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Dr. Robert Sawyer, Chairman
California Air Resources Board
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Melvin D. Zeldin
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RE: Public Hearing to Consider Proposed Regulation for In-Use Off-Road Diesel Vehicles

Dear Dr. Sawyer:

The California Air Pollution Control Officers Association (CAPCOA) is writing to support efforts to reduce emissions from Off-road Diesel Engines and to urge you to take additional steps to secure reductions from this important category. The needs of our member districts are diverse and we do recommend some changes to address these needs, but we all agree the emissions from this category are very important and must be reduced in an effective and enforceable manner.

Emissions from off-road engines are significant contributors to localized cancer risk and mortality from exposure to particulate; they are also a major source of ozone precursors and greenhouse gases. Because they have been unregulated in the past, emissions from this source category have become increasingly more important over time. Thus, ARB is to be commended for establishing emission limits for this source category. CAPCOA specifically supports the proposed limits and timelines for reducing emissions of diesel particulate matter; they are aggressive but achievable, with sufficient compliance time to allow early reductions to qualify for incentive funding. CAPCOA also believes the regulation wisely focuses on the larger fleets that contribute a greater share of the inventory and also have greater ability to leverage financing for compliance. Finally, CAPCOA appreciates and supports ARB's recognition of the unique circumstances regarding "Captive Attainment Area Fleets" and their exclusion from the fleet average NOx requirements.

CAPCOA believes there are three key areas where the regulation can be made more effective. First, we recommend additional, early reductions of NOx for regions that have extreme ozone or particulate pollution problems. Second, we believe additional enforceability provisions are necessary. Third, we recommend additional resources be put towards verification, and that the verification procedures be reviewed to determine if the process can be streamlined without compromising the effectiveness of the controls. We also believe some additional consideration is needed in some of the rural areas of the state, and can be achieved without compromising the overall effectiveness of the regulation, and we discuss this in more detail later in the letter.

As you know, some regions of California face substantial difficulties demonstrating attainment for the federal ambient standards for ozone and fine particulate (PM_{2.5}). For these regions, the total magnitude of the reductions achieved is important, but so is the timing of the reductions. We request that in extreme non-attainment areas, large fleets be required to meet more aggressive emission reduction targets; CAPCOA supports the alternative emission reduction limits and timelines in the attached table. We request this table be included in Section 2449(d)(1)(A) as Table 1.1 – Extreme Nonattainment Area NOx Targets for Large Fleets With Over 40% Tier 0 and Tier 1 Equipment, and that the control language in that section be amended to require its use as indicated. In addition, the BACT turnover rate in section 2449(d)(2)(A)1 should be changed from 8% to 15% for large fleets with over 40% Tier 0 and Tier 1 equipment in their fleet. We believe these limits are achievable and are specifically needed in the South Coast and the San Joaquin Valley.

As a practical matter, fleets that do business both within and outside of the extreme nonattainment areas will have to accelerate total fleet turnover or retrofit, and ensure that the low-NOx engines are deployed in these regions. We note that the regulation contains provisions for delay of limits if technology is not available, i.e. in the event that manufacturers have difficulty meeting the demand due to earlier deadlines. Given the extraordinary difficulty of meeting federal standards and the substantial public health effects that would result from delay, CAPCOA believes the more aggressive standard is not only justified, but is absolutely necessary. We urge that the proposed regulation is amended to include the revised table.

Some of the smaller, rural districts remain concerned about the challenges faced by small fleets, both public and private, in meeting the requirements of this regulation. We understand these districts have already communicated their concerns to staff, and CAPCOA supports their efforts to work with ARB in addressing their needs. We recommend that ARB extend the concept of Captive Attainment Area Fleets to rural areas that are classified as ozone nonattainment under Subpart 1(b), that is, as a result of transported pollution. We understand that the local contribution to nonattainment in these areas is so small that the local emissions reductions are not needed to show attainment, and we hope you can recognize their needs with this change.

CAPCOA also has concerns about the practical enforceability of the fleet averaging as currently included in the regulation. We recognize that this is the approach used in prior regulations of heavy-duty diesel fleets. Those regulations governed more narrowly circumscribed categories, however, or the sources are generally required to have registration or a permit with the ARB or a local district. The categories that do not are either municipalities or companies that contract with municipalities and are included under those reporting requirements. All of these factors enhance the enforceability of the regulations.

In the case of the off-road engines there are no permit requirements. CAPCOA is very concerned that, because the category is so broad and the engines so numerous, as a practical matter the regulation will be difficult to enforce. Especially in the case of large fleets, engines may be dispersed across a significant geographic area. Although we support the addition of resources for enforcement, we do not believe that, in and of itself this will be sufficient. The regulation, at a minimum, should require ARB or its designees to conduct field inspections of the large fleets at least once every three years, and of the medium fleets at least once every five years. Small fleets and Captive Attainment Area Fleets should be inspected at least once to verify final compliance, although some additional

progress checking would also be advisable. As in the Portable Equipment regulation, fleet operators should be required to make arrangements for the fleets to be available for inspection at one or more location on one or more dates. ARB could fund this effort with a fee at the time reports are filed. We make this recommendation to increase the enforceability of the regulation as currently structured. As an alternative, the rule could mandate complete fleet turnover by an earlier date and allow averaging only by application, with registration and associated fees to cover enforcement costs.

We also recommend that the exclusions from the idling limitation be more clearly defined. Specifically, we are concerned about the wording of the exemptions for “idling necessary to accomplish the work for which the vehicle was designed (such as operating a crane)” and “idling necessary to ensure safe operation of the vehicle”. CAPCOA agrees that equipment should be allowed function as it is designed to do, and that it should be operated safely. However, under this wording, it will be very difficult to identify allowable and prohibited idling in the field. We ask the ARB to include specific examples regarding what is and what is not to be considered exempt, rather than relying on these broad categories. Further, we ask that if an operator has been granted a waiver under Section 2449(d)(3)(C), that the operator be required to have a copy of the waiver in the vehicle in the event that its idling is challenged.

Finally, CAPCOA is concerned about the ability of the verification process to complete reviews of candidate technologies on a schedule that will be needed for compliance with this and other regulations. We recommend that ARB put some of the new staff resources towards the verification process. We also recommend that the process itself be evaluated to enhance its efficiency without harming its effectiveness. Specifically, we believe that verification may be possible for larger classes of engines (rather than engine by engine), based on greater use of engineering assessments, perhaps with more limited in-use testing later. We are aware that Switzerland uses such a verification process (called VERT), and recommend that ARB investigate ways to streamline their proposed verification process. At the same time, we also believe that downstream durability testing is also important, to ensure that the promised emission reductions are, in fact, achieved.

In closing, CAPCOA believes this is a critically important rulemaking. We support the regulation of this category, and specifically support the limits and deadlines for diesel particulate matter, the focus on large fleets, and the NOx exclusion for Captive Attainment Area Fleets. We ask that ARB staff work with concerned rural districts to address their concerns, and we urge you to include the more aggressive NOx reductions for extreme nonattainment areas, to enhance the enforceability of the regulation, and to provide for more rapid verification of control technologies.

Sincerely,



Larry R. Allen
President

**Table 1.1. CAPCOA Proposal:
Extreme Nonattainment Area NOx Targets for Large Fleets With Over 40% Tier 0 and Tier 1 Equipment**

NOx Targets for Each Maximum HP Group								
Compliance Date: March 1 of Year:	25-49 hp	50-74 hp	75-99 hp	100-174 hp	175-299 hp	300-599 hp	600-750 hp	>750 hp
2010	5.8	6.5	7.1	6.4	4.5	4.3	4.4	5.7
2011	5.6	6.2	6.7	6.0	4.1	3.9	4.0	5.3
2012	5.3	5.8	6.2	5.5	3.6	3.5	3.6	4.9
2013	5.1	5.5	5.7	5.1	3.2	3.1	3.2	4.5
2014	4.9	5.1	5.2	4.7	2.8	2.7	2.7	4.1
2015	4.6	4.8	4.8	4.3	2.3	2.3	2.3	3.8
2016	4.4	4.4	4.3	3.8	1.9	1.9	1.9	3.4
2017	4.2	4.1	3.8	3.4	1.5	1.5	1.5	3.2
2018	4.0	3.7	3.3	3.0	1.2	1.2	1.2	3.0
2019	3.7	3.4	2.8	2.6	1.0	1.0	1.0	2.8
2020	3.5	3.2	2.4	2.2	0.9	0.9	0.9	2.6