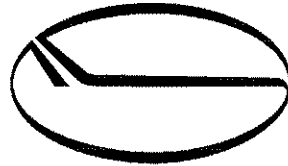


10-4-2

Timothy Pohle



Air Transport Association

April 22, 2010

**BY HAND DELIVERY**

California Air Resources Board  
c/o Clerk of the Board  
1001 I. Street  
Sacramento, California 95814  
<http://www.arb.ca.gov/lispub/comm/bclist.php>

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

Dear California Air Resources Board:

I write on behalf of the Air Transport Association of America, Inc. (ATA) to provide comments in response to the "Notice Of Public Meeting to Give An Update Regarding The Regulation for In-Use Off-Road Diesel Vehicles And The In-Use Onroad Diesel Vehicle Regulation," issued by the California Air Resources Board (ARB) on April 12, 2010.<sup>1</sup> ATA is the principal trade and service organization of the U.S. airline industry, and ATA's airline members and their affiliates transport more than 90 percent of all U.S. airline passenger and cargo traffic.<sup>2</sup> ATA frequently comments on regulatory activities that affect the airline industry and the safety and efficiency of air travel in the United States. ATA has provided comments to ARB in response to prior notices concerning the ORD Rule and its amendments, and comments to EPA concerning whether the ORD Rule should be authorized under the federal Clean Air Act, 42 U.S.C. § 7543(e).

Most recently, ATA submitted written comments to the Executive Officer on March 18, 2010, discussing the impacts of the economic downturn and other changed circumstances that warrant further revisions to the ORD Rule. Those comments are attached as Exhibit A, and are incorporated herein by reference.

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<sup>1</sup> Posted at <http://www.arb.ca.gov/regact/nonreg/inuseoffroad10.pdf>.

<sup>2</sup> The members of the Association are: ABX Air, AirTran Airways, Alaska Airlines, American Airlines, ASTAR Air Cargo, Atlas Air, Continental Airlines, Delta Air Lines, Evergreen International Airlines, Federal Express Corporation, Hawaiian Airlines, JetBlue Airways, Southwest Airlines, United Airlines, UPS Airlines, and US Airways; associate members are: Air Canada, Air Jamaica, and Mexicana.

While airport ground support equipment (GSE) represent less than 1% of the off-road diesel equipment regulated by the Rule, as detailed in ATA's previous comments, GSE are critical for aviation. Overall, the aviation industry has achieved dramatic reductions in emissions over the past few decades, primarily through improvements in fuel efficiency. At the national level, EPA reports that greenhouse gas (GHG) emissions from commercial aviation in 2008 are **10% below** 1990 levels.<sup>3</sup> Our record in California is even more impressive – your agency's inventory of GHG emissions reports commercial aviation emissions included in the state's inventory (from intrastate operations) were **26% below** 1990 levels as of 2006; if interstate and international emissions are included, the inventory shows emissions are **down 11%** over the same period (1990-2006). We note that these California figures do not reflect the massive economic downturn that has occurred since 2006. Even while *reducing* total emissions, aviation has continued to *increase* its contribution to the economy. Overall, aviation drives about 4.6 percent of California's GDP and 5.2% of employment<sup>4</sup> and transports about half of the state's exports (by value).

ATA reiterates its support for ARB's overall air quality and emission reduction goals for the equipment regulated by the ORD Rule. From the ORD Rule's inception, we have worked to provide constructive input and to cooperate with ARB staff, in the hopes of developing a more workable rule. We look forward to continuing to work closely with ARB staff through the workshop process over the coming weeks, to develop an alternative approach for achieving those goals that is more efficient and less burdensome than the approach taken in the ORD Rule as currently written.

As discussed in the attached March 18 comments, various changes in circumstances since the original adoption of the ORD Rule in 2007 warrant further revisions. Specifically:

- **Emissions are Much Lower Than Projected.** At the same time as it has reduced the resources available to fleets to invest in compliance measures, as with construction activity the economic downturn has reduced GSE activity and associated emissions levels far below those ARB anticipated when it adopted the ORD Rule. (Only a portion of these reductions are credited under the recent ORD Rule amendments

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<sup>3</sup> See, EPA, *Inventory of U.S. Greenhouse gas Emissions and Sinks: 1990-2008* (April 15, 2010), Table A-107 at p. A-131, available at: <http://www.epa.gov/climatechange/emissions/usinventoryreport.html>. See also p. 3-13 ("CO2 from the domestic operation of commercial aircraft decreased by 10 percent (13.2 Tg) from 1990 to 2008 in large part because of the economic recession in 2008. Additionally, commercial aircraft have substantially improved operational efficiency because of a growing percentage of seats occupied per flight, improvements in the fuel efficiency of new aircraft, and the accelerated retirement of older, less fuel efficient aircraft.")

<sup>4</sup> See, e.g., FAA, *The Economic Impact of Civil Aviation by State*, available at: [http://www.faa.gov/air\\_traffic/publications/reports/economic\\_impact\\_map/media/FAA\\_Economic\\_Impact\\_Rpt\\_2009\\_ca.pdf](http://www.faa.gov/air_traffic/publications/reports/economic_impact_map/media/FAA_Economic_Impact_Rpt_2009_ca.pdf).

implementing the AB 8 2X legislation). Accordingly, the near-term emission reductions sought through the ORD Rule have already been achieved.

- **The OFFROAD Model Overstated the Emissions Benefits of the ORD Rule.** In addition, a recent Berkeley study has confirmed that ARB's emissions model overestimates the amount of emissions from off-road equipment -- including GSE. The marginal additional emission reductions to be achieved by the ORD Rule approach was substantially overstated. Millstein & Harley, "Revised Estimates of Construction Activity and Emissions, Effects on Ozone and Elemental Carbon Concentrations in Southern California," Atmospheric Environment, 2009.
- **VDECS Have Proven to be Even More Problematic and Costly to Install Than Anticipated by ARB.** The current ORD Rule approach assumed broad availability of feasible and cost-effective Verified Diesel Emission Control Systems (VDECS) retrofits for existing vehicles. However, ARB demonstration projects have illustrated ongoing VDECS feasibility issues, including hazards caused by visibility impairments, and fires. Our members have made significant efforts to attempt to solve the myriad technical feasibility problems associated with installing Level 3 VDECS into GSE, only to confirm that this is not a practical compliance option for GSE.
- **The SOON Program Remains Problematic.** We remain concerned about the mandatory SOON program, which is substantively and legally flawed.<sup>5</sup> Moreover, because installation of additional control measures is required under the SOON for certain fleets (with only a partial financial contribution from the local air district), like the remainder of the ORD Rule, the SOON program requires EPA authorization under the federal Clean Air Act. At a minimum, ARB should explicitly clarify that the SOON program will not be implemented without EPA authorization.

ATA looks forward to continuing to work with ARB staff to evaluate alternative approaches for achieving our shared air quality improvement goals, with a fraction of the burden on economic activity in California.

Please contact me at 202-626-4216 if you have any questions or would like additional information in connection with any of the points raised in these comments.

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<sup>5</sup> See Letter from T. Pohle to ARB, dated March 6, 2008, at pages 4-9. Available at: [http://www.arb.ca.gov/lists/ordiesl07/1244-2008-03-06\\_ata\\_second\\_15-day\\_comments\\_re\\_ord\\_rule.pdf](http://www.arb.ca.gov/lists/ordiesl07/1244-2008-03-06_ata_second_15-day_comments_re_ord_rule.pdf).

California Air Resources Board  
April 22, 2010  
Page 4

Sincerely,

A handwritten signature in black ink, appearing to read "Tim", with a large, stylized initial "T" and "P" that loops together.

Timothy Pohle  
Managing Director – U.S. Environmental Affairs  
& Assistant General Counsel  
Air Transport Association of America, Inc.