



December 2, 2021

**CONSTRUCTION INDUSTRY
AIR QUALITY COALITION**

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Coalition Members

RE: PROPOSED HEAVY DUTY VEHICLE INSPECTION AND MAINTENANCE PROGRAM

Submitted Electronically - <https://www.arb.ca.gov/lispub/comm/bclist.php>



Dear Chair Randolph and Members of the Board:

The Construction Industry Air Quality Coalition is composed of the membership of the major construction organizations in California including the Associated General Contractors, Building Industry Association of Southern California, Engineering Contractors Association, Southern California Contractors Association, San Diego-Associated General Contractors, United Contractors, and the Western States Trucking Association. Collectively these Associations represent 20,000 contractors employing over 400,000 construction workers.



Associated General Contractors
America-San Diego Chapter, Inc.

Our industry has over 100,000 trucks affected by this proposed regulation.



Building Industry Association
of Southern California

THE PROGRAM IS TOO COSTLY.

The construction industry had serious reservations about SB210 while it was being considered by the legislature because it proposed a costly new requirement on fleets without an apparent need and with little concern given to the cost of compliance for fleet owners. Those concerns continue today. The \$30/vehicle initial fee for the compliance certificates proposed in the legislation does not include the cost of employee training and the testing, recordkeeping, and reporting required by this regulation. In fact, there is no limit on the cost to the fleet or truck owner. Fleets will be required to purchase a dongle to extract data and subscribe to a service to be able to access telematics. Because there appears not to be a universal dongle, more than one will be required for each manufacturer. The real reporting cost per truck could be several hundred dollars.



California Construction Trucking
Association



Engineering
Contractors Association

For those fleets that would choose to use the state testing stations, there is no limit established on the cost of those tests. Nor are there testing stations established to provide the service. Such a testing scheme would require both the truck and an operator to be out of service for the testing period adding further to the cost of compliance. For those fleets that may use their in-house technicians, the company will need to buy the annual software from each vehicle OEM in order to access the vehicle ECM. In talking with current PSIP testers, the cost for each OEM's annual subscription runs from \$2,000 to \$4,000 per computer, so a site with multiple



United Contractors



Southern California
Contractors Association

technicians will be quite costly. For companies with multiple sites with multiple technicians spread out throughout California, each site that does the testing in-house will be subject to software subscriptions. For a company that runs 8 different OEM type vehicles, the costs per site are enormous and outrageous compared to the current smoke test program.

In reviewing the cost data, we were shocked that the initial reporting was estimated at 5 minutes per vehicle. What was not accounted for was the time spent physically gathering the data. CARB states time would be saved by data from DMV, but that is not feasible when the operator is leasing or renting the vehicle. CARB assumes a cost savings for large fleets doing testing in-house, but as already pointed out, the software alone makes that option cost prohibitive. This was not disclosed in any of the pilot programs. Finally, we found it odd that CARB equated a cost savings to PSIP sunseting. Given the excessive costs associated with this proposed regulation, there would be no cost savings.

TWICE-A-YEAR TESTING IS EXCESSIVE

We also believe that two tests a year is excessive and adds unnecessarily to the cost of compliance when CARB's own data demonstrate that the vast majority of trucks are in compliance with the existing standards. Vehicles running with the MIL light on will derate and finally shut down within a short period, so what is the real reason behind requiring more tests than the annual smoke test? Is CARB looking for manufacturers' data at the expense of the end user? Owners must repair the vehicle engine issues as soon as possible in order to continue running their business.

THE PILOT PROGRAM WAS INSUFFICIENT

Rather than pilot their proposed program, CARB tested devices and experimental technologies. They did not test the effort needed to meet the requirements of the regulation. Nor did they thoroughly examine the time and cost required to acquire and report the data utilizing the methods required by the regulation. Nor does it appear that the pilot program was ever submitted to the legislature for their review as required.

CARB HAS IGNORED IMPORTANT REQUIREMENTS OF SB 210

SB 210 proposed a "streamlined process" for reporting. The proposed reporting process is not streamlined and envisions the cooperation of two state agencies (CARB and DMV) in the registration process. CARB is also proposing a requirement that the subject vehicles be tested based upon the DMV registration period instead of on the calendar year basis in effect since 2010 when AB1922 amended Health and Safety Code section 43701 allowing the testing period to be on a calendar year for smoke tests for ease of fleet management. Prior to that was a rolling 365 days and that was a nightmare in managing to stay in compliance. The OBD is related to PSIP (in fact still requires smoke tests for 2013 and older vehicles), so without legislation changing the Health and Safety Code, it is unclear how CARB can now deviate requiring testing in anything other than a calendar year. For the rental industry, let alone any owned vehicles in large fleets, having different 90-day windows for every vehicle will be a nightmare to track and will ultimately lead to a high probability of inadvertent missed testing date windows. SB 210 envisioned "minimized costs". Given the time required to drive to and from a Kiosk, or schedule a mobile service twice a year, there is no way the cost per truck will not greatly exceed the low costs outlined in the legislation, let alone the costs compared to the current PSIP program that run between \$75 to \$150 per vehicle.

LARGE FLEET REPORTING MAINTENANCE POSES A RISK TO ENFORCEMENT

Reporting for large fleets with multiple sites will be difficult to manage reporting purchases and sales within a 30-day window, especially with fleet purchases that are managed separately at each location. We are concerned with

the high potential of fleets inadvertently missing the 30-day window, only to be handed a notice of violation and a fine. We ask to Governing Board to consider warnings instead of violations for this administrative error.

LEVEL PLAYING FIELD?

We are quite concerned with how the program will be enforced for companies that lease their vehicles through out of state leasing companies where those vehicles are not registered in California. Given the number of out of state vehicles (and California registered vehicles) still running noncompliant under the truck and bus regulation, we do not see how this regulation can be properly enforced to ensure those operating in the state legally will be on a level playing field as required by SB210. Noncompliant vehicles are not being stopped by CHP at the borders.

CONSTRUCTION RENTAL COMPANY ISSUES

We are concerned with how a rental company will be able to manage the vehicles that are out on rent for a period extending into a single to multiple testing windows. The rental companies typically have no idea where the vehicles are being used so testing would not be possible by the rental company. Additionally, when the vehicle is out on rent a rental company has no idea if or when a MIL light might come on unless the renter contacts the rental company. Any delay in contact between the renter and the rental company could delay timely repairs and inappropriately subject the rental company to potential enforcement. There must be a provision in the HD I/M that allows for an exception to the test interval if the vehicle is out on rent across a test window. We suggest the rental company vehicles be subject to the testing a single time during a calendar year (again the annual interval should remain a calendar year versus a DMV registration year due to the conflict with the Health and Safety Code).

REQUIRING ENFORCEMENT BY PRIVATE COMPANIES

The regulation requires freight contractors and brokers, which includes “any person,” verify that vehicles owned by third parties comply with regulation and maintain records to that effect. This requirement is pointless for trucks registered in California because such trucks cannot be registered if they do not comply with the HDVIM program. Such a requirement should only apply to trucks not registered by DMV in California. Limiting the application to trucks registered out of state not only makes rational sense, but it also provides a small benefit to California registered truck owners.

We would encourage your Board to return this proposed rule to the staff and direct that they address these serious weaknesses in the framework. We are ready to collaborate with the staff to craft a rule that is fair to California fleets and achieves the goals of reducing air pollution while keeping our economy on a successful path to recovery.

Sincerely,

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

Michael Lewis, Senior Vice President
Construction Industry Air Quality Coalition
951-206-4420