



American Rental Association

April 18, 2007

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The Honorable Robert F. Sawyer, Ph.D.
Chairman
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Dr. Sawyer:

I am writing on behalf of the American Rental Association (ARA) and the members of our California affiliate, the ARA of California. The purpose of my letter is to voice a concern prompted by ARB Executive Officer Catherine Witherspoon's, "*Notice of Public Hearing to Consider the Adoption of a Proposed Regulation for In-Use Off-Road Diesel Vehicles*", for the May 24, 2007 Board Meeting. Ms. Witherspoon, (page 4) in discussing the merits of the proposed off-road mobile in-use vehicle rule, counsels the Board that "the proposed rule is currently not sufficient to demonstrate full attainment of the federal PM2.5 standard by 2014. As a consequence, the Board may consider whether the proposal can be strengthened - either at the May 24-25 public hearing or at a subsequent meeting".

ARA will not support any regulation brought to the Board that is open-ended in terms of mandatory emissions reductions.

Moreover, in presentations made by Kurt Karperos (Item 07-3-2) titled "*Board Update 2007/2008 State Implementation Plan*" at the March 22, 2007 meeting and the subsequent SIP planning meeting at the El Monte on April 12, 2007, Mr. Karperos indicated that it might not be possible for the South Coast AQMD to demonstrate attainment of the PM2.5 standard by 2015 as required. Based upon modeling, the South Coast *might* require additional NO_x reductions over and above those currently being codified. At the same time, ARB Staff have indicated that the proposal for mobile off-road vehicles represents the optimal NO_x removal strategy considering the timing of the introduction of Tier 4 equipment. In the *In-Use Off-Road Diesel Vehicle ISOR*, ARB Staff states that the "proposed regulation represents the economic limit of what industry could bear, and any further emission reduction requirements would likely require financial incentives".

The emission reduction target proposed by ARB Staff for diesel construction equipment is 10.5 tons per day in the South Coast in 2014. The benefits of the In-Use Off-Road Diesel Vehicle rule increase substantially by 2020. For the South Coast, current SIP planning suggests a 74 tons per day shortfall of NO_x reductions in 2014. Assuming \$10,000/ton of NO_x, the South Coast additional cost would amount to \$270MM annually. This is greater than the average annual \$243MM statewide cost for the entire In-Use Off-Road Diesel Vehicle regulation proposed by ARB. South Coast AQMD Staff has suggested that fleet turnover could be accelerated to achieve more reductions. In fact, as a part of their optimization process, ARB Staff has relaxed the BACT turnover requirement prior to 2015 from 10% to 8% of the fleet.

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For these reasons, we do not support any further "strengthening" of the off-road diesel regulations and encourage the Board to take some final action on this Rule at the May 24th meeting.

If additional emissions reductions are needed, the taxpayers should purchase them. These incentives should be opened to the entire diesel fleet and key stationary sources in the South Coast in a separate rule-making that minimizes the cost to the taxpayers of the State. Because it will take an act of the state legislature and approval of the governor, the process of committing incentive funds would substantially delay implementation of command and control regulations currently in development. If ARB Staff is correct, imposing any additional NO_x requirements on the off-road diesel equipment fleet could be more expensive than for other options because the requirement would be sub-optimal.

Emission modeling and air quality measurements are not in agreement with regards to South Coast attainment. Modeling shows a much lower sensitivity to NO_x removal than actual measurements. Because of the tremendous cost of additional NO_x reductions in the South Coast, it is imperative that the modeling response of PM2.5 to NO_x be in agreement with fact to the greatest degree possible. It is not even clear that imposing stricter NO_x regulations is the best approach for the South Coast. Based upon the required submittal date for the PM2.5 plan, the South Coast plan can be fine tuned until April 2008. ARB Staff has also indicated that there might be other strategies to reaching attainment in the South Coast. One possibility suggested by ARB Staff might be targeting direct PM2.5 emissions in and around monitors that are likely to show a failure of the standard. ARB Staff has not reported the cost for such an approach.

The Board should direct Staff to explore the various possibilities for attainment in the South Coast and find the plan that produces attainment at the minimum cost. The "Black Box Emission Reductions" should be funded by the State.

We are opposed to any further rule changes that create multiple regions for NO_x control in the State. There is already a proposal to allow off-road mobile fleets operating exclusively in attainment counties to avoid NO_x controls. Similarly, there is a proposal to allow small businesses operating small fleets to be exempt from NO_x controls. Since many ARA members operate throughout the State and may move equipment across district lines, a solution specific to the South Coast could put those companies at a competitive disadvantage.

The Board should only approve a statewide program.

The American Rental Association has been involved in good faith rule-making processes regarding off and on-road diesel equipment. We have been reasonably supportive of the process to date, even with the late change that incorporated mandatory NO_x reductions after affected industries were repeatedly told that all NO_x reductions would be a result of the mandatory diesel PM reductions. No industry wants to be regulated. However, it is clear that the in-use, off-road regulations will be finalized. Our industry expects that any regulation provides assurance that we can implement a long-term business plan that accommodates the regulation. An open-ended regulation provides no such assurance. If the final rule is open-ended with respect to NO_x emissions, we will not be able to support it and we will have to investigate the possibility of seeking legislative or legal relief.

I would appreciate a response prior to the May 24th board meeting. Thank you for your consideration.

Sincerely,



John W. McClelland, Ph.D.