Larry
Jacinto Construction
MENTONE BEACH

PO Box 615
Mentone, CA 92359
Phone (909) 794-215
Fax (909) 794-4901

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Dear CARB Board Members,

I deeply appreciate the CARB members taking the time hear our voice. We remain extremely concerned with the In-use Off-Road Regulation compounded with the economic crisis that not only the state of California, but the entire Country is currently experiencing. We would again like to exemplify our core concerns and recommendations with the hope you can share this information with the Board staff for review and consideration.

We, and the vast majority of operators, realize something has to be done to reduce pollution from our equipment, and many of us have taken advantage of programs such as the Moyer program to reduce our emissions prior to the regulation. The issue at hand is not if the Regulation should be, but rather the process and approach to accomplish it in the end.

In today's economic crisis I feel there is a need to adjust the In-use Off-Road Regulation. Today's owners simply cannot afford to repower or retrofit their equipment. In our industry we have already seen many of our peers have to literally shut their doors due to the economy. Those of us fortunate to still be working are struggling with that alone –"to be working". Repower and retrofits are expensive , even with grants, to acquire a loan to bring a machine into compliance only to have it parked at the yard is as near as impossible as impossible can be. When companies are struggling to produce enough revenue to stay in business, let alone taking on more debt on a loan that the banks can't provide, we need assistance to meet the requirements of the regulation.

Reduced emissions-that is the ultimate goal. If the Board was to measure the emission factors today and compare them to those of 3 years ago, I believe they would find that the emission reductions have been met for the first initial years of the Regulation due to the number of parked, sold out of state, and scrapped machines in all the fleets across the state of California. Simply put poor economy= no work, no work= no revenue, no revenue= no income to pay for compliance solutions; however no work does equal lower emissions. I know I've heard it 10 times if I've heard a 100 times "the lower emissions we are experiencing due to parked equipment are temporary….. Exactly so let's temporarily postpone the Regulation at least 2 years. I base this on every economic forecast I have seen, states that the economy will not start to recover for three years at the earliest. In addition, when the economy does recover the construction industry would never return to the peak levels of 2002-2006 because much of that boom was funded by the subprime mortgages. Of course I believe there should be stipulations with the regulation delay that would benefit both fleet owners and the regulation itself.

Here is my proposal:

1. all fleets must still register by March of 2009, this would give the Board and agencies an opportunity to get a count on all machines within their districts
2. no fleet would be able to add any Tier 0 or Tier I to their fleet unless for the purpose of repower
3. any fleet credits received for early repowers-retrofits would carry over to the new compliance date-(i.e. a large fleet was compliant @ the original date of March 1 2009 through March 2012 due to early repower credits and the new postponed date was March 2011 they would still be entitled to those 3 years of credits carrying that fleets compliance out to March 2014)
4. bring back Moyer grants for all fleets. This would stimulate more repowers, as opposed to the "SOON' PROGRAM" in which the owner cannot benefit from the repower or retrofit until the contract life is completed (7 yrs.)
5. modify the "shrinking fleet provision"= Rather than requiring fleets to retire a percentage of their fleet in order to receive early retirement credits, let them retire machines on an individual basis. Modifying this would reduce the number of fleets sandbagging machines until the March 1st compliance date for turnover. Owners could sell, scrap, or retire equipment immediately and receive credits. This would not only help fleets meet their compliance objectives, it would generate additional revenue to assist with possible repower-retrofit projects that would further reduce emissions.

We believe by doing these actions we all could achieve our objectives. This would allow the agencies to get there feet wet... With knowledge of the number of machines in each district and to come up with strategies to monitor and policing programs. One of the biggest problems fleets are facing is the availability of verified DPFs or should I say lack of availibity. The postponement will allow time for technology to catch up to the demands of the Regulation for compliance; furthermore more manufactures would have a verified product. Simply stated, more manufactures with verified products means more competition which brings the pricing down, instead of a few manufactures, with a verified product charging inflated prices.

As a side bar I would like to discuss the SOON program briefly, since it will require mandatory enrollment for some fleets, I would suggest the following:

"SOON" states that if you are a 20,000hp fleet with 40% of your fleet Tier 0 or Tier I combined (vehicle count) it is mandatory that you enroll. If you are selected SOON pays for 85% / owner 15% for the cost of the project, similar to the Moyer program, however SCAQMD receives 100% of the emission reductions for the life of the contract (7 yrs) In retrospect I cannot use the reduction for my fleet average for 7 years; I might not even have the machine in my fleet for that long of a period. I believe the contract period should be shortened to 3-5 years and if the fleet owner is to pay 15% of the project cost they should be entitled to use 15% of the reduction into their fleet average for the life of the contract.

In closing I would like to say, whether we like it or not we are all in this together. We run equipment that emits air pollution that needs to be reduced. CARB and the local districts have an obligation to develop a regulation to accomplish that goal. We, our families, friends and co-workers all breathe the same air and understand the need for regulation. However, as we all know, we are in extra ordinary economic times and we need to take responsibility for the environment as well. In order to accomplish this, we as owners, need assistance to obtain our responsibility to reduce emissions from our equipment as per the requirements of the regulation.

We again appreciate your interest in our concerns.

Sincerely,

Douglas Straw
Larry Jacinto Construction, Inc.
dstraw@ljacinto.com
909-208-2095

I made a very quick cut at trying to compare ARB's activity projections it used in the rule (staff report) with actual construction activity. I pulled the ARB activity level projections directly out of staff report(Appendix E, Figure 3). For the actual I used Construction Industry Research Board (CIRB) data.

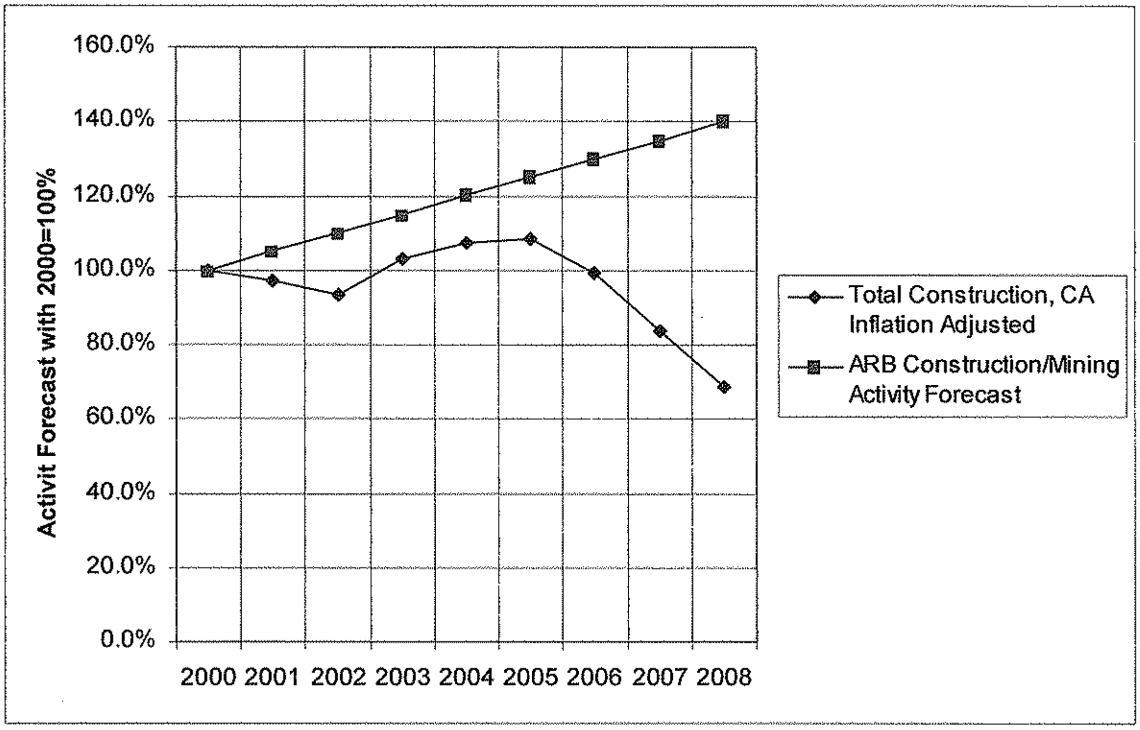
The CIRB gives total statewide dollars spent on:

New housing construction
New commercial / industrial construction
Public works construction
Per year from 1980 to 2008

ARB uses a 2000 baseyear, so I summed the construction dollars
Each year from 2000-2008.

Note: CIRB says the data are inflated adjusted. I then set the year 2000 dollars equal to one.

Comparison
Actual Construction Activity with ARB Projected Activity



<u>References</u>

Constructions Industry Research Board, "California Public Works Construction, Public Buildings and Heavy Construction," October 20, 2008; and "California Construction Review, Private Building Construction, September 23, 2008." Construction dollars were inflation adjust to 2007 dollars.

ARB, In-Use Off-Road Rule Staff Report, Appendix E, Emissions Inventory Methodology and Results, Figure 3.

<u>Notes</u>

(1) ARB uses 2000 as the base year for its activity forecasts.
(2) The CIRB actual activity for 2008 contained projections for the remainder of 2008.