



June 3, 2011

Coalition Members



Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, California 95814

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

Dear Clerk of the Board:



The following comments on the California Air Resources Board (CARB) 15-Day Notice for Proposed Amendments to the Regulation for the In-use On-Road Diesel-Fueled Vehicles (Truck and Bus Regulation) are submitted on behalf of the Construction Industry Air Quality Coalition (CIAQC). CIAQC appreciates the direction of the CARB Board to its staff in December 2010 to provide a Low Mileage Construction Truck provision in the Truck and Bus Regulation. The following comments would improve the draft proposal and bring in to alignment the intent of the Board.



Definition of Low Mileage Construction Truck

The proposed definition of a Low Mileage Construction Truck includes "A truck with a gross vehicle weight rating greater than 26,000 pounds that travels less than 15,000 miles per calendar year and is a concrete mixer truck, truck with a concrete placing boom, a water tank truck, a single engine crane with a load rating of 35 tons or more, a tractor that exclusively pulls a low-boy trailer, or a truck owned by a company that holds a valid license issued by the California Contractors State License Board."



The last section of this definition that a truck owned by a company that holds a valid license issued by the California Contractors State License Board is too restrictive and will preclude the participation of some companies whose sole business is tied directly and exclusively to construction. For example, many companies that rent off-road construction equipment do not necessarily have contractor licenses. They do not perform work that requires a contractor's license, so they do not qualify for one. There are also construction companies (that possess a contractor's license) that have a separate subsidiary company that owns the off-road equipment and on-road truck assets used in its business. The equipment is rented back to its affiliate construction company or on occasion can be rented to other contractors. In this case the company that owns the equipment and vehicle assets would not meet the requirements for a contractor's license. This company would not satisfy the definition for low



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mileage construction truck definition and many of its trucks could be unnecessarily excluded from the extension.

CIAQC recommends that the definition for low mileage construction truck be revised to include companies whose business exists only to support the construction industry. CIAQC has provided CARB staff several concepts that could allow non-contractor licensed construction companies the ability to participate in the extension for low mileage construction trucks and thus fulfill the Board's direction to provide relief during this severe economic crisis. However, the concepts have not been incorporated in the proposed regulation and CIAQC believes it is incumbent on staff to continue to find a solution.

Exchange of Excess Credits Between the Truck and Bus and Off-Road Regulations

CIAQC applauds CARB for incorporating its recommendation to allow excess credits earned for one regulation to be applied toward compliance for the other under certain conditions as provided in section 2025(j)(2)(C). Section 2025(j)(2)(C)(1) specifies how the excessive PM credits are applied between the two regulations. This section should be amended to clarify that the unit of credit exchange between the regulations is horsepower.

The reason for this recommendation is that the PM Best Available Control Technology (BACT) requirements for the Truck and Bus Regulation is based on the number of vehicles and the PM BACT requirements (and thus credits) for the Off-Road Regulation is based on horsepower. A unit of horsepower would provide that the exchange of credits would be on an equal bases between the two regulations. This could be accomplished by inserting the following underlined text into this portion of section 2025(j)(2)(C)(1) "The annual excess PM VDECS credits are determined by counting the number of Level 3 PM VDECS filters and 2007 model year and newer engines that meet PM BACT in the fleet that exceed the minimum number required to meet the PM BACT percentage of section 2025(i) multiplied by the horsepower of engines in those vehicles that exceed the minimum number without accounting for the credits specified in sections 2025(j)(2)(A), and 2025(j)(3)."

In addition, section 2025(j)(2)(C)(2) should be modified to clarify what constitutes excess PM VDECS credit. This modification needs to clarify that PM VDECS installed on off-road equipment prior to the first compliance dates, January 1, 2014 for large fleets, January 1, 2017 for medium fleets and January 1, 2019 for small fleets, would qualify as excess credits for use in meeting the Truck and Bus Regulation PM BACT requirements.

To avoid potential confusion regarding the expiration date for utilizing excess PM VDECS credits between the two regulations, section 2025(j)(2)(C) could be amended as follows, "For the

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same owner, excess PM VDECS credits granted in the Off-road regulation (title 13, CCR section 2449) may be used in the Truck and Bus regulation and excess PM VDECS credits granted in the Truck and Bus regulation may be used in the Off-road regulation to meet BACT requirements up to and including the January 1, 2016 compliance date until January 1, 2017. Starting with the January 1, 2017 compliance date no credits may be transferred between the two regulations."

Also the excess Off-Road PM BACT credits available to apply toward compliance of the Truck and Bus Regulation should be allowed to be used with both the phase-in and the straight BACT compliance options.

Credit for Early Retrofit

CIAQC supports credits that serve as an incentive for the early installation of emission reduction technologies, i.e. PM VDECS. However we have two concerns with the amendments for early retrofit credits as proposed.

The first concern relates to the information provided in News Release #11-13 issued April 6, 2011 that states "ARB announces special compliance option for California on-road diesel fleets Purchase of particulate filter by May 1 earns early action credit for another truck in fleet." The news release includes the following paragraphs:

"The early action "buy-one-get-one-free" credit applies to heavier trucks with a manufacturers gross vehicle weight rating of more than 26,000 lbs. There is no limit on how many trucks in the fleet can earn the early action credit."

"Fleets that install a particulate matter filter by July 1, 2011, will get the early action credit. Fleets that have made the commitment to purchase by May 1 and install the PM filter after July 1, 2011, will still receive early action credit. In addition, the vehicle that is retrofitted would also be compliant until 2020 regardless of engine model year. Extra particulate filter credits are not available for filters installed to comply with other pre-existing ARB regulations or, if partially paid for by public funding."

This information did not state that the early action credit would only apply to the phase-in compliance option and not also the PM BACT, as the May 19, 2011 proposed amendments specify. The April 2011 news release is misleading and the two-for-one credits should be available without limitations for both compliance paths.

The inconsistent application of early action credits as described in the April 6, 2011 news release and the May 19, 2011 proposed amendments also underscores that additional time should be

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given to receive credits for the purchase and installation of PM VDECS. The official 15-day proposed amendments were released on May 19, 2011. Until this time, the changes to the Truck and Bus Regulation were uncertain. VDECS installations are capital intensive and the decision to purchase VDECS for early credit purposes were likely postponed until the rule language was available. For this reason, the deadlines to receive credit for early PM VDECS should be extended commensurate with the five-month time frame between the amended rule adoption and the release the amendments. The early credit deadline for installing a VDECS is July 1, 2011. The early credit deadline for purchased VDECS is May 1, 2011, and the deadline to install the purchased VDECS is October 1, 2011. The July 1 and May 1, 2011 dates should be extended at least by five months to keep the incentive for early credits viable and useable.

Excessive Reporting Requirement for Added Vehicles

The requirement found in section 2025(o)(2) that an existing fleet must report within 30 days to the Executive Officer each time a vehicle is added is unnecessary and overly burdensome. This section could be modified, while ensuring compliance, with the following change, "If an existing fleet does not meet the requirements of section 2025(f) or 2025(g) when a vehicle is added to the fleet, the owner must file a report with the Executive Officer that demonstrates how the requirements of 2025(o)(2)(C)(1) and 2025(o)(2)(C)(2) will be met within 30 days of the addition of the vehicle."

Clarification for section 2025(p)(2)(D)

CIAQC requests clarification for section 2025(p)(2)(D). It is unclear how this provision would work in practice and how it provides any benefits. Please clarify this section and provide an example of what this provision is intended to accomplish the benefit it provides.

Lastly CIAQC recommends that the reporting requirements be clarified and simplified. That would help prevent unnecessary reporting violations for companies that are in compliance with the regulation.

CIAQC appreciates the opportunity to provide comments on the proposed amendments to the Truck and Bus Regulation. We believe these recommendations will provide the maximum flexibility and participation and fulfill the intent of the CARB Board. Please do not hesitate to contact me if you have any questions or would like additional information.

Sincerely,



Senior Vice-President