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Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento CA 95812

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

RE: Proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments

Dear Chair Nichols and members of the Board:

The California Trucking Association (CTA) and American Trucking Associations (ATA) appreciate the opportunity to comment on the proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments.

As discussed in more detail below, both our associations support the development of a harmonized, national approach to further reduce NOx emissions from heavy-duty vehicles. We implore the Board to work with U.S. EPA on the development of a national program to achieve the most effective means of reducing truck emissions without harming California trucking businesses and services.

California's "go it alone" approach will create an uneven playing field for the state's trucking fleets while not delivering on the promised benefits. Mandating the sale of trucks with more expensive, unproven emissions control technologies only in California will simply force companies to avoid or delay purchasing these vehicles. Competing companies based outside the state will still be able to operate in California with upgraded fleets meeting federal engine emissions standards with the latest safety and convenience features.

In addition, the so-called "50-state standard" equally exasperates the competitive balance by asking engine manufacturers to decide whether they want to disadvantage only their California customers or their entire national clientele. This approach tramples on the state rights protections which have been crafted by Congress under section 177 of the Clean Air Act.

Rather than proceeding with a rulemaking that will fail to achieve the promised emission reductions and penalize the state's businesses, the Board should refocus its efforts on a collaborative national approach targeting 2027. This approach is considered the most promising and effective means of reducing truck emissions across the nation and in California. Together, with all industry stakeholders, we can develop the next pathway to cleaner trucks.

Detailed Comments:

**1. Support for a Harmonized National Low-NO<sub>x</sub> Emissions Standard**

Since the 2016 low-NO<sub>x</sub> petition by the South Coast Air Quality Management District to U.S. EPA, CTA and ATA have supported the establishment of one national low-NO<sub>x</sub> standard that is flexible, takes into account the wide diversity of trucking operations, is based upon technology paths that are thoroughly-tested and affordable, and does not disrupt fleet operations and the economy. Interstate trucks are not bound by geographic boundaries. Trucks purchased anywhere in the country should be compliant wherever its business may take it. While California has its unique topography and associated air quality issues, it is imperative that the state and EPA find common ground in plotting a path forward insofar as a low-NO<sub>x</sub> standard is concerned. Putting differences aside, we encourage on-going cooperation between both entities with respect to stringency levels, timing, funding and sharing research, testing, and modeling.

The trucking industry wants to ensure that the development of a low-NO<sub>x</sub> rule is not unduly influenced by politics but rather by sound scientific and economic analysis and reasoning. We continue to support the alignment of Phase 2 implementation milestones with those of a low-NO<sub>x</sub> rule given the need for manufacturers to design and engineer technological pathways that satisfy both standards. With the deadline to finalize a low-NO<sub>x</sub> rule to align with the Phase 2 implementation milestone in 2024 having already passed due to the Clean Air Act four-year lead time requirement, CARB and EPA should not rush to finalize the rule until they have conducted a thorough cost/benefit analysis and undertaken comprehensive in-fleet testing of identified technologies under all seasonal and geographic parameters.<sup>1</sup> We stand ready to work closely and openly with CARB and EPA to ensure a national rule will satisfy the aims of both the environment and our industry.

**2. The State's Trucking-Related Businesses Hang in the Balance**

The impacts of the proposed rule on the state's truck dealerships and trucking fleets have not been adequately addressed. Missing from this rulemaking process has been a focus on the needs of the sellers and purchasers of these engines – the companies that will ultimately decide success or failure.

The differences between meeting certification requirements over standardized test cycles on an engine dynamometer and engine performance when operated in a vehicle on the road is highlighted in CARB's enforcement report,<sup>2</sup>

...staff has continued to receive complaints from fleet owners that they were experiencing more vehicle downtime with the newer engine technology. Anecdotally, some trucking fleets have had to purchase 10% more trucks to cover increased costs of downtime related to decreased durability of newer trucks. Downtime is important because while engine repairs are costly, the truck is also not working when it is being repaired, and this can cost a fleet \$500 per day or more...

Given the extent of problems that have been experienced with newer engines and SCR systems, it is imperative that both CARB and EPA work in unison to undertake

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<sup>1</sup> 42 U.S.C. §7521(a)(3)(C).

<sup>2</sup> California Air Resources Board, *2018 Annual Enforcement Report* (June 2019).

comprehensive in-use testing of technologies that represent all seasonal and geographic parameters. Both agencies need to work together, either through MOUs or other mechanisms, to ensure continuity and consistency in testing protocols, procedures, and input parameters. Lastly, CARB and EPA need to eliminate administrative redundancies between the two certification programs.

### **3. Opposition to CARB's Proposed Approach for a 50-State Standard**

- a. Pits manufacturer against manufacturer. As proposed, each engine manufacturer will have to choose whether to CARB certify to a new California low-NOx standard only those engines to be sold in California or their entire national product line. As this election is at the discretion of each individual manufacturer, the proposed approach ensures neither uniformity of standards nor a level playing field among manufacturers. In fact, it holds the potential to create competitive imbalances not only in California, but in each of the other 49 states.
- b. Creates economic disparities outside of California. If only one manufacturer were to certify their national product line to the proposed 50-state standard, they would incur a cost disadvantage on sales occurring outside of California due to the added cost of meeting the California standards (compared to meeting the existing federal standards). These costs will then be passed through to affiliated truck dealers that are neither located in California nor able to offer a federally certified product based on the California compliance path selected by their upstream manufacturer. As a result, the proposed approach has the potential to create economic disparities among businesses located wholly outside the state of California.
- c. Lacks analysis of potential impacts. As discussed above, a manufacturer's election to meet California standards by pursuing a 50-state standard could have a range of economic impacts extending to businesses and communities located outside the state as well in areas meeting federal air quality standards. However, the ISOR dismisses analysis of these impacts by assuming no manufacturer will make this election.<sup>3</sup> Simply dismissing this potential compliance strategy does not alleviate the need to analyze its economic and environmental impacts, including identifying those extraterritorial impacts that will result from the state's actions.

### **4. 50-State Standard Circumvents Clean Air Act Requirements**

- a. Congress has defined California's path for establishing a state-specific standard. Under section 209(b)(1) of the Clean Air Act, Congress established a process to allow California the ability to adopt state emission standards. The section specifically cites "state standards" as being the mechanism for establishing such standard and does not expand this authority as a proxy for federal or national standards. Instead, the CAA separately establishes specific criteria for how states may deviate from the federal engine emissions standards.
- b. Congress has defined how other states may elect to opt-in to a California standard. Having allowed California the ability to adopt state emission standards, Congress, in Section 177 of the CAA, established a process to allow states with nonattainment areas

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<sup>3</sup> CARB, Staff Report: ISOR, pp. III-6 & IX-79.

the ability to opt-in to “California standards”. Recognizing the limits of California’s standard setting authority, Congress allowed other nonattainment states to adopt and enforce emission standards identical to California and for which an EPA waiver has been granted. This section ensures state’s rights to determine whether they elect to sell California or federally-certified vehicles. The proposed “50-state standard” circumvents these rights and instead leaves this decision to be determined by how a particular manufacturer will comply with the proposed California standards.

- c. Congress has prohibited the creation of standards which create a “third vehicle”. Under Section 177, Congress explicitly prohibits states from creating a “third vehicle” (or engine). As proposed, California will be creating a third engine as a result of the proposed standards – federally certified engines, California certified engines, and California 50-state engines. This proposal directly conflicts with Congress’ intent to limit the number of different vehicles or engines required to be manufactured and sold throughout the United States.

## 5. **Opposition to Proposed Longer Emissions Warranty Periods**

CTA and ATA member companies purchase new trucks with and without extended warranties throughout the United States and are sensitive to increases in equipment and maintenance costs. Companies generally determine whether to purchase an extended warranty based on a return-on-investment analysis using historical warranty and repair data. For companies that identify a benefit, the ability to purchase an extended warranty exists today, while companies that will not benefit are able to avoid these unnecessary costs.

Companies purchasing new trucks make necessary repairs in order to maintain the reliability, efficiency and value of this equipment regardless of warranty status – not to mention ensuring compliance with federal and state anti-tampering laws. Proper maintenance is not predicated on warranty status but tends to be a reflection of company culture. As a result, companies that buy new trucks are the best evaluator of their maintenance requirements including whether or not to purchase extended warranties.

CARB offers no empirical data to support the purported benefits associated with the longer warranty periods. The staff analysis acknowledges that projected increases in incremental repair costs are expected to be passed on to vehicle purchasers through an increase in the vehicle purchase price.<sup>4</sup> Inexplicably, the analysis also claims purchasers would experience savings from the additional repairs that are covered under a longer warranty period.<sup>5</sup> If this were the case, why aren’t more extended warranties purchased today? Quite simply, truck buyers are either not receiving value from extended warranties or they can’t afford them. In either case, the proposed longer warranty periods will only aggravate these situations by further adding to the cost of new trucks without any assurances these costs will be recouped.

The warranty proposal does not provide any assessment of the relationship between truck purchases and maintenance practices. Instead, the state’s pending update to its heavy-duty inspection and maintenance program is being undertaken to ensure proper maintenance is occurring and verified regardless of warranty status. With the I/M program focus on ensuring timely maintenance, it alleviates the need to pursue warranty provisions that will

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<sup>4</sup> *ibid*, p. IX-23.

<sup>5</sup> *ibid*, p. V-11.

further increasing the cost of new equipment. We request the Board remove the longer warranty provisions and instead initiate efforts to develop an alternative, incentive-based approach which promotes vehicle maintenance by utilizing the existing extended and secondary-market warranty opportunities that exist today.

## **6. Further Evaluate De-rate Occurrences and Causes**

CTA and ATA member companies request CARB to work with EPA to further investigate the efficacy of progressive de-rate inducements typically associated with low-volume or empty diesel emission fluid (DEF) tanks or use of poor quality DEF product. While the original rationale behind low-speed de-rates is well understood, neither fleets nor drivers wish to experience such episodes which have the potential to create safety and delivery concerns.

Following more than a decade of experience, de-rates not related to low DEF levels or inferior DEF quality continue to occur. Among a sampling of fleets operating more than 10,000 trucks, nearly 80 percent of de-rates in 2019 were attributed to other causes such as sensor failures, electrical defects and SCR component issues. Many of these causes are not associated with the emissions performance of the SCR system and, yet, are initiating operational restrictions. The safety and environmental implications of these types of de-rate occurrences need additional evaluation and study prior to enacting additional NOx controls.

Our associations appreciate the Board's consideration of these comments and implore you to work with EPA and industry stakeholders on the development of a national program to achieve the most effective means of reducing truck emissions without harming California trucking businesses and services. We stand ready to work closely and openly with CARB and EPA to ensure a national rule will satisfy the aims of both the environment and our industry.

Respectfully,



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