



November 7, 2022

Clerks' Office  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95814

**Via: Electronic Submittal - <https://www.arb.ca.gov/lispub/comm/bclist.php>**

**Re: Comments – Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation**

Dear Chair Randolph,

The California Construction and Industrial Materials Association (CalCIMA) appreciates the opportunity to provide comment regarding the California Air Resources Boards (CARB) In-Use Off-Road Diesel-Fueled Fleets Regulation amendments and expansion.

CalCIMA is the statewide voice of the construction and industrial materials industry. With over 500 local plants and facilities throughout the state, producing aggregate, concrete, cement, asphalt, industrial minerals, and precast construction products, our members produce the materials that build our state's infrastructure, including public roads, rail, and water projects; homes, schools and hospitals; assist in growing crops and feeding livestock; and play a key role in manufacturing consumer products as well, including roofing, paint, low-energy light bulbs, and battery technology for electric cars and windmills. The continued availability of our members' materials is vital to California's economy, as well as ensuring California meets its renewable energy, affordable housing, and infrastructure goals.

CalCIMA and our members support efforts to improve air quality and reduce criteria and climate emissions. While there are some provisions and actions in the proposed regulation we can support and implement, there are other provisions which cause significant concern for our industry. A high-level summary of issues and proposed amendments we will address in the letter follows:

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- **No ZEV mandate – Thank you**
- **Phase Out Provision – Timeframe Amendment Request**
- **Renewable Diesel Mandate – Procurement Amendment Request**
- **Adding New Vehicles – CA Tier V – 2028 All Fleet Mandate - Remove**
- **Adding New Vehicles – Tier IV Interim - Equipment Availability**
- **Prime Contractor – Signage Provisions Clarity**

### **No ZEV Mandate – Thank You**

We appreciate CARB staff properly identified that ZEV solutions are far too ephemeral to even consider mandating within this regulation and for this equipment. We appreciate you further enabled ZEV and Electrification and Decarbonization opportunities that fleets will be able to take advantage of should they evolve with time. Enabling ZEV credit opportunities and the ZETA decarbonization process are appreciated and hopefully viable and affordable technologies and solutions will emerge in both areas. We appreciate your staff recognized they had to make such solution-enabling language available but that they could not mandate what remains unknown.

This technology-neutral approach is appropriate and appreciated. We are unsure if fleets, particularly large fleets, will be able to take advantage of the ability to develop ZETA decarbonization strategies as these fleets often cover multiple facilities. We believe the program could be improved by enabling its use for components of fleets operating at a single location based on the off-road equipment at that site or facility (rather than requiring its implementation for the entire fleet). In short, adjust the targeting and fleet component metrics to that component of a fleet operating at a fixed location for industrial fleets under common ownership or to the whole fleet for fleets such as construction fleets that service various locations.

### **Phase Out Provision – Implementation Timeline Adjustment**

CARB is implementing Phase out schedules more aggressively than needed to meet the purposes of the rule and adopted Mobile Source Strategy. CalCIMA requests that additional time be provided for compliance with the obligations for the retirement of Tier 0, 1 and 2 equipment. Based on CARB's goals and targets, CARB has the capacity to extend the timeframe for these retirements within the adopted plans and strategies while still meeting the objectives and purpose of the regulatory change as noted within the SRIA.

*“The target of the Proposed Amendments aligns with the 2020 Mobile Source Strategy’s (2020 MSS)4 goal of reducing statewide NOx emissions from the construction and earth-moving sector by 7.5 tons per day by 2031 and **full turnover of remaining Tier 0 through Tier 2 engines in the fleet between 2024 and 2033**. The target of the Proposed Amendments also aligns with the measure in the Draft 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy) 5 to achieve reductions of 4.1 tons per day of NOx in 2037.”*

While we understand the benefits of reductions earlier in time, those reductions also come at increased costs particularly to an industrial sector that is being impacted by other regulations at the same time. With a 2033 target for the retirement of all remaining Tier 0, 1 and 2 equipment, we see no reason to require a 2032 deadline. Time is a resource that, during this adaptation, should be managed carefully and to allow the evolution of new technologies and solutions.

There are currently no meaningful ZEV and decarbonized solutions for this off-road equipment.. Regulatorily forcing purchases early forces combustion solutions which will have to be replaced later. In the case of this regulation the management of time to enable innovation (while still meeting the Mobil Source Strategy retirement timeline) seems prudent and enables an extra year for each fleet to manage and absorb the economic impact of this obligation.

Under the current timeline, large fleets will be put in the position of having to make emergency adjustments to capital acquisition plans within less than one year. Asking businesses to budget millions of dollars in acquisition costs based upon a proposed rule structure which may or may not become law places businesses in untenable positions. In addition, requirements to use renewable diesel begin in 2024. The use of renewable diesel will provide emissions reductions of up to 30% and will help to reduce emissions in older engines which have not yet been retired. We propose the following amendment;

“(1) Tier Phase-Out for Large Fleets

(A) Beginning January 1, ~~2025~~2024, a large fleet shall not operate any vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.

(B) Beginning January 1, ~~2027~~2026, a large fleet shall not operate any vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.

(C) Beginning January 1, ~~2029~~2028, a large fleet shall not operate any vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.

(2) Tier Phase-Out for Medium Fleets

(A) Beginning January 1, ~~2027~~2026, a medium fleet shall not operate any vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.

(B) Beginning January 1, ~~2029~~2028, a medium fleet shall not operate any vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.

(C) Beginning on January 1, ~~2031~~2030, a medium fleet shall not operate a vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.

(3) Tier Phase-Out for Small Fleets

(A) Beginning on January 1, ~~2029~~2028, a small fleet shall not operate a vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.

(B) Beginning on January 1, ~~2031~~2030, a small fleet shall not operate a vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.

(C) Beginning January 1, ~~2033~~2032, a small fleet shall not operate any vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California. “

Those fleets which have not met previous target by January 2023 will still be making changes and emissions reductions in 2023 to meet its fleet average target. Based on the information within the ISOR we know that 51% of large fleets have not met the fleet average and many will have additional compliance obligations in 2023. They will have to make those reductions to primarily Tier 0,1 and 2 equipment, as the rule is drafted to force the retirement of Tier 0,1 and 2 equipment preferentially over newer equipment during repowers and replacements (2449.1(b)(4) “Order of BACT Retirement”). We are not asking for inaction but the ability to implement with planning and consideration as well as extra time for cleaner technology to come to market. Please allow large fleets more than 9 months from rule adoption and review to plan on retiring and replacing all of their Tier 0 equipment.

### **Renewable Diesel Mandate – Procurement Amendment Request**

We want to be clear renewable diesel is considered a viable fuel source in most circumstances. However, cold weather adaptability is a significant concern in those areas of the state which may fall below 20 degrees Fahrenheit. The use of renewable diesel will need to be managed with fleets that operate in those regions of the State. Many such areas are already exempted in total due to air basin compliance, but adjustments for remaining areas are necessary.

Our second concern is we absolutely do not want to have to devise a system which tracks fueling in each individual off-road vehicle to demonstrate compliance. CARB’s structure of the renewable diesel use requirement as a vehicle requirement (versus a purchasing policy structure) greatly complicates implementation and adds significant recordkeeping and data system development. We believe this structure both greatly increases complexity and cost of compliance as well as complexity and cost of enforcement. We believe the solution is to instead implement a purchasing/contracting provision that takes advantage of the sector’s use of contracted fuel purchasing, depot fueling, and fueling servicers.

We believe fleet-based bulk fuel procurement criteria in a contracting language and fleet fuel procurement model is both easier to implement and easier for the regulator to verify. CARB’s fleet survey indicated that the vast majority of fleets purchase fuel by contract, with exceptions appearing to be small fleets. We also suspect CARB staff agree as their analysis in the FSOR on the policy purpose of 2449(h)(10) notes;

*“Staff proposes to establish recordkeeping requirements specific to the RD requirements that are proposed to be added under these Proposed Amendments. This language requires each fleet to document its fuel purchases for each vehicle subject to the regulation in the fleet and requires the documents to demonstrate compliance with the proposed RD requirements. The language specifies that documentation **could include documents such as receipts of fuel purchases and fueling contracts.**”*

We agree with CARB staff analysis that fuel purchasing records and fueling contracts are the ideal ways to track fuel purchases and incorporation of renewable diesel use by a fleet. Trying to devise a system to trace which vehicles used which fuel is overly burdensome on industry and on enforcement staff. We also believe a bulk fuel purchase/fleet tracking system is the easiest way to measure supply chain disruptions that may impact availability.

In order to institute a fleet fuel procurement policy instead of an individual vehicle fuel purchase policy, we request that the renewable diesel mandate in 2449.1(f) Renewable Diesel Requirements and 2449 (h)10 be amended as follows.

*“f) Renewable Diesel Requirements*

*(1) Beginning January 1, 2024, all fleets subject to this regulation are required to place into their contracts or purchase orders for fuel to be used in equipment subject to this rule the following language, “This fuel is being purchased for use in Off-Road equipment subject to the State of California’s In-Use Off Road Diesel Regulation. This contract will provide the fleet or service the equipment with Renewable Diesel (use R99 or R100) unless such fuel is not available or suitable due to cold weather. Invoices and bills of lading shall specify the type of fuel delivered. If R99 or R100 fuels were not delivered, the reason for the failure to provide renewable diesel (availability or cold) shall be noted”, –renewable diesel in all their vehicles subject to this regulation, including rental equipment, when operating them in California, subject to the exemptions provided in section 2449.1(f)(2) below.*

*(2) The following fleets are exempt from the renewable diesel procurement requirements in section 2449.1(f)(1):*

*(A) Any fleet that is designated as a captive attainment area fleet, as described in section 2449(c)(6); and*

*(B) Any fleet that is comprised entirely of vehicles with Tier 4 final engines, model year 2010 or newer on-road engines, or zero-emission vehicles.*

*(3) Beginning January 1, 2025 all fleets subject to the renewable diesel procurement requirements will ~~if a portion of a fleet is unable to procure R99 or R100 renewable diesel through its normal refueling methods, where a fleet’s preference for a specific distributor or a specific brand is not considered a necessary component of its normal refueling method, those vehicles for which R99 or R100 renewable diesel could not~~*

~~be procured are not required to comply with Section 2449.1(f)(1) if the fleet maintain documentation, in accordance with the record keeping requirements described in section 2449(h), that includes:~~

~~(A) A description of the fleet's normal refueling methods, taking into account factors such as the location of the job site, storage site, and retail station refueling;~~

~~(B) A description of the fleet's attempts to obtain R99 or R100 renewable diesel and continued attempts to obtain R99 or R100 renewable diesel, at a minimum, on a quarterly basis or when vehicles move to a new job site; and~~

~~(C) Documentation showing the inability to procure R99 or R100 renewable diesel, such as communications from fuel providers, contract bids, or maps of refueling stations near a job site.~~

~~(4) Fleets that solely rent, and do not themselves operate, vehicles subject to this regulation to other entities must include language in their rental contract that the recipient of the rented vehicle (renter) must comply with the renewable diesel requirements in section 2449.1(f). Such fleets that include such language in their rental contracts will not be held liable if a rented vehicle under their ownership is not compliant with section 2449.1(f). If CARB has a good faith reason to believe that a fleet that rented a vehicle was not compliant with the renewable diesel requirements in section 2449.1(f), then the rental company must disclose the relevant, previous renter's company name and business contact information to CARB within 5 days of CARB's request.~~

In addition to the changes in regulatory obligation under 2449.1(f) one would also need to amend 2449(h)(10) to be consistent that we are not “documenting fuel purchases for each vehicle.”

P.55 2449(h) 10 (Recordkeeping Section)

~~(10) Renewable Diesel Procurement Usage – Each fleet must maintain document its fuel purchases for each vehicle subject to this regulation in their fleet, including rental vehicles, to demonstrate compliance with the renewable diesel performance requirements outlined in section 2449.1(f). Such documentation must include documentation that demonstrates compliance with section 2449.1(f)(1), which could include receipts of fuel purchases and fueling contracts. Each fleet owner shall maintain the records required under this provision for three calendar years from the date the transaction is completed. Fleets must also maintain records in accordance with section 2449.1(f)(3).~~

We believe this is a critical change that greatly improves the administrative ease of both complying with and enforcing the rule's renewable diesel use obligations. We recognize some work may be needed with renewable diesel manufacturers to clarify “cold weather” limitations

of such fuels to help define and constrain the cold weather option appropriately. We believe this provision has the strength to ensure that fleets contract to procure renewable diesel. We believe that the infant market will make supply difficult to predict for at least a few years, as LCFS drives diesel fuel availability changes within California and allowing for a procurement tracking provision will not only enable simpler recordkeeping and tracking but will accommodate the limited cold weather limitations one expects in California with such fuels.

### **Adding New Vehicles – CA Tier V – 2028 All Fleet Mandate - Remove**

We request that CARB completely strike the mandate to buy and add only California Tier V vehicles effective in 2028. CARB does not plan to bring a proposal for emissions standards to the Board until 2024, plans to begin implementing those standards in 2028, yet is including provisions for these unknown standards in the currently proposed regulation. The Board has already begun the regulatory process to set the criteria for Tier V and it is clear those obligations are significant and are likely to impact vehicle cost, availability, and potentially operational characteristics. As such, this language has potentially significant unanalyzed impacts.

Including the mandate within this rule is inappropriate as CARB is effectively separating the costs of implementing the 2028 standards on fleets in CA by adopting the mandate before the standard is set. As the emissions reductions of these yet-to-be-set thresholds cannot be quantified, the State cannot claim reductions towards our Clean Air Act obligations from them. According to CARB's regulatory website, the Tier V standards plan significant changes to regulation:

*“CARB staff is starting work on potential amendments to the off-road diesel engine standards, in what we are calling the Tier 5 rulemaking. The Tier 5 rulemaking aims to reduce oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM) emissions from new, off-road compression-ignition (CI) engines compared to what is allowed by today's Tier 4 final emission standards. It will likely include more stringent exhaust standards for all power categories, including those that do not currently utilize exhaust aftertreatment such as diesel particulate filters (DPFs) and selective catalytic reduction. As of model year 2020, more than half of all new off-road CI engine families continue to be certified in California to the Tier 4 final emission standards without DPFs.*

*Staff is considering possible elements to achieve NO<sub>x</sub> standards up to 90 percent more stringent, and PM standards up to 75 percent more stringent than today's Tier 4 standards. First-time carbon dioxide (CO<sub>2</sub>) emission standards for off-road engines may also be proposed. Other possible elements include enhancing in-use compliance, proposing more representative useful life periods, and developing a low load test cycle. Staff is also investigating first-time, off-road, on-board diagnostics*

*requirements and encouraging the development of zero-emission off-road equipment. Staff plans to bring a proposal to the Board in 2024, with implementation of the Tier 5 standards expected to begin in 2028.”*

As these Tier V regulatory activities become intertwined with this proposed rule, by inclusion within this rule, CARB must either wait to adopt the Tier V standards before adopting this rule so they can be analyzed for impacts within this rule, or adoption of this rule should proceed without inclusion of Tier 5 provisions (with the understanding that the rule can be amended in the future to incorporate a new mandate once the obligations can be analyzed).

In addition, this section places the State’s small and medium fleets on the same implementation timeline as large fleets for this unknown and significant change to emissions criteria. These fleets rely on used vehicle purchases to maintain competitiveness. Implementation as written denies these fleets the ability to make used vehicle purchases. No analysis of the competitive disadvantage this may place on entrepreneurial and small businesses has been provided. Ostensibly because such an analysis is impossible without knowing the what the standards will be. We do not believe CARB’s Off-Road Diesel regulation and Tier V standards can be separate regulatory activities if CARB intertwines them in policy before the Standard is set.

In effect, CARB is proposing that all fleets can only add new vehicles in 2028 through the adoption of Tier V standards. Yet the impacts of this requirement have not been analyzed since the standards have not been developed yet. We therefore request that section 2449(d)(6)(I) be stricken from the rule:

*“(I) Beginning January 1, 2028, for large, medium, and small fleets, a fleet may not add any model year 2028 or later engine or vehicle of any Tier to its fleet unless the engine is California-certified or certified to the California equivalent emission standards applicable to model year 2028 and later equipment. This requirement also applies to model year 2028 and later replacement engines produced under the provisions of 40 CFR §1068.240. Except as required or allowed by federal law, this requirement does not apply to new engines smaller than 175 horsepower that are used in construction equipment or vehicles, or used in farm equipment or vehicles.”*

### **Ban on Adding Vehicles – Tier IV Interim 2024 - delete**

it is no surprise that the Board would continue to move fleet composition through vehicle purchase requirements. What is surprising is how quickly Tier IV Interim vehicles are being limited. We would like to remind the Board that fleets are currently in a regulatory market for equipment. This regulatory market has already accelerated costs, increased turnover, decreased payback time on capital investment, and undoubtedly, therefore, increased prices on construction consumers.

The proposal to remove Tier IV interim vehicles from the used equipment market prematurely will accelerate the impacts already being felt by the construction industry. We know other commenters will be commenting that CARB needs to enable Tier IV interim being usable and addable to fleets for a longer period of time due to on equipment availability concerns. We think it may be helpful to remind the board how long the different Tiers of engine have been available using the Tier Chart;

Table 1. Off Road Compression - Ignition Diesel Engine Standards (NMHC + Nox/CO/PM in g/bhp hr.)

hp (kW)	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015+
≥ 50 (37)				N/A <sup>(b)</sup>						5.6 (7.5)				3.5 (4.7)					3.5		
< 75 (55.5)				6.9 (9.2)						3.7 (5.0)				3.7 (5.0)					3.7		
				N/A						0.30 (0.40)				0.22 <sup>(c)</sup>					0.02 <sup>(e)</sup>		
≥ 75 (55.5)				N/A <sup>(b)</sup>						5.6 (7.5)				3.5 (4.7)				0.14			0.14
< 100 (75)				6.9 (9.2)						3.7 (5.0)				3.7 (5.0)				2.5			0.29
				N/A						0.30 (0.40)				0.3				3.7			3.7
				N/A														0.01 <sup>(h,i)</sup>			0.01 <sup>(h)</sup>
≥ 100 (75)			N/A <sup>(b)</sup>						4.9 (6.6)					3.0(4.0)				0.14			0.14
< 175 (130) <sup>(g)</sup>			6.9 (9.2)						3.7 (5.0)					3.7 (5.0)				2.5			0.29
			N/A						0.22 (0.30)					0.22				3.7			3.7
			N/A															0.01 <sup>(h,i)</sup>			0.01 <sup>(h)</sup>
≥ 175 (130)		1.0 (1.3) <sup>(h)</sup>							4.9 (6.6)					3.0 (4.0)				0.14			0.14
< 300 (225) <sup>(g)</sup>		6.9 (9.2)							2.6 (3.5)					2.6 (3.5)				1.5			0.3
		8.5 (11.4)							0.15 (0.20)					0.15 <sup>(h)</sup>				2.6			2.6
		0.40 (0.54)																0.015 <sup>(h,i)</sup>			0.01 <sup>(h)</sup>
≥ 300 (225)		1.0 (1.3) <sup>(h)</sup>							4.8 (6.4)					3.0 (4.0)				0.14			0.14
< 600 (450) <sup>(g)</sup>		6.9 (9.2)							2.6 (3.5)					2.6 (3.5)				1.5			0.3
		8.5 (11.4)							0.15 (0.20)					0.15 <sup>(h)</sup>				2.6			2.6
		0.40 (0.54)																0.015 <sup>(h,i)</sup>			0.01 <sup>(h,i)</sup>
≥ 600 (450)		1.0 (1.3) <sup>(h)</sup>							4.8 (6.4)					3.0 (4.0)				0.14			0.14
≤ 750 (560) <sup>(g)</sup>		6.9 (9.2)							2.6 (3.5)					2.6 (3.5)				1.5			0.3
		8.5 (11.4)							0.15 (0.20)					0.15 <sup>(h)</sup>				2.6			2.6
		0.40 (0.54)																0.015 <sup>(h,i)</sup>			0.01 <sup>(h,i)</sup>
> 750 (560) <sup>(g)</sup>						1.0 (1.3) <sup>(h)</sup>								4.8 (6.4)				0.3			0.14
						6.9 (9.2)								2.6 (3.5)				2.6			2.6
						8.5 (11.4)								0.15 (0.20)				2.6			2.6
						0.40 (0.54)												0.07 <sup>(h)</sup>			0.03 <sup>(h)</sup>
> 750	Generators					1.0 (1.3) <sup>(h)</sup>								4.8 (6.4)				0.3			0.14
≤ 1207						6.9 (9.2)								2.6 (3.5)				2.6			0.5
						8.5 (11.4)								0.15 (0.20)				2.6			2.6
						0.40 (0.54)												0.07 <sup>(h)</sup>			0.02 <sup>(h)</sup>
> 1207	Generators					1.0 (1.3) <sup>(h)</sup>								4.8 (6.4)				0.3			0.14
						6.9 (9.2)								2.6 (3.5)				0.5			0.5
						8.5 (11.4)								0.15 (0.20)				2.6			2.6
						0.40 (0.54)												0.07 <sup>(h)</sup>			0.02 <sup>(h)</sup>

a. The PM standard for hand-start, air cooled, direct injection engines below 6 bhp may be delayed until 2010 and be set at 0.45 g/bhp-hr.  
 b. Standards given are NMHC/NOx/CO/PM in g/bhp-hr.  
 c. Engine families in the power category may alternately meet Tier 3 PM standards (0.3 g/bhp-hr) from 2008-2011 in exchange for introducing final PM standards in 2012.  
 d. The implementation schedule shown is the three-year alternate Nox approach. Other schedules are available.  
 e. Certain manufacturers have agreed to comply with these standards by 2005.  
 Note: This chart was converted into bhp units based on the chart at <http://www.arb.ca.gov/msprog/offroad/offroad.htm> 2/7/06.



On reviewing the chart, you will notice we are asking for equipment that was first manufactured in 2011 for the larger HP equipment in question and was produced for 3-4 years to be usable and addable to a fleet. We would also note that Tier IV equipment has been entering the marketplace for less than a decade. At the same time the State of California is developing significant and aggressive mitigation plans which anticipate significant additional construction activities to enable climate adaptation. These fleets are the work capacity to enable that adaptation and the implementation of CAPTI and 30X30 greenspace and urban improvements and coastal resiliency. The Great Adaptation is here. This off-road equipment is the enabler and worker of that adaptation; we need to have enough equipment to implement a massive re-engineering of human infrastructure. To help ensure used equipment availability we request CARB also strike 2449(d)(6)(E)&(F).

(E) Ban on adding Tier 4 interims — Beginning January 1, 2024, for large and medium fleets, and January 1, 2028, for small fleets, a fleet may not add a vehicle with a Tier 4 interim engine to its fleet. The engine tier must be Tier 4 final or higher.

(F) Ban on adding Tier 4 interims for fleets with 500 hp or less — A fleet that chooses to comply with the requirements of 2449(e)(16) is not subject to the small fleet Tier 4 interim vehicle adding provision in section 2449(d)(6)(E). Instead, beginning January 1, 2035, a fleet that chooses to comply with the requirements of 2449(e)(16) may not add a vehicle with a Tier 4 interim engine to its fleet.

We propose that CARB review the Tier IV Interim and above fleet population obligations and emergent technology along with the capacity of the sector to meet society’s construction needs concurrent with amendment of this rule to incorporate Tier V implementation at a future date. We have previously mentioned the importance of time in waiting for innovation. That is true in this area as well. Enabling Tier IV for just a bit longer creates more opportunity for new technologies and reduces continuing with combustion technologies and solutions.

### **Prime Contractor – Signage Provisions Clarity**

First, we want to thank board staff for meeting with us and taking a tour of a complex highway construction project to better understand the challenges of previous conceptual Prime Contractor provisions that thankfully did not make this proposed rule draft. We are very appreciative of the significant changes to the Prime Contractor recordkeeping and tracking provisions in the rule that likely resulted from this tour and other discussions with stakeholders. Moving from trying to track and verify compliance for subcontractor equipment on a project, to fleet certificate verification and reporting of known non-compliance is an important and beneficial change. It would have been an unworkable burden for the prime contractor and a hinderance to small and minority businesses to implement as previously envisioned.

The improvements to notification and tracking were important and should be maintained to ensure the functional ability to implement these rules. We also believe an 8-day timeframe prior to requiring notification posting is important to exempt small and short duration projects from the criteria. However, this provision is not obvious as we have received multiple concerns about having to provide notice/signage on brief projects. As such we would suggest this clarifying modification:

*“(5) The prime contractor shall prominently display signage, in lettering larger than size 14-point type, within 8 calendar days of a vehicle subject to this regulation operating at a job site. at each of the prime contractor’s job sites, and The signage will be displayed in a conspicuous place where notices to employees are customarily posted at the job site or where there is employee foot traffic. If one of the above locations is also viewable by the public, it should be posted at that location. The sign shall be posted by the eighth calendar day after the first day on which any vehicle subject to this regulation is operating at the job site. An*

exemption to this posting requirement is permitted if the operational time of a project is seven calendar days or less. The signage must include the following language, verbatim: “

We want to thank the Board and its staff for working with us on this important issue. We believe we have offered constructive solutions for how this regulation can be amended to be more effectively and efficiently implemented while achieving CARB’s objectives.

Respectfully,



Adam Harper  
Director of Environmental & Land Use Policy