American Road & Transportation Builders Association

TRANSPORTATION MAKES AMERICA WORK!

July 25, 2007

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

Re: California Air Resources Board Proposed Regulation for In-Use Off-Road Diesel Vehicles

To Whom It May Concern:

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer the following comments on the California Air Resources Board's (ARB's) proposed regulations for in-use off-road diesel vehicles aimed at reducing emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx).

ARTBA's membership includes public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects throughout the country. Our industry generates more than $200 billion annually in U.S. economic activity and sustains more than 2.2 million American jobs. ARTBA's many California members rely heavily on off-road construction equipment to perform core business functions and would be directly impacted by ARB's proposed regulation.

ARTBA is very supportive ARB's goal of reducing PM and NOx emissions. However, before implementing additional regulations to accomplish this goal, ARTBA urges ARB to examine some of the progress already being made in California and the nation. Using the state-sponsored Carl Moyer diesel retrofit grant program over the past five years in Southern California alone, the construction industry has replaced more than 1,000 high polluting engines, resulting in a reduction of more than 3,787 tons of pollution every year. Also, air quality is improving nationwide, as evidenced by the United States Environmental Protection Agency (EPA). Earlier this year, EPA reported a decline in the overall concentration level of NOx of 41 percent since 1980 while levels of PM have declined by 30 percent (PM_{10}) and 17 percent ($PM_{2.5}$) since 1990[1].

Further, the ARB must recognize reductions in PM and NOx levels will occur as a direct result of existing federal regulations. Dramatic improvements in emissions levels will

[1] U.S. EPA, Air Emissions Trends – Continued Progress through 2006, available at: http://www.epa.gov/air/airtrends/econ-emissions.html.

PRIDE In Transportation Construction

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come beginning this year from implementation of recently enacted regulations on sulfur levels in gasoline, as well as measures affecting heavy-duty diesel engines and highway vehicles. In fact, regulations took effect in 2006 requiring refiners to meet a 30-parts per million (ppm) average sulfur level for gasoline with a cap of 80-ppm. This fuel will enable vehicles to use emissions controls which are projected to reduce tailpipe emissions of NOx by 77 percent from passenger cars and as much as 95 percent for pickup trucks, vans and sports utility vehicles. When fully implemented, these regulations are expected to have the effect of removing 164 million cars from our nation's roadways.[2]

In addition, the United States Environmental Protection Agency (EPA) will continue implementation of its rule to make heavy-duty trucks and buses run cleaner. Beginning with the current model year, pollution from heavy-duty highway vehicles will be reduced by more than 90 percent[3], resulting in an additional reduction in NOx levels of 2.6 million tons per year. EPA will also begin implementation this year of its rule to regulate emissions from nonroad diesel engines by integrating engine and fuel controls as a system to gain the greatest emission reductions. In response, engine manufacturers are expected to produce engines with advanced emission-control technologies similar to those upcoming for highway trucks and buses. Exhaust emissions from these engines are estimated to decrease by more than 90 percent.[4] This is estimated to result in an additional reduction of 738 thousand tons of NOx per year.

There are a number of initiatives in both California and the entire United States to reduce PM and NOx emissions. Singling out construction equipment when other comprehensive efforts are having proven success is premature and may, in fact, be unnecessary.

ARTBA also has serious concerns regarding the specifics and feasibility of ARB's proposed off-road diesel rule. If implemented as presently drafted, the ARB proposal would have a profound, negative impact on California's infrastructure rebuilding efforts, the health of the state's construction industry, and its overall economy. ARB's proposal, as currently written, requires the use of technology not available for purchase until 2014. ARB must allow technology to catch-up to its regulatory goals by allowing industry more time to develop equipment clean enough to meet the standards proposed in its regulation.

While many of California's larger construction companies have already begun the process of repowering or retrofitting their fleets in anticipation of these regulations, the smaller companies with less than five employees, which make up more than 55 percent of California's industry, will be severely hampered by the costs of repowering or retrofitting equipment that, in some cases, are the sole assets of their family-owned businesses. Additionally, many of these companies simply do not have the resources or access to

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[2] United States Federal Highway Administration, *Transportation Air Quality Selected Facts and Figures*, p. 36 (2006).

[3] EPA Heavy Duty Highway Diesel Program, information available at http://www.epa.gov/otaq/highway-diesel/index.htm.

[4] EPA Clean Air Nonroad Diesel Rule, information available at http://www.epa.gov/nonroad-diesel/2004fr/420f04032.htm.

capital to repower or retrofit their engines with little advanced notice and may be forced to park the equipment, ultimately costing jobs and revenue to the state's economy.

Under the annual emission reduction targets required under ARB's proposal, many contractors will be required to first re-power or retrofit an engine, only to have to turn around a few years later and replace the entire piece of equipment when the technology to do the job right finally hits the marketplace. The total industry-wide cost of implementing these proposed rules is estimated to be upward of $13 billion.

These rules will also significantly reduce the buying power of the historic $43 billion infrastructure bonds the people of California approved last November. Due to the enormous expense of replacing this equipment—in some cases more than $1 million for each machine—the cost of construction projects will likely increase. This means fewer roads, schools, housing and levees will be built and the pace at which these projects can be completed will be significantly slowed.

A viable alternative to ARB's regulation has been presented by the Coalition to Build a Cleaner California (CBCC). This proposal would result in the same emissions reductions goals as ARB's regulation, but would do so on a timetable feasible for those most directly affected—California's construction industry. CBCC's proposal recognizes the flexibility required in order for construction firms of all sizes to meet necessary retrofitting targets and puts forward a timetable that will allow the industry to implement new technologies without placing public health and safety, as well as California's economy, at risk. ARTBA strongly urges ARB to seriously consider CBCC's proposal.

ARTBA looks forward to continuing to work with ARB in helping to achieve a cleaner environment through the continuation of proven technological and regulatory efforts.

Sincerely,

T. Peter Ruane

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President & C.E.O