



December 13, 2010

Via Electronic Submission

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

Mary Nichols,  
Chairman  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

**Re: Proposed Amendments to Regulation for In-Use Off-Road Diesel-Fueled Fleets**

Dear Chairman Nichols and Board Members:

On behalf of the Construction Industry Air Quality Coalition (CIAQC), the following comments are in response to the California Air Resources Board (CARB) Notice for Public Hearing to Consider Proposed Amendments to the Regulations for In-Use Off-Road Diesel-Fueled Fleets (Off-Road Regulation).

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.

Since the beginning, CIAQC has been actively involved in CARB's process to plan, develop, implement and later update the Off-Road Regulation. CIAQC and its members have spent considerable time and resources to determine how the regulation's fleet averages and Best Available Control Technology (BACT) requirements will impact contractors and fleet owners, and develop and offer our own recommendations to avoid unnecessary costs and overly burdensome measures.

The proposed amendments to the Off-Road will move the regulation in the right direction. The changes will provide additional time before equipment and engine turnover and retrofit requirements must be met. The amendments

will also reduce the BACT percentage for fleet horsepower if fleet averages are not achieved and remove the requirement to retrofit equipment with diesel particulate filters, and allow their installation at the discretion of the equipment owners. While these and other proposed changes will help reduce the near term compliance costs, the regulation will continue to be a heavy economic burden on the industry.

Overall, CIAQC supports the proposed amendments because they will help reduce compliance costs for an industry that continues to be battered by the economic downturn. There are however a few additional changes to the regulation CIAQC recommends that should be considered that would go further to help the equipment owners and fleets comply with the regulation. These recommendations would reduce costs further and prevent future regulatory uncertainties without increasing emissions. Below are our recommendations.

### **Proposed Requirement for Equipment Identification Numbers Creates Unnecessary Regulatory Costs**

CARB is proposing that Equipment identification numbers (EINs) must be affixed to both sides of equipment. This requirement would create an unnecessary industry-wide cost without a corresponding reduction in emissions. Estimates are that EIN decals or stickers cost approximately \$5.00 a piece to purchase, excluding shipping and the administrative expenses to apply them to each piece of equipment. For a large fleet with equipment at many job site locations, or such as with a rental fleet with 1,000 machines, the cost for the decals alone would approach \$5,000. The expense of distributing the stickers to each of the rental company's locations throughout California, and providing manpower to affix the stickers either in the field or when the vehicle is returned to the rental yard is estimated to be an additional \$15,000. During these difficult economic times and very limited resources, no company wants to spend in excess of \$20,000 to accomplish this task, especially if there is no emission reduction benefit. Using the CARB estimate of 132,000 machines registered in Diesel-Off Road On-Line Reporting System (DOORS), the cost to owners will in excess of \$2.6 million. The cost of this requirement statewide is unfounded and should not be pursued.

### **Engines Less Than 50 Horsepower Should be Exempt from the Rule**

Engines less than 50 horsepower should be exempt from the rule. Engines less than 50 horsepower represent a small percentage of the overall number of off-road pieces of equipment in inventory, and occupy an even smaller portion (approximately 4.3 percent) of the total overall California fleet horsepower. During a workshop on the proposed amendments, CARB staff indicated that it needed to provide special dispensation for fleets less than 500 horsepower because the staff time required to help very small fleets was essentially the same as for large

fleets and was not an efficient use of CARB's limited resources. Similar logic can and should be applied to engines smaller than 50 horsepower. The effort required by fleets to document, report and come up with compliance options, including engine temperature data logging, is essentially the same regardless of whether an engine is 25 horsepower or 1,000 horsepower; and this logic extends to time it takes CARB to ensure compliance with these very small engines as well.

Consider the following DOORS data (2010).

Engine HP	Avg Engine Age	% of All Engines	% of All HP
25-49	2000.5	15.5	4.3
50-99	1997.5	41.7	23.0
100-200	1999.0	24.1	24.8
201+	1997.9	18.7	47.9
All	1998.4	100.0	100.0

In total, similar to CARB's conclusion on fleets with less than 500 horsepower, the time and expense from regulating equipment less than 50 horsepower does not exist. Finally, smaller horsepower engines on average turn over more quickly than larger ones, further negating the need to include them in the regulation.

#### **Clarification on Reported Max and Net Horsepower is Needed**

CARB needs to establish a method to determine a standard for the maximum horsepower of each engine model type and year reported in the DOORS. The possibility that net engine horsepower, rather than maximum engine horsepower, is inadvertently reported is great enough that irregularities for similar engine model types and years already exist in the DOORS database. The difference between the net and maximum engine horsepower of even a single engine can vary enough to potentially affect the size category of a fleet, the calculated fleet average or BACT requirements a fleet must achieve. For fleets that report engine data in good faith, not only could a violation occur for this type of a reporting error, but it could cause a fleet to play 'catch-up' to higher compliance standards in a sudden, unplanned and expensive manner. This concern is not theoretical as a recent review of the DOORS data reveals that identically similar equipment and engines have been reported with different horsepower levels.

#### **CARB Should Allow First Year Compliance for Large Fleets that Achieved the 2010 Fleet Averages**

CARB should allow first year compliance (January 1, 2014) for large fleets that achieved the March 1, 2010 fleet averages. The proposed changes would allow fleets that accumulated enough credits to exceed the eight percent BACT requirements by March 1, 2010 to receive the one-year extension, but not if the fleet averages were met. Perhaps this inconsistency is an oversight, or if not, simply does not make sense. Fleets that achieved the regulation's goals should be treated equally.

It appears CARB understood this point as the August 2010 draft version of the regulation allowed the extension for fleets that met both fleet averages or accumulated enough credits to meet the BACT requirements on March 1, 2010. The October 2010 Initial Statement of Reasons (ISOR) still reflects this approach even though the currently proposed rule language does not:

***f) Delay Requirements for Fleets That Complied in 2010***

**Proposed Change:** Staff proposes to remove the 2014 requirements for large fleets that came into compliance with the regulation's performance requirements by March 1, 2010. This provision would recognize the effort of **fleets that met the 2010 fleet averages** or accumulated enough credits to meet the March 1, 2010 BACT requirements (emphasis added). Such fleets would not be required to meet the 2014 fleet average or use their credits to comply with the BACT requirements in 2014 (therefore preserving their credits to be used in later years).

For these reasons, CIAQC recommends that CARB provide full credit to all large fleets that met compliance requirements on March 1, 2010.

**The SOON Program Should Be Voluntary and Made Consistent with the Off-Road Regulation**

CIAQC has maintained all along that the SOON Program should be voluntary for all fleets, not just those under 20,000 horsepower. Compliance with the SOON program goes beyond the requirements of the Off-Road Regulation and places an extra burden on fleets that must participate in the program. The costs to a fleet to 'carry' or 'count' SOON funded equipment at an emission level that is greater than the actual replacement equipment emission levels, results in additional costs to a fleet because it must accelerate other compliance steps to satisfy the regulation's requirements. For this reason, the SOON program should be voluntary and funded equipment should be removed from the fleet for compliance purposes until the end of the contract period.

In conclusion, CIAQC would like to thank the Board and its staff for working with our coalition during the continued development of this regulation. We recognize the hard work and effort by your staff and the construction industry that has taken place over the last several years. As we

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have stated before, we stand ready and willing to see through to the end that a regulation of this scope, importance and magnitude is technically and economically feasible, results in real emission reductions and does 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,

Michael W. Lewis

A handwritten signature in black ink that reads "Michael W. Lewis". The signature is written in a cursive, flowing style with a large initial 'M' and 'L'.

Senior Vice-President  
Construction Industry Air Quality Coalition