere with timely development and construction activities that would improve fugitive PM conditions sooner. The District should reconsider its proposed cutback asphalt and construction equipment modernization requirements in light of the need to complete beneficial construction activities in high PM areas.

IV-A-53, BCM-03, Emission Reductions from Wood Burning Fireplaces and Wood Stoves

The draft control measure does not clarify how much of the future emissions and proposed reductions are attributable to fireplaces as opposed to wood burning stoves. We request that the control measure description provide a breakdown to better explain the control measures goals, and inform the selection of appropriate strategies.

Technological controls are available to control indoor and outdoor fireplaces. Therefore, CIAQC supports including a control measure in the Final Draft AQMP that calls for technological controls on all fireplaces in new development. Given the availability of appropriate technology and infrequent use patterns, we see no justification for prohibiting fireplaces in new homes.

IV-A-70, MCS-02 Urban Heat Island

This measure currently lacks implementation details, cost-effectiveness estimates, and emission reduction estimates. We do not oppose voluntary applications of light colored paving, roofing, and cladding or shade landscaping, but further research is needed to understand the cost-effectiveness of such methods over time. For example, project sponsors, local agencies, and construction companies need to know more about the installation costs and life-cycle costs and impacts on timely delivery of development of techniques such as whitetopping, substituting concrete for asphalt, and light colored slurries. Consideration of these options is already encouraged under the Energy Conservation and Emissions Growth Management Measures.

If more specific emission benefits and costs cannot be quantified for this measure, we recommend moving it to the Long-Term Strategies section for further research and refinement. We also recommend inclusion of text to explain how these methods of lowering energy consumption are available and encouraged under other measures.

IV-A-80, MCS-03, Energy Efficiency and Conservation

California Energy Commission and utility incentive programs have been very successful in improving energy efficiency and conservation for existing homes as well as existing commercial and industrial facilities. We support the continued use of incentives by the CEC and utilities to expand and accelerate conservation efforts. We would support District involvement in providing incentives only if further study demonstrates that the CEC and utilities would not be the most effective in accomplishing these goals. Given the great challenges of providing incentives for port truck clean-up and other incentive programs suggested in the draft AQMP, we are not convinced that this is a priority for District implementation, especially given the lack of a quantified emission inventory, emission reductions, and cost-effectiveness estimates – and the demonstrated willingness of CEC and the utilities to provide incentives.

Specifically, CIAQC does not support the use of proposed District mitigation fees for new development and redevelopment projects to provide retrofit incentives for existing development. This would be an unfair and inappropriate subsidy of older, more polluting existing buildings – many of which were built to no energy standards whatsoever – by the cleanest development in the air basin that meets stringent Title 24 requirements.

We recommend quantification of the emissions inventory, proposed emissions benefits of this measure. We also recommend revisions to position CEC, utilities and local governments as the implementing agencies.

IV-A-92, MCS –07, Application of All Feasible Measures

This measure functions as an overlay to all existing and proposed District rules. It basically requires re-examination of all existing regulations and future re-examination of all regulations adopted as a result of the 2007 AQMP. We understand the need to adjust District regulations as improved technology becomes commercially viable. However, we do not believe that this catch-all measure effectively quantifies or describes the rule changes, control effectiveness, control costs or implementation actions that would be involved, in a manner that allows for thoughtful public comment.

This blank check approach provides no certainty to businesses that operate, locate or expand in the South Coast Air Basin, and we believe that the control measure will negatively impact economic competitiveness and discourage clean new development, both of which are needed to reach air quality goals.

Further, we believe this undefined measure is unnecessary. We recommend that the District include all contemplated rule updates in the Draft AQMP, as it has done for sources as diverse as space heaters, RECLAIM, and cutback asphalt. The triennial AQMP update provides adequate opportunity to include proposed new rule updates. Also, the District has no impediments to updating existing rules to capitalized on new control technologies or techniques between AQMPs.

IV-A-94, FLX 01 Economic Incentive Programs

The construction industry generally supports the use of incentives to accomplish clean air goals. For example, in the last five years CIAQC member contractors have voluntarily repowered nearly 800 large diesel construction machines with lower emitting engines with over \$48 million of Carl Moyer and other incentive funding, which leveraged \$12 million of their own money. This prevented 2,560 tons per year (7 tons per day) of NOx emissions and 90 tons per year of PM emissions from escaping into the atmosphere. By any measure this has been a resounding success and should be continued and expanded.

However, the draft measure proposes that in-lieu mitigation fees be used to fund incentives. CIAQC opposes the use of proposed new development mitigation fees to clean up other sources not related to the project that contributes the fees. We also oppose the use of a development fee outside the geographic area where the fees are contributed. Use of new development mitigation fees to clean up non-project-related emissions constitutes an inappropriate transfer from the cleanest development in the air basin to other sources.

IV-A-101, EGM-01, Emission Reductions from New Development and Redevelopment Projects.

The construction industry will contribute to cleaner air by implementing stringent new construction equipment regulations that will reduce construction NOx and PM emissions significantly.

Our industry also will continue to implement Rule 403 fugitive dust regulations, and work with asphalts, paints, water and space heaters, and other building components that comply with District emission reduction regulations. The Draft AQMP already includes draft measures that require the latest controls for specific sources of emissions that are installed in buildings during the construction process.

In addition to these existing and proposed controls on temporary construction emissions and building component emissions, the Draft AQMP proposes an additional control measure on New

Development and Redevelopment projects that seek to gain further emission reductions beyond those that the District addresses with source-specific rules.

The main development-related "sources" that EGM-01 addresses beyond existing and proposed District rules are land use/transportation relationships and motor vehicle trips made by the occupants of new development once it is completed. Project developers and contractors have no control over either of these two factors, nor does the District. Transportation/land use relationships are under the authority of local governments working in conjunction with regional planning and transportation agencies. Project level mitigations or fees will not change underlying land use relationships determined far earlier in the land use planning process. Mobile source emissions are under CARB's authority. Because of this lack of control, we believe that District efforts to reduce vehicle trips indirectly by requiring mobile source mitigations or in-lieu fees from new development will be ineffective. Put simply, increased housing costs due to air quality fees will only make housing more unaffordable, but will not change residents' driving behavior or home-to-work location decisions.

We recommend that EGM-01 be rewritten to focus on the additional emission reductions that can be achieved through the existing CEQA project review, the most promising of the options outlined by the District in EGM-01. The District's role in project air quality impact review would be carried to a new level in order to improve the application and consistency of air quality impact mitigation for new development and redevelopment in the air basin. Enhanced mitigation guidance that reflects the latest technologies, better cost-effectiveness information, and the latest guidance on impact analysis techniques will allow local lead agencies and project sponsors to identify any additional mitigation measures that are reasonable and feasible beyond those required by existing and planned District rules.

Although we support the District's proposed CEQA Approach for this measure, we oppose the proposed CEQA Mitigation Fee Program added onto the existing CEQA process. This fee would transfer funds from the project and local area to the District, with no guarantee that it would reduce emissions related to the project. We request that this component of the District's CEQA Approach be deleted.

We further recommend that the other two options composed of command and control rules backed by fees be eliminated in the Final Draft AQMP.

IV-A-115, MOB-02 Extended Exchange Program

This program would accelerate turnover of small off-road engines used in construction activities. We support the use of exchange programs and incentive programs to accelerate voluntary turnover of small off-road engines.

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While we support the voluntary emphasis of this measure, we request that the District work with our industry to explore ways to insure replacement of the oldest small off-road engines before including language leading to a mandatory replacement program. For example, a sliding scale of incentives could be used instead of mandates to replace the oldest small off-road engines first. We recommend that study of a mandatory replacement program be deferred until the exchange program has been tested, or moved to the long-term study category of the AQMP.

Further, we recommend that this measure be revised to coordinate closely with CARB's construction equipment modernization rule and portable engine regulation implementation to insure that contractors and equipment suppliers have the ability to craft overall plans to update and replace all of their equipment in the most economic fashion possible.

IV-A-128, MOB-04, Emission Reductions from the Carl Moyer Program

CIAQC supports counting Carl Moyer Program emission reduction benefits in the AQMP attainment demonstration. As noted above in our comments on FLX 01, Economic Incentive Programs, CIAQC member contractors voluntarily repowered approximately 800 large diesel construction machines with lower emission engines with over \$48 million of Carl Moyer and other incentive funding in the last five years. Emission reductions of 2,560 tons per year (7tpd) of NOx emissions and 90 tons per year of PM emissions were achieved from this small portion of the construction equipment fleet. CIAQC will continue to work with the District and CARB to maintain a strong, well-funded Carl Moyer program.

We recommend that the District insure these additional emission reductions will occur in a manner that does not overlap with CARB's construction equipment modernization regulation benefits, to avoid double counting. To that end, we recommend clarification in the control measure text how the emission reductions proposed for this measure were calculated.

IV-A-139, LTM-04, Concurrent Reductions from Global Warming

We agree that state-mandated greenhouse gas reductions that provide concurrent VOC, NOx and PM reductions should be credited toward the attainment strategy. However, the draft control measure provides insufficient information to determine how the proposed emission reductions for this measure were calculated, or if any of these benefits will be forthcoming from sources used in construction activities. Once again, we recommend that the District insure that these emission reductions are not double-counted with actions already required by other existing or proposed District or CARB rules.

Further, we recommend that as greenhouse gas reduction programs are developed by CARB, that priority be considered for those that provide concurrent reductions.

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IV-A 147, LTM-05, Further VOC Reductions from Mobile Sources

This measure overlaps with CARB's proposed construction equipment modernization rule, the District's own construction equipment modernization rule, and the Carl Moyer program rule. The potential for emission benefit double counting is high. We recommend that the District insure that these emission reductions are not double-counted with actions already required by other existing or proposed District or CARB rules.

We remain seriously concerned that the District is addressing construction equipment one pollutant at a time. This subjects construction equipment owners to separate retrofit/repower/replacement mandates for each criteria pollutant. It is imperative to consolidate construction equipment requirements into a single, coordinated regulation that allows regulated construction equipment owners to devise comprehensive, cost-effective plans for cleaning up their equipment. Piecemeal efforts will be more costly for equipment owners, more difficult for the District and CARB to implement and enforce and, ultimately, will provide less reliable emission reduction. The economic consequences of requiring multiple retrofits/repowers/replacements within a short period of time relative to the life of a piece of equipment are substantial, and will burden the construction industry and delay needed new, cleaner development.

Again, our industry recommends that the final draft AQMP reflect CARB's proposed construction equipment modernization rule, and that overlapping requirements and double-counted emissions with related District proposals affecting construction equipment be eliminated.

Thank you for your consideration of these comments. We urge the District to incorporate our recommendations for clarification, redrafting, and eliminating overlap and duplication into the Final Draft AQMP.

Sincerely,



Michael Lewis
Senior Vice-President

cc: Barry Wallerstein, D. Env
Elaine Chang, Dr. PH
SCAQMD Governing Board Members