

09-10-8  
Michael Lewis



December 8, 2009

**CONSTRUCTION INDUSTRY  
AIR QUALITY COALITION**

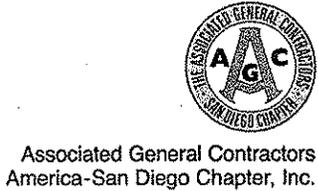
Coalition Members

Mary Nichols, Chairman and  
Members of the Board  
California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, California 95812



**RE: Recommendations for In-Use Off-Road Diesel Vehicles and On-Road Truck & Bus Regulations**

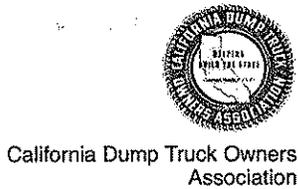
Dear Chairman Nichols and Board Members:



The Construction Industry Air Quality Coalition (CIAQC) appreciates the opportunity to comment on, and offer its recommendations for, the In-Use Off-Road Diesel Equipment (Off-Road Regulation) and On-Road Truck & Bus Regulation. CIAQC recognizes the need for the continued reduction of Particulate Matter, Oxides of Nitrogen and visible emissions from off-road diesel vehicles and trucks. CIAQC also recognizes that these regulations were developed at a time when the California economy was in a much different condition than it is today. The reduction in economic activity in California, and in the construction industry in particular is significant enough to warrant a reexamination of the Off-Road and Truck & Bus Regulations at this time.

CIAQC was formed in 1989 to promote the adoption and implementation of emission reduction measures that are cost-effective and efficient while minimizing unacceptable impacts on its construction and building industry members. The coalition is comprised of several major construction and building industry associations in California. These include the Associated General Contractors of California and San Diego, the Building Industry Association of Southern California, the Engineering Contractors Association, the Engineering and General Contractors Association, the Engineering & Utility Contractors Association, Southern California Contractors Association and the California Dump Truck Owners Association. Associate members include the California Construction and Industrial Materials Association and the California Rental Association. In all CIAQC represents several thousand member-companies throughout California.

The reduced economic activity of the construction industry is certain to have an impact on the emissions from the off-road equipment and on-road trucks operating in California. For the Off-Road Regulation, the picture has changed dramatically since 2006 when CARB staff compiled their original optimistic assumptions about the future of the industry, estimated then to grow each year.



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For on-road trucks that service and support the construction industry, the vehicle miles traveled have certainly decreased proportionally to the reduction in construction activity. Not only are the assumptions CARB relied upon when these regulations adopted way off base, but the framework of the existing rules go well beyond the economy in crippling the industry in California. We believe that significant and substantial relief is warranted given these facts.

Since the Off-Road Regulation was developed four years ago, 326,000 construction workers are now unemployed. CARB assumed that the construction fleet would only increase in size.

Emissions from construction activity have dropped dramatically. Operating Engineers' hours, those individuals that operate construction heavy duty equipment, are down over 28% beginning this year. Estimates that reduced hours will be even greater than this are projected through the end of this year. CARB never anticipated a downturn in the economy, a reduction in the size of the construction fleet or its capacity to emit.

CIAQC has heard from many of its contractor members that fleets of all sizes have parked more than 50% of their equipment since August of 2008. When equipment is not working it is not consuming fuel and it is not emitting. Staff never accounted for this condition in its original projections. Off-Road diesel fuel consumption used by contractors has declined dramatically. There is a correlation between operator unemployment, machine utilization and fuel consumption.

Recent off-road equipment registration data indicate that the construction fleet is significantly smaller and newer than CARB estimated it would be at this time. In November, CARB reported that almost 134,000 vehicles have registered statewide. This contrasts sharply with the April 2007 Technical Support Document for the Off-Road Regulation that projected 191,714 vehicles in 2009 and 194,727 in 2010. The reported data also indicate that a greater number of Tier 1 and newer machines make up this smaller inventory than originally estimated.

These conditions are not at all what ARB staff projected. Emissions are down substantially, based on fuel usage, hours of operation, employment and numbers of idled equipment and are not projected to increase anytime soon. Further, the fleet is smaller than projected, by a substantial margin and will likely continue to shrink. In addition, the fleet is reducing older equipment quicker and the percentage of newer equipment is increasing faster than CARB projected, putting the fleet ahead of CARB's projections for emissions reductions.

Given the smaller and newer California off-road fleet, there is little likelihood that a rapid improvement in the economy can produce a spike in emissions from the construction industry as the staff would have everyone believe, as older equipment is prohibited from re-entering the fleet.

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For these reasons, CARB should reexamine the Off-Road and Truck & Bus Regulations and the economic and emission impacts of the rules is warranted and necessary to maintain a healthy construction industry as well as a healthy environment.

CIAQC would like to thank the Board for its consideration on this important issue. We recognize that a lot of work and effort by your staff and the construction industry has already taken place. CIAQC and its members are willing to ensure that regulations of this magnitude and scope are technically and economically feasible, result in real emission reductions and do not destroy an industry that provides an essential service to the residents of California.

Please do not hesitate to contact me if you have any questions.

Sincerely,

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

Michael W. Lewis  
Senior Vice-President