



**CONSTRUCTION INDUSTRY  
AIR QUALITY COALITION**

Coalition Members



Associated General Contractors  
America-San Diego Chapter, Inc.



Building Industry Association  
of Southern California



California Dump Truck Owners  
Association



Engineering  
Contractors Association



Engineering & General  
Contractors Association



Engineering & Utility  
Contractors Association



Southern California  
Contractors Association

March 18, 2010

Mr. James Goldstene  
Executive Officer  
California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, California 95812

**RE: Comments on Executive Officers Hearing on the In-Use Off-Road Diesel Vehicle Regulation**

Dear Mr. Goldstene:

The Construction Industry Air Quality Coalition (CIAQC) welcomed the opportunity to participate in the Executive Officers' public Hearing March 11, 2010 on the In-Use Off-Road Diesel Equipment Regulation (Off-Road Regulation). The importance of the California Air Resources Board (CARB) examining the economic impacts of the recession on the construction industry and its ability to comply with the Off-Road Regulation cannot be overstated. The level of participation and first hand accounts at the Hearing demonstrate yet again that the construction industry is severely suffering from the ongoing recession afflicting the state and its ability to afford the significant capital requirements needed to comply with the regulation. Unfortunate too is that it appears that an economic recovery for the construction and building sector is distant and will be slow coming.

For these reasons, as an immediate action, CIAQC recommends that CARB delay implementation of the regulation for two years. This will give CARB the time to reanalyze the data that forms the basis of the regulation, determine to what extent emission reductions are needed from the off-road sector to meet State Implementation Plan requirements, and provide some relief for contractors struggling to find a way to stay in business.

CIAQC recognizes that the Off-Road regulation was 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 serious reexamination of the Off-Road Regulation. As a result of the economy and the requirements of the regulation, the size of the off-road fleet has diminished considerably over the last couple of years. Also important is that the emissions from off-road equipment inventory is much lower than it was expected to be when the regulation was developed.

2149 East Garvey Ave. North, Suite A-11, West Covina, CA 91791

Tel: 626 858 4611 Fax: 626 858 4610 e-mail: [ciaqc@uia.net](mailto:ciaqc@uia.net) [www.ciaqc.com](http://www.ciaqc.com)

Major Funding Provided by the Construction Industry Advancement Fund and the Fund for Construction Industry Advancement

March 18, 2010  
Mr. Goldstene  
Page Two

The reduced economic activity of the construction industry has made an impact on the emissions from off-road equipment as shown by the analysis of the Off-Road emissions model (OFFROAD2007) performed by Sierra Research for the Associated General Contractors of America. The economic picture has changed dramatically since 2006 when CARB staff compiled their original optimistic assumptions about the future of the industry which estimated then that the off-road fleet would grow each year thereafter. The fleet is smaller than initially projected and it appears that the baseline fuel usage data vastly overestimates emissions. We believe that significant and substantial relief is warranted given this.

Since the Off-Road Regulation was developed four years ago, 364,000 construction jobs have been lost and are now at a level roughly equal to what they were twelve years ago. The Operating Engineers Local #3, those that operate heavy-equipment, report that its members' hours have decreased by nearly 40 percent since 2006. CARB assumed however that the construction fleet would only increase in size. This inconsistency needs to be resolved.

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. CIAQC also believes that a significant number of pieces of equipment are designated as low-use. Low-use equipment needs to be removed from the off-road model to ensure that emissions from this equipment are not overestimated. CIAQC expects that the number of designated low use equipment will have grown substantially between March 1, 2009 and March 1, 2010.

When equipment is not working it is not consuming fuel and it is not emitting. The original projections never accounted for this condition. Off-Road diesel fuel consumption used by contractors has declined dramatically. There is a correlation between operator unemployment, machine utilization and fuel consumption and emissions.

Further Sierra Research has pointed out that research by Millstein and Harley (2009) comparing the OFFROAD2007 emissions to fuel-based emissions found, "California's OFFROAD model estimates are 4.5 and 3.1 times greater, for NOx and PM, respectively, than the fuel-based estimates developed here." The implication of this is that fuel use methods show that the OFFROAD2007 baseline inventory to be grossly overestimate. As a result the emission benefits estimated by CARB staff for the off-road regulation are similarly overestimated. This means that the cost-effectiveness ratio for the regulation on a cost per ton of pollutants reduced is likely much higher than estimated in 2007 and it provides much less air quality benefit per dollar spent that originally estimated.

Off-road equipment registration data collected thus far indicate that the construction fleet is significantly smaller and newer than CARB estimated it would be at this time. Recently it was reported approximately 144,000 vehicles have registered statewide. This is a sharp contrast to

March 18, 2010  
Mr. Goldstene  
Page Three

the April 2007 Technical Support Document for the Off-Road Regulation that projected there would be 194,727 vehicles in 2010. The recent data also indicate that a greater number of Tier 1 and newer machines make up this smaller inventory than originally estimated.

The economic outlook presented at the March 11 hearing does not present a rosy picture for the construction industry moving forward. The analysis performed by The Fermanian Business & Economic Institute for AGC America finds that total construction spending in 2009, including residential, nonresidential and public projects, has experienced a 60 percent drop from the prior peak. Compounding this loss is that the total construction spending rebound is estimated to only be two-thirds of the 2002-2006 levels by 2015.

Contractors and fleet owners that are able to apply reduced activity and retirement credits toward fleet compliance in 2010 and 2011 still face considerable fleet average or BACT requirements in 2012 and each year thereafter. Not all contractors will be able to utilize these credit provisions.

While these credit provisions might help some contractors in the near term, the economy and the prolonged recovery create an environment of very limited capital for equipment upgrades now and in the future. This has lead many equipment owners to conclude that the most likely way they will be able to comply with the regulation will be to continue to sell equipment and shrink their fleets. This will result in the additional loss of jobs.

These conditions are not at all what ARB staff projected in 2006. 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. Additionally older equipment is prohibited from returning to the fleet.

The California fleet is reducing older equipment quicker and the percentage of newer equipment is increasing faster than CARB projected. This puts the off-road 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. With a prolonged economic recovery, this becomes even less likely.

For these reasons, CARB should reexamine the Off-Road Regulation and the economic and emission impacts of the regulation are warranted and necessary to maintain a healthy construction industry as well as a healthy environment. CIAQC believes a two-year delay will allow CARB the time necessary to reexamine the Off-Road Regulation and its model as well position the

March 18, 2010  
Mr. Goldstene  
Page Four

construction industry so that it can prepare for the availability of Tier 4 powered equipment beginning 2014.

CIAQC would like to thank CARB for conducting the Hearing and the Board for its consideration on this important issue. CIAQC knows 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 the Off-Road Regulation is technically and economically feasible and results in real emission reductions without destroying 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, reading "Michael W. Lewis". The signature is written in a cursive, flowing style.

Michael W. Lewis  
Senior Vice-President