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July 17, 2009

Mr. James Goldstene
Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Mr. Goldstene:

SCAQMD Staff Comments on California Air Resources Board
Proposed Amendments to the Regulation for In-Use Off-Road Diesel-Fueled Fleets

The South Coast Air Quality Management District (AQMD) staff appreciates the opportunity to provide comments on the proposed amendments to the regulation for In-Use Off-Road Diesel-Fueled Fleets. While we understand the intent of the state legislature directed modifications to the regulation (provided in Assembly Bill 8 2X) were to provide relief during these extraordinary economic times, we believe the design of the proposed amendments will provide relief well beyond the legislative amendment to the detriment of the air quality in the South Coast Air Basin. AQMD staff's analysis agrees with CARB staff's assessment that by 2015, approximately 17% of the NOx emission reductions expected from the regulation will be foregone. Additionally, our analysis indicates that this represents a conservative estimate of emission reductions forgone. We believe that the actual amount forgone will be significantly larger.

Given the severity of the fine particulate and 8-hour ozone problem in the South Coast Air Basin, achieving the federal ambient air quality standards is a significant challenge to the region because of the magnitude of the additional NOx emission reductions required. Both of our agencies acknowledge that significant NOx reductions from mobile sources are required to meet these health-based air quality standards, and emission reductions garnered from the implementation of the off-road diesel vehicles regulation represent an important portion of these critically needed reductions. Any loss of expected emission reductions could seriously jeopardize attainment of the federal air quality standards. While the current economic recession is severe, it seems unlikely the relief provided by the legislative amendments will be needed far into the future. **As such, we strongly urge that the following language be added to Sections 2449.1(a)(2)(a)2.a.v and 2449.2(a)(2)(A)2.a.iv:**

> "Credit for Early Retirement – Fleets that reduce overall horsepower … (Total maximum horsepower of the fleet on March 1, 2010). **Carryover credit generated under this section may only be applied toward the March 1, 2010, March 1, 2011, and March 1, 2012 compliance dates.**"

Addition of this language will eliminate all carryover turnover and retrofit credits generated from fleet size reduction remaining after the end of February 2012. We believe that this is entirely consistent with the legislative directed amendments provided in AB 8 2X and ensures that the loss of emission reductions is minimized if not completely eliminated by 2015. The following sections provide our reasoning for the need of the additional language.

We also recommend that in addition to the above language, that in the adopting Board Resolution that the CARB Board direct staff to monitor the economic situation and should conditions not improve by 2012, staff would report back to the Board on potentially allowing the credits to continue or recommend other actions.

Evaluation of CARB's Proposed Amendments

Under the existing regulation, fleet operators are required to meet PM and NOx fleet average target requirements which decline over time. PM targets are established for all fleets regardless of size while NOx targets only apply to large and medium fleets (fleets with a total horsepower over 2,500 hp). Alternatively, fleet operators could demonstrate compliance with the regulation by meeting BACT based on turnover (repower, replacement, or retirement) or retrofit requirements. Specifically, operators would be required to turnover 8% of their fleet per year (up to 2015 and 10% after 2015) for NOx and retrofit 20% of their fleet per year to comply with PM requirements.

Fleet operators can also generate carryover credits by performing turnovers and retrofits earlier than required by the regulation and these credits can be used to meet future year requirements. The generation of these carryover credits and the timing of the turnover and retrofit requirements were the areas of the regulation that CARB was directed by the state legislature to make changes to the in-use off-road diesel vehicle regulation. These changes include:

1) Additional carryover credit for reductions in fleet size occurring between March 2006 and March 2010.
2) New carryover credit for reduced fleet activity between July 2007 and March 2010.
3) Reduced numbers of retrofits and vehicle turnovers required by the fleets in years 2011 and 2012, with the lost vehicle turnovers and retrofits regained in 2013.

AQMD staff analyzed the impacts of the proposed amendments have on the emission reductions expected from the current regulation in the South Coast Air Basin. The analysis focused specifically on the impacts the amendments would have on critically needed NOx and PM2.5 reductions necessary to ensure that the Basin can meet the 2015 PM2.5 ambient air quality standard.

AQMD staff believes that by March 1, 2010, the average fleet size will have decreased by approximately one-third from its March 1, 2006 size. This is based on fleet information used to develop the regulation and recent information reported to CARB by affected fleets as part of the reporting requirement provisions of the regulation. In addition, CARB staff's own analysis of the change in activity based on activity information from the Operating Engineers Union and the Energy Information Administration's fuel use trends shows that the average fleet activity has dropped approximately by one-third as well. AQMD staff's analysis shows that with these reductions in fleet size and fleet activity, the average fleet would be able to generate sufficient credits such that no turnover or retrofit actions would be taken for at least the first few years of the regulation. By utilizing these credits, it is clear that legislatively directed amendments will result in less emission reductions than would have occurred under the existing regulation.

To minimize the emissions impact of the proposed changes, CARB staff is proposing additional amendments to incentivize early fleet retrofits and turnovers, which include amendments for double credits for NOx and PM retrofits and exempting early vehicle retrofits from future turnover requirements. While we strongly support these amendments, we believe that due to the voluntary nature of the incentives the emission reductions generated will be significantly less than those foregone with the implementation of the proposed reduced activity and fleet size credit amendments. As such, we believe additional language as proposed above needs to be added to the regulation to minimize the loss of emission reductions while still providing the relief to the fleets as intended by the state legislators. With the addition of AQMD staff's proposed language carryover credits generated from the fleet size reduction would be eligible for use for compliance through the March 1, 2012 requirements. Our analysis shows that by limiting the use of the credits up to March 1, 2012, much, if not all, of the NOx emission reductions expected by the end of 2014 can be preserved.

We believe that limiting the life of the credits is consistent with the intent of the state legislature as provided in AB-2X, which limits the use of the reduced activity credits to the next two years (2010 and 2011) and the BACT turnover delay for fleets that choose this option to much higher retrofit and turnover costs in 2013. This would indicate that the state legislature in enacting AB-2X believes that the economy would have improved sufficiently before March 1, 2013 so that the fleets would be better able to handle the increased turnover and retrofit requirements.

We appreciate the opportunity to provide comments on CARB staff's proposed amendments to the in-use off-road diesel vehicle regulation. We recognize CARB's efforts to provide amendments necessary to meet the state legislative directives while preserving as much of the air quality benefits of the regulation as possible. However, we believe that with the proposed additional language, the air quality benefits of the existing regulation will be fully preserved and provides the economic relief that the state legislature is seeking over the next few years. If you have any questions or wish to discuss this further, please feel free to call me or Mr. Henry Hogo, Assistant Deputy Executive Officer - Mobile Source Division, Science and Technology Advancement, at (909) 396-3184.

Sincerely,

Barry R. Wallerstein, D.Env.
Executive Officer

CSL:HH:RJP

cc: Mr. Tom Cackette
Mr. Bob Cross
Mr. Erik White
Ms. Kim Heroy-Regalski