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Southern California  
Contractors Association

December 10, 2013

Mary D. Nichols, Chairman  
California Air Resources Board  
1001 I Street  
P.O. Box 2815  
Sacramento, CA 95812

## Re: Proposed GHG Regulation Changes - Optional Low NOx Standard and Idling Restrictions

Dear Chairman Nichols and Members of the Board,

On behalf of the Construction Industry Air Quality Coalition (CIAQC), thank you for the opportunity to comment on the California Air Resources Board (ARB) proposal to establish optional Low NOx Standards for heavy-duty engines and amendments to the Airborne Toxics Control Measure (ATCM) to expand compliance responsibility for idling limitations for diesel fueled commercial motor vehicles.

CIAQC recognizes that ARB has a long history of implementing regulations and creating incentives that result in the development of new, cutting-edge, lower-emission technologies and products that ultimately end up the California marketplace. The ARB proposal to establish optional low NOx standards for heavy-duty engines might result in the development of lower-emitting engines being made available to consumers to purchase if there is a sufficient economic incentive to do so.

## TODAY'S OPTIONAL STANDARD BECOMES TOMORROW'S REQUIREMENT

Our concern however with this proposal is that the optional standard today becomes tomorrow's requirement. This concern is not unfounded as ARB also has a history of adopting regulatory schemes that are disruptive to those that own and use older technologies that met state and federal standards when they were originally purchased. The Off-Road Equipment and Truck and Bus Regulations are examples of this. Older construction equipment and trucks that were purchased in good-faith now have a limited life in California with replacement costs in the billions of dollars borne on the backs of thousands of contractors still trying to survive economically. The loss of equity companies experience due to the loss of value (of functioning and paid for equipment) from regulatory driven forced obsolescence affects the ability of California contractors to compete on a level playing field. These California companies are no longer able to secure the same level of bonding they could prior to the loss of equipment value. The loss of bonding capacity

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provides an upper hand to large, out-of-state companies that can consolidate compliant equipment in California, without the need to turn over its national fleet, having no impact to their ability to bond a job. Future new In-Use requirements for today's optional standards will further exacerbate this downward cycle of loss of equipment value and bonding capacity and place additional hardships on California companies and their employees.

#### **IDLING LIMITATIONS AND COMPLIANCE RESPONSIBILITY**

The proposal to extend the applicability of the idling ATCM to include owners and motor carriers that dispatch affected vehicles and assign compliance responsibility to them is not sound public policy. Owners and motor carrier dispatchers of commercial trucks have no direct way to control the actions of drivers even when appropriate education and guidance about ATCM idling limitations is provided. There is simply no justification to hold owners and dispatchers liable for exceeding an idling limit in addition to the vehicle driver, nor any likely increase in compliance. A driver that exceeds a speed limit is responsible for their actions, not the owner of the vehicle. There is no difference here.

CIAQC appreciates the opportunity to provide these comments for your consideration.

Sincerely,

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

Michael W. Lewis  
Senior Vice-President