California Council for Environmental and Economic Balance
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101 Mission Street, Suite 1440, San Francisco, California 94105
415-512-7890 phone, www.cceeb.org

April 24, 2023

Johanna Levine, Off-Road Implementation Section Manager
California Air Resources Board
Submitted electronically to the regulatory docket

Re: Proposed 15-Day Modifications to Proposed Regulation Order, In-Use Off-Road Diesel-Fueled Fleets Regulation, April 10, 2023

Dear Johanna,

The California Council for Environmental and Economic Balance (CCEEB) appreciates the opportunity to provide comments on the proposed 15-Day Modifications to Proposed Regulation Order, In-Use Off-Road Diesel-Fueled Fleets Regulation ("15-Day Changes"), as described in the April 10, 2023 CARB notice. Many CCEEB members own, operate, or contract off-road vehicles subject to the rule, and some members process diesel and renewable diesel at facilities in California. As noted in our November 7, 2022 comment letter, CCEEB recognizes that emissions reductions from the off-road sector are needed to attain federal air quality standards and that reductions of both NOx and PM will further protect public health, especially at the local level. CCEEB also appreciates the proposed regulation's focus on streamlining compliance and promoting fair and equitable enforceability.

Regulate Renewable Diesel through CARB Fuels Policies and Programs, Not Fleet Rules

As stated in our January 2022 comments on the concept language, and reiterated on November 7, 2022, our primary concern remains the proposed requirement that all off-road fleets must use only renewable diesel (RD), starting on January 1, 2024. CCEEB and its members are strong supporters of renewable diesel, and we are proud of efforts by our refinery members to convert facilities and operations to the production of RD in California. For example, conversion of two Bay Area refineries to renewable diesel production could produce over 1.5 billion gallons per year of RD in the near term, as well as creating thousands of jobs and reducing both local and statewide criteria and greenhouse gas emissions.[1]

The additional reporting requirements in section 2449(g)(5)(A) for fleets utilizing the renewable diesel exemption in section 2449.1(f)(2)(C) and related provisions in Section 2449.1(f) are unnecessary and burdensome to our members and the diverse community of regulated entities who have limited control over fuel suppliers. We do not believe that staff's actions were directed by Board Resolution 22-19 following the November 17, 2022 hearing. <u>Demonstrating that a contractual obligation has been established will satisfy this goal of the regulation</u>.

Detailed reporting requirements for end users subject to the In-Use Off-Road rule will not advance the merits of the regulation as refinery capacity and supporting infrastructure are built out. CARB's estimated 10 percent reduction in NOx and a 30 percent reduction in PM emitted from engines that are Tier 4 Interim and older is unlikely to be impacted by utilizing a recordkeeping control, and we are uncertain how CARB could measure the positive impact of this requirement on the regulation's goals,

[1] Please see https://www.rodeorenewed.com and https://www.marathonmartinezrenewables.com for detailed information about these projects.

which CCEEB supports. CCEEB maintains that CARB should refocus its RD efforts on fuel-specific programs and policies, such as the Low Carbon Fuel Standard (LCFS). As an alternative to each fleet compiling and reporting detailed meteorological data during extreme cold-weather conditions, we believe that publishing a map of areas where the renewable diesel exemption applies during winter months would be more effective.

Conflict with Existing Regulatory Requirements

Board Resolution 22-19 acknowledged the use of multiple engines Tiers by a fleet to meet the final fleet average target. Therefore, we request that, in addition to the compliance flexibility included in Section 2449(e)(9), CARB delay the phase-out implementation dates for Tier 0, Tier 1 and Tier 2 engines by one year. CCEEB members have been relying on the fleet averaging methodology in order to comply with the requirements of the current regulation. Capital planning for vehicles subject to the proposed regulation often occurs 2-3 years out from receipt of equipment, as delivery of equipment typically takes approximately 1 year. These timelines have increased following the supply chain crisis precipitated by the COVID-19 pandemic disruptions. In our January 2022 comments, we requested that all implementation dates be pushed out by a year to accommodate both the supply chain challenges and the fact that the current regulation extends to 2023. In our November 7, 2022 we requested that at a minimum, fleets should have a process to apply for case-by-case extensions, with proper documentation and demonstration of supply chain delays. We believe that a one-year delay will reduce the administrative burden for both CARB staff and regulated fleets.

Other comments

- CCEEB supports the provisions in Section 2449(g)(2)(C)(2) for permanent low-use vehicles. This provision should also apply to vehicles that operate part time in California.
- The requirement in Section 2449(j)(3) that requires the 'prime contractor' to notify CARB of non-compliance from a fleet entity is not necessary and should be removed. While we appreciate staff's intent to even the playing field between compliant and noncompliant fleets, DOORS is already set up to determine if a fleet is non-compliant. Because CARB is the entity responsible for enforcement action, it is more appropriate for CARB to utilize its reporting system and investigate the non-compliant fleets instead of relying on contracting entities.

Thank you for the opportunity to provide comments. Please feel free to contact Linus Farias, CCEEB Air Regulatory Consultant at linusfarias8@gmail.com or me at christinew@cceeb.org if you have any questions or would like to discuss our comments further.

Sincerely,

Christine Wolfe
Policy and Communications Director
CCEEB

Cc:
Tim Carmichael
CCEEB Air Project Members