

Final Statement of Reasons for Rulemaking
Including Summary of Comments and Agency Responses

**PUBLIC HEARING TO CONSIDER PROPOSED REGULATION ORDER: AIRBORNE
TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL MOTOR
VEHICLE IDLING**

Public Hearing Date: July 22, 2004
Agenda Item Number: 04-7-3

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER PROPOSED REGULATION ORDER:
AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL
MOTOR VEHICLE IDLING

Public Hearing Date: July 22, 2004
Agenda Item No.: 04-7-3

I. GENERAL

The Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report) entitled Airborne Toxic Control Measure to Limit Diesel-fueled Commercial Motor Vehicle Idling, released June 4, 2004, is incorporated by reference herein.

A. Description of Board Action

At a public hearing on July 22, 2004, the Air Resources Board (the "Board" or ARB) considered and unanimously adopted Resolution 04-23 adopting the Airborne Toxic Control Measure (ATCM or regulation hereafter) to Limit Diesel-fueled Commercial Motor Vehicle Idling, with staff's proposed modifications. As part of its regulatory action, the Board directed staff to:

- 1) revise the regulation as per proposed modifications;
- 2) report in 2005 on the implementation and compliance status of the ATCM or regulation hereafter; and
- 3) explore the development of additional regulation(s) that would expand idling limits to commercial vehicles equipped with sleeper berths.

The Board approved the ATCM as a new section 2485 within Chapter 10 - Mobile Source Operational Controls, Article 1 - Motor Vehicles, Division 3. Air Resources Board, title 13, California Code of Regulations (CCR). The purpose of the ATCM or regulation hereafter is to reduce the public's exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TACs) emitted during nonessential idling of diesel-fueled commercial motor vehicles in California.

B. Modifications to the Original Proposal

At the hearing, the staff presented, and the Board approved, modifications proposed in response to comments received during the public comment period that began on

June 4, 2004, and ended at the hearing on July 22, 2004. These modifications were explained in detail in the Notice of Public Availability of Modified Text that was issued for a 15-day public comment period that began on August 20, 2004, and ended on September 7, 2004. In order to provide a complete Final Statement of Reasons for this rulemaking, the modifications are also explained below:

Amend the ATCM to remove the January 1, 2009 idling restriction for trucks equipped with sleeper berths that limits the operation of the main engine or diesel-fueled auxiliary power system (APS) during sleeping or resting periods.

In accordance with the Board's directive, the idling restriction for trucks equipped with sleeper berths that limits the operation of the main engine or diesel-fueled auxiliary power system (APS) during rest periods was modified to remove the January 1, 2009 implementation date. This limitation, though, remains in effect when trucks, including those with sleeper berths, are operating within 100 feet of a restricted area. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address the idling of trucks and APS operations during periods of rest.

Establish an ATCM effective date of January 1, 2005.

The effective date of the ATCM or regulation hereafter is subject to completion of the Office of Administrative Law (OAL) process. This includes the completion of the Final Statement of Reasons (FSOR), which addresses the modifications made to the original proposal, summary of comments received during the 45-day Public Hearing Period, the Day of the Hearing, and the 15-day Public Comment Period along with the agency response. The staff anticipates that the process will be completed in time for the January 1, 2005 implementation date.

Clarify that the ATCM applies to buses, including transit, charter, and coach, by revising the definition of "commercial motor vehicle."

The definition of "Bus" in section (h)(3), Definitions, was modified to include the California Code, Vehicle Code Section 233.

In Vehicle Code, Section 233, a bus is defined as:

- (a) Except as provided in subdivision (b) a bus is any vehicle, including a trailer bus, designed, used, or maintained for carrying more than 15 persons including the driver.
- (b) A vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, is also a bus.
- (c) This section does not alter the definition of a school bus, school pupil activity bus, general public paratransit vehicle, farm labor vehicle, or youth bus.
- (d) A vanpool vehicle is not a bus.

The definition of "Commercial Motor Vehicle" in modified section (h)(4), Definitions, is based on Vehicle Code section 15210(b) and includes any vehicle or combination of vehicles that requires a class A or B commercial driver's license or a class C driver's license with certain endorsements. The definition also includes any motor truck or bus with a gross vehicle weight rating of 10,001 pounds or more.

Clarify that the ATCM applies to both California and Non-California based vehicles.

Section (b), Applicability, was modified to specifically include:

- (1) California based vehicles and
- (2) Non-California based vehicles.

While the original language did express that the regulation applies to both California and non-California-based vehicles when operating in California, the Board agreed that clarification was appropriate to provide better notice to affected drivers, especially those driving non-California-based vehicles into California. Further, since the emissions inventory is weighted toward California-based vehicles, and since no part of the remainder of the regulation depends on regulating both categories of based vehicles, the Board clearly intends that any successful challenge to the non-California-based portion of the regulation would not affect, and is severable from, the remainder of the regulation.

Clarify that the ATCM idling restrictions do not apply while positioning equipment.

The ARB staff acknowledges, and the Board agreed that a crane or vacuum truck often requires several moves to get into proper position for safe operation. The positioning may take longer than the 5 minute idling limit specified by the regulation. The driver must often times physically get out of the vehicle to ascertain proper positioning of the equipment, check the footing, and ensure safe operating conditions. Hence staff believes that these vehicles should be exempt from complying with the requirements of this regulation while positioning.

Therefore, subsection (c)(8), Exceptions, of the ATCM was modified to include positioning of equipment.

Amend the ATCM to allow unrestricted idling of military tactical vehicles during periods of training.

During training, the military requires individuals to train as they fight or simulate as closely as possible combat conditions. The ARB staff acknowledges, and the Board agrees the need to allow unrestricted idling during these training periods.

As directed by the Board, Subsection (c)(11), Exceptions, of the ATCM was added to exempt all military tactical vehicles during periods of training.

Clarify that the ATCM idling restrictions do not apply when idling is necessary to operate equipment such as a wheelchair or people assisted lift as prescribed by the Americans with Disabilities Act.

The ARB staff acknowledges, and the Board agreed that for certain types of vehicles, power take-off (PTO) from the main engine is necessary to operate retractable wheelchair lifts, ramps, and other people assisted loading equipment. Idling longer than 5 minutes may be necessary to ensure proper operation and safety for the completion of passenger loading.

Hence, subsection (c)(12), Exceptions, of the ATCM was added to permit idling when operating equipment such as wheelchairs, or people assisted lifts as prescribed by the Americans with Disabilities Act.

Clarify that the ATCM idling restrictions do not apply when operating the mixer drum of a ready mix concrete truck.

The ARB staff recognizes, and the Board agreed that ready mix concrete trucks idle to operate the PTO for the mixer drum rotation to prevent the concrete from solidifying or causing significant damage to the quality and integrity of the product. Hardening of the concrete would result in significant monetary losses to the truck carrier as well as loss to the customer. These vehicles cannot comply with the idling provisions of this regulation. Ready mix concrete trucks are not subject to the requirements of this regulation while operating the PTO for mixer drum rotation.

For clarity, subsection (c)(8)(A), Exceptions, of the ATCM was modified to include mixers such as ready mix concrete trucks.

Clarify that the ATCM idling restrictions do not apply during collection of solid waste or recyclable materials by an entity authorized by contract, license, or permit by a school or local government.

The ARB staff recognizes, and the Board agreed that idling is necessary to accomplish the work for which the vehicle was designed. For example: powering of the hydraulics is necessary to pick-up, compact and dump, refuse and recyclable material. In addition, idling may be necessary at times when the driver of the solid waste collection vehicle has to physically get out of the vehicle to gain access to the garbage and recycle cans that may be located in narrow alleys.

Subsection (c)(8)(C), Exceptions, of the ATCM was added to include collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government. This provision would make it clear that solid waste and recyclable collection vehicles are not subject to this regulation, while performing work functions for which the vehicle was designed.

C. Cross-References in the Regulation

The ATCM includes the following specific cross-references to other statutes and regulations in order to avoid an unnecessarily lengthy and repetitious regulatory text:

Section 2480 (e) Relationship to Other Law

- (e)(1) - section 22515, Vehicle Code
- (e)(2) - section 2480, title 13, California Code of Regulations
- (e)(2) - section 40720, California Health and Safety Code

Section 2485 (f) Enforcement - sections 830 et seq., Penal Code

Section 2485 (h) Definitions

- (h)(1) - Section 165, Vehicle Code
- (h)(3) - Section 233, Vehicle Code
- (h)(4) - Sections 15210(b), and 471, Vehicle Code
- (h)(5) - Section 305, Vehicle Code
- (h)(6) - Section 350, Vehicle Code
- (h)(7) - Section 360, Vehicle Code
- (h)(10) - Section 440, Vehicle Code
- (h)(11) - Section 445, Vehicle Code
- (h)(12) - Section 460, Vehicle Code
- (h)(17) - Title 13, CCR, Section 1265
- (h)(18) - Section 670, Vehicle Code

The ATCM also indirectly cross-references any applicable ordinance, rule or requirement as stringent as, or more stringent than this ATCM.

Generally, affected drivers, motor carriers, and enforcement personnel are familiar with the provisions and definitions cross-referenced in the ATCM.

D. Fiscal Impact for School Districts and Local Agencies

Section 2480, title 13, California Code of Regulations, limits school bus idling and idling at schools in a manner more stringent than this regulation does, hence this regulatory action will not result in a mandate for school districts, regional transit agencies, and other local public agencies that operate commercial motor vehicles at or within 100 feet of schools. At a distance greater than 100 feet from a school, the idling restrictions of this regulation would apply to vehicles operated by regional transit agencies, and other local public agencies, with the exceptions in subsection (d), though again school buses already face such restrictions under Section 2480.

This regulatory action will result in a mandate to regional transit agencies and other local public agencies that operate commercial motor vehicles at other locations. However, the Board finds that any costs associated with such mandate are not reimbursable pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, because, pursuant to section 17566 of the Government Code, private sector transportation and other businesses would be subject to the same

requirements and costs as school districts, regional transit agencies, and other local public agencies.

E. Consideration of Alternatives

Alternatives considered to this regulatory action included: no action, installation of add-on devices, and reliance on voluntary programs. The Board determined that no alternative considered by the agency or that was otherwise identified and brought to the Board's attention would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

II. SUMMARY OF COMMENTS AND AGENCY RESPONSES

The Board received written and oral comments in connection with the public comment period for the Proposed ATCM that began on June 4, 2004, and ended at the hearing on July 22, 2004. The Board also received written comments during the 15-day Public Comment Period for the modified regulatory language that began August 20, 2004 and ended September 7, 2004. Persons that commented on the Proposed ATCM or the modified regulatory language are listed below. Following each list of commenters is a summary of, and response to, each objection, comment, concern, or recommendation. The response is an explanation of either the change made as a result of an objection or recommendation, or the reasons for making no change.

A. Comments Received During the 45-Day Public Comment Period and During the Board Hearing

List of commenters that submitted written or oral comments in connection with the 45-day comment period, and the July 22, 2004 Board hearing.

<u>Abbreviation</u>	<u>Commenter</u>
ALA-CA	Bonnie Holmes-Gen, Assistant VP, Government Relations American Lung Association of California Written Comment: July 19, 2004
ANL	Linda L. Gaines, Ph.D. Argonne National Laboratory Written Comment: June 8, 2004
ASP	Paul Cummings, Director Asthma Start Program Written Testimony: July 22, 2004

ATA	<p>Mike Tunnel, Director, Environmental Affairs American Trucking Association Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
BAAQMD	<p>Joe Steinberg, Senior Planner Bay Area Air Quality Management District Written Comment: June 16, 2004</p> <p>Jack Broadbent, Executive Officer / APCO Bay Area Air Quality Management District Written Comment: July 19, 2004</p>
BN	<p>Russell Long, Executive Director Bluewater Network Written Comment: July 19, 2004</p>
BAPSR	<p>Robert M. Could, M.D., President San Francisco Bay Area Physicians for Social Responsibility Written Comment: July 19, 2004</p>
CCA	<p>Todd Campbell, Policy Director Coalition for Clean Air Written Comment: July 19, 2004</p>
CAFA	<p>Diane Estrin, Director, State Coordinating Office Community Action to Fight Asthma Written Comment: July 19, 2004 Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
CA-ETC	<p>David Modisette, Executive Director California Electric Transportation Coalition Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
CBE	<p>A.J. Napolis, Program Director Communities for a Better Environment Written Comment: July 19, 2004</p> <p>Adrienne Bloch, Staff Attorney Communities for a Better Environment Written Testimony: July 22, 2004</p>

CF	Linda McElver, President Canaries Foundation Written Comment: July 3, 2004
CAPCOA	Larry Greene, President California Air Pollution Control Officer's Association Written Testimony: July 12, 2004
CA-ERA	Joseph K. Lyou, Ph.D., Executive Director California Environmental Rights Alliance Written Comment: July 19, 2004 Oral Testimony: July 22, 2004
CA-CAT	Jane Williams, Executive Director California Communities Against Toxics Written Comment: July 19, 2004 Oral Testimony: July 22, 2004
CDI	Goro Mitchell, Executive Director Community Development Institute Written Testimony: July 22, 2004
CHI	Johnny White, Co-Chair Community Health Initiative Written Testimony: July 22, 2004
CFC	Sean Edgar, Executive Director Clean Fleets Coalition Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004
CLA	Gretchen Hardison, Air Quality Director City of Los Angeles Environmental Affairs Department Written Comment: June 29, 2004
CEC	William J. Keese, Chairman California Energy Commission Written Comment: July 15, 2004
CCEEB	Robert Lucas California Council for Environmental and Economic Balance Written Comment: July 14, 2004

CNG

Lieutenant Colonel Kenneth F. Selover, Director
Environmental Programs
Department of the Army and the Air Force
Written Comment: July 8, 2004
Written Comment: July 21, 2004
Oral Testimony: July 22, 2004
Written Testimony: July 22, 2004

Gerald F. Owens
Chief, Western Regional Environmental Office
US Army Environmental Center
Written Comment: July 21, 2004

CC

Tom K. Koutsoulis
Concerned Citizen
Written Comment: June 17, 2004

Eric Gallardo
Concerned Citizen
Written Comment: June 24, 2004

Izzy Shapiro
Concerned Citizen
Written Comment: July 15, 2004

Rick & Jeannie
Concerned Citizen
Written Comment: June 28, 2004

Peter Kokkinis
Concerned Citizen
Written Comment: June 17, 2004

Eleanor Oths Barr
Concerned Citizen
Written Testimony: July 22, 2004

Tori Hemingson
Concerned Citizen
Written Testimony: July 22, 2004

Grace Phillips
Concerned Citizen
Written Testimony: July 22, 2004

	<p>Rod Barr Concerned Citizen Written Testimony: July 22, 2004</p>
CTA	<p>Stephanie Williams, Senior Vice President California Trucking Association Written Testimony: July 22, 2004</p>
	<p>Staci Heaton California Trucking Association Oral Testimony: July 22, 2004</p>
ELF	<p>Alise Cappel, Staff Scientist Environmental Law Foundation Written Comment: July 19, 2004 Written Testimony: July 22, 2004</p>
EMA	<p>Lisa A. Stegink Engine Manufacturers Association Written Comment: July 16, 2004 Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
	<p>Jed R. Mandel Engine Manufacturers Association Written Comment: July 16, 2004 Written Testimony: July 22, 2004</p>
FTO	<p>Hazel Matlin Family of Truck Driver Written Testimony: June 23, 2004</p>
	<p>Sandi DeVore Family of Truck Owner Written Testimony: June 25, 2004</p>
	<p>Peggy/Tom Sipes Family of Truck Owner Written Testimony: June 23, 2004</p>
GH	<p>Steven T. Wallauch Greyhound Lines Inc. Written Comment: July 16, 2004 Oral Testimony: July 22, 2004</p>

IA	<p>Bob Wilson IdleAire Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
NRDC	<p>Diane Bailey, Staff Scientist Natural Resources Defense Council Written Comment: July 19, 2004 Oral Testimony: July 22, 2004</p>
OCEF	<p>Marcie Kever, Staff Attorney & Equal Justice Works Fellow Our Children's Earth Foundation Written Comment: July 19, 2004</p>
PI	<p>Meena Palaniappan, Program Director Pacifica Institute, Fanta Kamakate Written Testimony: July 22, 2004</p> <p>Margaret Gordon, WO EIP Committee Pacific Institute Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
PPI	<p>Peter Rooney Pony Pack, Inc. Oral Testimony: July 22, 2004</p>
RT	<p>Kathryn Phillips, Senior Policy Advisor Renewable Technologies Written Comment: July 19, 2004</p>
RAMP	<p>Anne Kelsey Lamb, Director Regional Asthma Management & Prevention Initiative Written Comment: July 19, 2004 Written Testimony: July 22, 2004</p> <p>Joel Ervice Regional Asthma Management & Prevention Initiative Written Testimony: July 22, 2004</p>
SAC	<p>Shamar Parsad Solano Asthma Coalition Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>

	<p>Susan White Solano Asthma Coalition Oral Testimony: July 22, 2004 Written Testimony: July 22, 2004</p>
SC	<p>V. John White, Special Representative Sierra Club Written Comment: July 19, 2004</p>
SCAQMD	<p>Barry R. Wallerstein, D. Env., Executive Officer South Coast Air Quality Management District Written Comment: July 16, 2004</p>
SCRMCA	<p>Frank Petronzio Southern California Ready Mix Concrete Association Written Comment: July 21, 2004 Oral Testimony: July 22, 2004</p>
SEG	<p>Ron Freud Social Equity Group Written Comment: July 16, 2004</p>
SDRAC	<p>Joni Low San Diego Regional Asthma Coalition Oral Testimony: July 22, 2004</p>
TJWG	<p>Lila Hussein, Coordinator Transportation Justice Working Group of the Social Equity Caucus Written Testimony: July 22, 2004</p>
TMA	<p>Robert M. Clarke, President Truck Manufacturers Association Written Comment: July 20, 2004</p>
TO	<p>Kurt Miller Truck Owner Oral Testimony: July 22, 2004</p>
TSDEF	<p>David Schonbrunn, President Transportation Solutions Defense and Education Fund Written Testimony: July 19, 2004</p>
UCS	<p>Don Anair, Clean Vehicles Engineer Union of Concerned Scientists Written Comment: July 19, 2004</p>

Patricia Monahan
Union of Concerned Scientists
Oral Testimony: July 22, 2004

UH Bhavna Shamasunder
Environmental Health and Justice Program Associate
Urban Habitat
Written Testimony: July 22, 2004

WOEIPC Brian Beveridge, Co-Chair
West Oakland Enviro Indicators Project Committee
Written Testimony: July 22, 2004

WOEIP Brian Beveridge, Co-Chair
West Oakland Environmental Indicators Project
Written Comment: July 19, 2004

WCTC Henry Clark, Ph.D.
West County Toxics Coalition
Written Comment: July 19, 2004

**B. Written Comments Received During the 15-Day Comment Period in
Response to the Notice of Public Availability of the Modified Text of the
Regulation**

List of commenters who submitted written comments in response to the 15-day notice of the public availability of the modified text of the regulation, from August 20 through September 7, 2004.

Abbreviation

Commenter

CAFA Rebecca Flourney, Senior Associate
Community Action to Fight Asthma
Written Comments: September 3, 2004

CC Bev Long
Concerned Citizen
Written Testimony: August 23, 2004

Martin Van Dyne
Concerned Citizen
Written Testimony: August 23, 2004

CCEEB	Robert W. Lucas California Council for Environmental and Economic Balance Written Comments: September 7, 2004
CF	Linda J. McElver, President Canaries Foundation, Inc. Written Testimony: August 21, 2004
CMAC	Linda A. Falasco, Executive Director Construction Materials Association of California Written Comments: August 26, 2004
CNG	Lieutenant Colonel Kenneth F. Selover, Director Environmental Programs, Department of the Army and the Air Force Written comments: September 7, 2004
EMA	Lisa A. Stegink Engine Manufacturers Association Written Comments: September 7, 2004
TK	Betty-Jane Kirwan Latham and Watkins, LLP for Thermo-King Written Testimony: September 7, 2004
SMAQMD	Larry Greene, Air Pollution Control Officer Sacramento Metropolitan Air Quality Management District Written Testimony: August 16, 2004

1. Support the Idling Regulation

1.1 Comment: Several commenters (specified below) recommended that the Board adopt the ATCM because it provides health-protection by reducing exposure to diesel PM and other TACs in diesel-fueled commercial motor vehicle and bus exhaust. [PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI, CC, SDRAC, C-ERA, SAC, NRDC, CCAT, CAFA, CTA, EMA, SCRMCA, IA, CNG, TO, CFC, CETC, GH, ATA, CLA, CF, CAPCOA, SCAQMD, SEG, CEC, BAAQMD].

Agency Response: At a public hearing on July 22, 2004, the Board unanimously approved the ATCM and staff's proposed modifications. This ATCM or regulation hereafter, reduces public exposure to diesel particulate matter (diesel PM) emitted during nonessential idling of diesel-fueled commercial motor vehicles in California [proposed ATCM: Section 2485, title 13, California Code of Regulations (CCR)]. It applies to diesel-fueled commercial vehicles with gross vehicular weight greater than 10,000 pounds and includes both California based and non-California-based vehicles. For the year 2005, staff estimated the unregulated PM emissions to be 208 tons and the NOx at 6,573 tons. With the regulation in place, staff estimates yearly reductions in emissions starting in 2005 will be 166 tons of PM and 5,239 tons of NOx.

2. Alternative Fuel/Dual Fuel Engines

2.1 Comment: Section 2485(b), Applicability, indicates that this rule applies only to diesel-fueled commercial motor vehicles. Please clarify that dedicated alternative fueled vehicles will not be covered by this rule. [CLA]

Agency Response: For the purposes of this regulation, alternative fuel/dual fuel engines that use diesel fuel during any part of their operating cycle are considered "diesel-fueled" and must comply with the requirements of this regulation. Vehicles with engines that do not use diesel fuel during any part of their running cycle are not subject to the provisions of this ATCM.

2.2 Comment: Provide an exemption in the ATCM for vehicles with dual-fuel engines to allow these vehicles to idle longer (10 minutes maximum) to ensure the engine will operate on the desired dual-fuel mode before departure. [CLA]

Agency Response: No change was made in response to this request. The ARB staff believes that a 10-minute idling time for dual-fuel engines that utilize diesel is not needed. These engines start exclusively in the diesel-fuel mode and automatically switch to an alternative fuel upon reaching a specific coolant temperature. Idling of vehicles to achieve the temperature necessary to operate in dual-fuel mode is not an economic or efficient way to operate the engine. Operating temperatures can be reached faster during regular driving. Furthermore, manufacturers of these engines do

not recommend operating dual-fuel engines any differently than conventional diesel-fueled engines.

3. Applicability

3.1 Comment: We encourage ARB to move forward quickly on the regulation for Sleeper cabs, particularly in communities that are heavily impacted.

[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI]

Agency Response: As directed by the Board, the ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

3.2 Comment: Remove exception for idling due to queuing.

[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI]

Agency Response: No change was made in response to this request. The focus of this regulation lies in operator control. Queuing is often not under operator control for a multitude of reasons (i.e. loads are not ready on time, traffic conditions, lack of coordination with distributors etc.). Methods for restricting queuing do not universally apply for all situations. Even though queuing may be a source of excess emissions at their respective locations, further investigation and public outreach is needed to adequately address this issue.

3.3 Comment: As drafted, this "operator" proposal includes placeholder requirements for new vehicles/equipment that would take effect on January 1, 2009. The staff describes this as the second step of a two step process that will be more fully developed and proposed to the Board in 2005. We believe that the development of vehicle/equipment requirements may not be as straightforward as the staff indicates, and therefore, believe it inappropriate to include these types of requirements in this proposal.

[TMA]

Agency Response: A change was made to accommodate this comment. In accordance with the Board's directive, the idling restriction for trucks equipped with sleeper berths, which limited the operation of main engines and diesel-fueled auxiliary power systems during rest periods was removed. However, the 5 minute idling limit still applies when resting within 100 feet of restricted areas. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

3.4 Comment: The California Army National Guard requests that the proposed regulation order specifically exempt the National Guard's tactical vehicles, military convoy operations, and APS's mounted on military tactical vehicles, from its provisions.

[CNG]

Agency Response: A change was made to accommodate this comment. Subsection (d)(11), Exceptions, of the ATCM or regulation hereafter, was added to exempt all military tactical vehicles during periods of training. During training, the military requires individuals to train as they fight or simulate as closely as possible combat conditions. The Board directed this change, acknowledging the need to allow unrestricted idling during these training periods.

3.5 Comment: Clarify that the ATCM idling restrictions do not apply when operating the mixer drum of a ready mix concrete truck.
[SCRMCA]

Agency Response: A change was made to accommodate this comment. For clarity, subsection (c)(8)(A), Exceptions, of the ATCM or regulation hereafter, was modified to include mixers such as ready mix concrete trucks. The ARB staff recognizes and the Board agreed that the ready mix concrete trucks idle to operate the PTO for the mixer drum rotation to prevent the concrete from solidifying or causing significant damage to the quality and integrity of the product. Hardening of the concrete would result in significant monetary losses to the truck carrier as well as loss to the customer. Ready mix concrete trucks are therefore exempted from complying with the requirements of this regulation, while operating the PTO for mixer drum rotation.

3.6 Comment: Amend the ATCM to indicate that idling restrictions do not apply during collection of solid waste or recyclable materials by an entity authorized by contract, license, or permit by a school or local government.
[CFC]

Agency Response: A change was made to accommodate this comment. Subsection (c)(8)(C), Exceptions, of the ATCM or regulation hereafter, was added to include collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government. The ARB staff recognizes and the Board agreed that idling is necessary to accomplish the work for which the vehicle was designed. For example: powering of the hydraulics is necessary to pick up, compact, and dump refuse and recyclable material, or times when the driver of the solid waste collection vehicle has to physically get out of the vehicle to gain access to the garbage and recycle cans that may be located in narrow alleys.

3.7 Comment: Clarify that the ATCM idling restrictions do not apply while positioning equipment.
[CCEEB]

Agency Response: A change was made to accommodate this comment. For clarity, subsection (c)(8), Exceptions, of the ATCM or regulation hereafter, was modified to include positioning equipment. The ARB staff acknowledges, and the Board agreed that a crane or vacuum truck often requires several moves to get into proper position for safe operation. The positioning may take longer than the 5 minute idling limit specified by the regulation. The driver must often times physically get out of the vehicle to

ascertain proper positioning of the equipment, check the footing, and ensure safe operating conditions.

3.8 Comment: Recommend that the applicability and definition section of the ATCM be clarified to specifically include vehicles with out-of-state and out-of-country registrations because of the enormous emissions contribution of these vehicles to our air quality problem.

[SCAQMD]

Agency Response: A change was made to accommodate this comment. The Proposed ATCM or regulation hereafter, applies to diesel-fueled commercial motor vehicles with gross vehicular weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. The applicability section of the ATCM has been modified to clarify that out-of-state and out-of-country diesel-fueled commercial vehicles with GVWR > 10,000 pounds operating in California are affected by this regulation. Specifically, the applicability paragraph was subdivided to specify "California-based vehicles" and "non-California-based vehicles." While the original language on its face did express that the regulation applies to both California and non-California-based vehicles when operating in California, the Board agreed that clarification was appropriate to provide better notice to affected drivers, especially those driving non-California-based vehicles into California.

3.9 Comment: Section (d)(8) should be amended to specifically include wheelchair lifts, or another section should be added to address idling as the power source for auxiliary equipment.

[GH]

Agency Response: A change was made to accommodate this comment. Subsection (c)(12), Exceptions, of the ATCM or regulation hereafter, was added to permit idling when operating equipment such as wheelchairs, or people assisted lifts, as prescribed by the Americans with Disabilities Act. For certain types of vehicles, power take-off from the main engine is necessary to operate retractable wheelchair lifts, ramps, and other people assisted loading equipment. Idling longer than 5 minutes may be necessary to ensure proper operation and safety for the completion of passenger loading.

3.10 Comment: Develop a cooperative effort with United States Environmental Protection Agency (U.S. EPA), industry partners, and other entities who are interested in seeing consistent, sensible solutions to reduce emissions associated with idling from trucks equipped with sleeper berths.

[ATA, CTA]

Agency Response: The regulation proposed by the ARB staff need not, but likely will be consistent with programs being developed throughout the country to reduce emissions from idling. Involvement with the U.S. EPA, industry partners, interested parties, and stakeholders is paramount to the success of any regulatory process the

ARB is engaged in. The ARB staff will work closely with U.S. EPA, industry partners, interested parties, and stakeholders to develop a comprehensive proposal to address idling of trucks and APS operations during periods of rest. As mentioned previously, the Board directed staff to return with a proposal no later than September 2005.

3.11 Comment: Grant an indefinite exemption for the idling of a main engine or the operating of a diesel-fueled APS to power a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth.
[ATA, CTA, EMA]

Agency Response: No change was made in response to this request. This ATCM or regulation hereafter will limit the idling of the main engine and the operation of diesel-fueled APS units to 5 minutes within 100 feet of a restricted area as defined in (h)(15), Definition. Vehicles will be allowed to idle the main engine or an APS, to power a heater, air conditioner, or any auxiliary equipment, at all times when beyond 100 feet from a restricted area. All issues related to idling of the main engine and diesel-fueled APS operation during periods of rest will be addressed when the ARB staff returns to the Board with a comprehensive proposal no later than September 2005.

3.12 Comment: (Received during 15-day comment period) Consider modification under Exceptions, to subsections: (d)(2), which addresses idling of the primary engine or an APS on vehicles equipped with sleeper berths within 100 feet of a restricted area and (d)(4) idling when queuing within 100 feet of a restricted area.
[TK, CAFA, EMA]

Agency Response: No change was made in response to this request. The comment does not relate to the modified rule language released for public comment on August 20, 2004 and is thus outside of the scope of this action. The commenter refers to provisions included in the original rule language of the proposed ATCM that were not affected by any further Board-directed modifications. Specific modifications to the originally proposed rule language were formally noticed for a 15-day public comment period ending September 7, 2004. As indicated in that notice, only comments relating to those specific modifications would be considered by the Executive Officer.

4. Definitions

4.1 Comment: In section (h)(3), definition of a bus. The definition as drafted for a bus does not include buses operated by Greyhound. This is an oversight that can be remedied by referencing subsection (h)(8) in Section 2480, which defines a motor carrier.
[GH]

Agency Response: A change was made to accommodate this comment. To address this concern, subsection (h)(3), Definitions, of the ATCM or regulation hereafter, has been modified to include the definition of a "Bus" as defined in the Vehicle Code Section 233.

This vehicle code section states:

- (a) Except as provided in subdivision (b) a bus is any vehicle, including a trailer bus, designed, used, or maintained for carrying more than 15 persons including the driver.
- (b) A vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, who is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, is also a bus.
- (c) This section does not alter the definition of a school bus, school pupil activity bus, general public paratransit vehicle, farm labor vehicle, or youth bus.
- (d) A vanpool vehicle is not a bus.

5. Requirements

5.1 Comment: If you're shut down for more than an hour, the upholstery heats up inside the truck, and no air conditioning system can combat that. It just takes hours to cool it down once you get the upholstery hot inside.

[TO]

Agency Response: Cooling and heating of non-sleeper cabs or sleeper cabs during daily operation could occur similar to cooling and heating in passenger vehicles. The ARB staff believes that the cabs become acclimatized in a reasonable time when operating the heater or air conditioning while driving.

5.2 Comment: The extreme weather conditions in the California desert make it unbearable to rest in the truck without heating or air conditioning. In addition, it is difficult to start the truck in freezing weather.

[FTO]

Agency Response: The ARB staff believes that starting properly maintained diesel engines in typical California winter weather conditions should not be an issue. The regulation provides Exceptions (d)(5), to address adverse weather conditions. Currently, during rest periods, vehicles are able to idle without restrictions beyond 100 feet from restricted areas. Weather conditions and related engine issues will be further addressed during the rulemaking process when the ARB staff will return to the Board with a comprehensive proposal, no later than September 2005, addressing idling of trucks and APS operations during periods of rest.

5.3 Comment: Truckers often have to pull off the highway and take a nap. In extreme weather (heat) conditions, it is not possible to get rest without idling the main engine for air conditioning purposes.

[FTO]

Agency Response: The modified regulation does not limit the idling of vehicles during rest periods at a distance greater than 100 feet from restricted areas. The ARB

staff intends to return to the Board with a comprehensive proposal addressing truck idling and APS operations during rest periods no later than September 2005.

5.4 Comment: Truck driver comfort is critical after a long-haul operation. The chances of getting involved in a collision are greater if one is not allowed adequate rest by idling the primary engine.

[CC]

Agency Response: The restriction on idling of the main engine to provide cab comfort during rest periods has been removed. A comprehensive proposal addressing all issues related to truck idling and APS operations during rest periods will be presented to the Board in a separate rule making no later than September 2005.

5.5 Comment: Section (d)(1)(A) - 10 minutes pre-boarding idling limit is too restrictive. Greyhound's real world experience has illustrated that for air conditioning and heating systems to function, once the minimum safe air pressure level is reached, it takes an additional 20 to 30 minutes prior to introducing customers into the environment to stabilize the coach's interior temperature. During times of extreme temperatures, hot or cold, idling times might have to exceed 40 minutes total. The regulation should take into consideration the increased idling times needed to properly operate heating and air conditioning systems.

[GH]

Agency Response: No change was made in response to this request. To determine the appropriate pre boarding time for buses the ARB staff evaluated test data provided by the Houston Metro study. The data was generated from tests measuring the cooling capacity of the interior of a bus. The test involved placing the bus in a temperature-controlled environment for 5 hours where the temperature inside the bus reached 107° F. After reaching a stabilized 107° F temperature, the air conditioning system of the bus was turned on and the cooling efficiency was measured by monitoring the inside temperature drop. Based on this data, the ARB staff concluded that 10 minutes of air conditioning operation prior to boarding time should provide a reasonable preliminary onboard temperature. Once the bus begins its trip, the air conditioning system operates more efficiently and the temperature should drop substantially.

5.6 Comment: Why was the 5 minute idling time chosen instead of more or less time.

[BAAQMD]

Agency Response: The 5 minute idling limit is based on the following factors. The 5 minute idling limit is considered adequate based on engine manufacturer's recommendations for start up and cool down times. Additionally, the 5 minute idling limit provides consistency with California's school bus idling limiting ATCM, and many idling restrictions in other states. Aside from California, the ARB staff identified twenty states with statewide, county, or municipal anti-idling regulations or ordinances. More than two-thirds of these measures restrict idling to 5 minutes. For consistency, the ATCM allows a 5 minute idling time.

6. Legal / Authority

6.1 Comment: The proposed regulation does not account for the federal hours of service requirement or availability of truck stop electrification.
[CTA, ATA]

Agency Response: The ARB staff is aware of state and federal highway safety requirements. Federal hours of service (rest) requirements and the availability of truck stop electrification are issues related to truck idling during rest periods. Provisions that are related to restricting the sleeper berth equipped truck operation are not addressed in the final regulation. These issues will be addressed in a separate rulemaking that will be presented to the Board no later than September 2005.

6.2 Comment: Language should be added to the exceptions that reference federal regulations relating to bus safety. Existing regulations relating to idling at or near schools specifically exempt idling "...otherwise required by federal or state motor carrier safety regulations" section 2480 paragraph (d)(7). For the sake of consistency, this regulation should be added to the pending idling regulations.
[GH]

Agency Response: No change was made in response to this request. Section (e) of the ATCM references relationships to other laws including Title 13, Section 2480, California Code of Regulations. To address the concerns expressed by Greyhound Lines Inc., the regulation was modified to allow the idling of the main engine 10 minutes prior to passenger boarding and no idling restrictions when there were passengers on board. The ARB staff believes that this provides sufficient flexibility to provide for passenger comfort, which was the focus of the comment. As stated under subsection (c)(9), Exceptions, of the modified ATCM or regulation hereafter, idling of the primary engine or operating a diesel-fueled APS is permissible when operating heaters, defrosters, air conditioners or other equipment solely to prevent a safety or health emergency and is consistent with title 13, Section 2480, Subsection (d)(7) of the California Code of Regulations.

6.3 Comment: CARB's proposed regulation is preempted under the federal Clean Air Act (CAA). The U.S. EPA and CARB are statutorily empowered to adopt and enforce emission-control standards applicable to "new" non-road engines and vehicles. Equally important, the end of U.S. EPA's and CARB's authority to adopt emission control standards does not mark the beginning of regulatory authority to enforce "in-use" emission control requirements against owners and operators. As written, CARB's proposed regulation will apply to non-road engines that are still subject to federal preemption. CTA/ATA recommend that the proposed regulation must satisfy the lead-time, stability, preemption and waiver requirements of the clean air act (CAA).
[CTA, ATA]

Agency Response: No change was made in response to this request. California is not per se preempted from adopting emission standards for either new or in-use engines, which are neither farm or construction engines under 175 horsepower nor locomotive engines. CAA section 209(e)(2) provides California with the right to seek authorization from U.S. EPA to adopt and enforce emission standards for new and in-use nonroad engines that are not specifically preempted under CAA 209(e)(1).¹ (*Engine Manufacturers Association v. U.S. EPA* (D.C. Cir. 1996) 88 F.3d 1075.). The ARB's adoption of in-use engine standards would not contravene the CAA; indeed the court stated that, under the CAA, California is the only governmental body in the nation with authority to adopt, in the first instance.² The ARB is not attempting to seek authority to adopt in-use emission standards through the courts. As stated, California has authority to adopt such regulations under state and federal law.

Despite the foregoing disagreement, and in part to address the concerns raised by CTA/ATA, the modified regulation does not restrict idling of vehicles equipped with sleeper berths, except within 100 feet of a restricted area during federally mandated rest periods. The ARB staff intends to return to the Board with a comprehensive proposal addressing truck idling and APS operations during rest periods no later than September 2005.

6.4 Comment: Limiting the idling of the main engine or APS during sleeper berth operation beginning in 2009 violates the Commerce Clause and is therefore unconstitutional.
[CTA, ATA, EMA]

Agency Response: The proposal was modified to remove the restrictions on idling the main engine or operating APS during rest periods when located at a distance of greater than 100 feet from a restricted area. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

6.5 Comment: The proposed ATCM constitutes a de facto standard subject to the lead-time, stability and preemption and waiver provisions of the Clean Air Act.
[EMA]

Agency Response: The Agency Response to Comment 6.3 is incorporated herein. Additionally, as finalized, the adopted ATCM idling limitation imposes an in-use, operational control on on-road diesel engine idling, not subject to preemption as a standard under Clean Air Act section under 209(a). Rather Clean Air Act section 209(d) allows and does not preempt California and other states' right to "control, regulate, or

1 CAA section 209(e)(1), preempts all states, including California, from adopting state emission control standards or requirements for less than 175 horsepower (hp) new nonroad engines or new nonroad vehicles used in construction or farming and for new locomotives or new engines used in locomotives. This ATCM as finalized does not attempt to regulate any of these categories.

2 Once California has adopted regulations and obtained authorization from U.S. EPA, other states may opt to adopt identical regulations as adopted by California. (CAA section 209(e)(2)(B). U.S. EPA is without authority to adopt standards for in-use nonroad engines. See CAA section 213.)

restrict the use, operation, or movement of registered or licensed motor vehicles." For this reason other states have already restricted idling for years or even decades under section 209(d) authority. California is similarly exercising its authority under 209(d). Since the Clean Air Act allows the states the right to impose the categories of controls specified in section 209(d), waiver of preemption is not at issue and the lead-time and stability provisions of the Clean Air Act section 209(a)(3)(C), which apply to standards adopted by U.S. EPA do not apply to this regulation. Further, even if a waiver were at issue, California does not believe, and has consistently argued, that the lead-time and stability provisions apply to regulations that U.S. EPA adopts under section 209(a), not to standards that California adopts under its state law authority and the waiver provisions of section 209(b).

7. Health

7.1 Comment: The proposed regulation poses a serious threat to the health and welfare of truck drivers and citizens that drive alongside them on the state's highways. The proposed regulation seriously compromises the truck owners' ability to ensure that their drivers are getting proper rest in order to continue safe driving practices. The proposed regulation does not provide any practical solution to reduce sleeper berth idling.
[CTA, ATA]

Agency Response: A change was made to accommodate this comment. The proposal was modified to remove the restrictions on idling the main engine or operating the APS during rest periods when located at a distance of greater than 100 feet from a restricted area. Additionally, the ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

7.2 Comment: The health effects of idling vehicles, and following from them, the health benefits gained from the proposed ATCM are overstated and unrealistic. The health effects estimates and benefits associated with idling reduction should be restated using valid assumptions that reflect real-world conditions.
[EMA]

Agency Response: U.S. EPA inhalation Reference Concentration for chronic non-cancer respiratory effects (which OEHHA adopted) was derived in 1993. It is based on two animal studies published in 1988 in which histological and inflammatory changes in the lung were the critical effects, not mortality. Since that time, a substantial number of new toxicological and epidemiological studies have documented the cancer, mortality, and non-cancer health effects from diesel PM and ambient PM. For these reasons, the U.S. EPA reference concentration is not pertinent to the mortality calculations. (see Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant part B, Appendix A, page A-1)

The validity of the assumptions: The mortality estimates in the Staff Report were based on a U.S. EPA methodology as reported by Lloyd and Cackette. The U.S. EPA methodology used dates back to the 1980's, when it was first developed to analyze the impact of regulations designed to reduce air pollution. It has also been used to estimate the benefits and costs of the federal Clean Air Act. U.S. EPA uses this methodology to justify recommended ambient air quality standards, and CARB uses the methodology to illustrate the health benefits possible for attaining newly proposed regulations. The methods have been peer-reviewed and are endorsed by the National Academy of Sciences, the World Health Organization, U.S. AID and a host of other organizations.

The specific data inputs used for the mortality estimate in the Staff Report were also peer-reviewed. For example, the population-weighted concentration of diesel PM used in this mortality estimate and by Lloyd and Cackette originated from CARB's Diesel Risk Reduction Plan, which underwent numerous public and peer reviews. Also, the data used for the concentration-response relationship came from a Health Effects Institute (HEI) report by Krewski et al, which was extensively peer-reviewed.

7.3 Comment: The assumptions used in the health risk analysis are neither reasonable nor representative of any Californian's exposure to diesel emissions from idling trucks. Consequently, the reported estimates of any potential cancer risk are biased above the high-end of any realistic range and should not be relied upon to conclude that the potential risks posed by emissions from idling trucks could exceed thresholds warranting additional control measures.

[EMA]

Agency Response: As shown in section IV of the Staff Report: Initial Statement of Reasons, the risk assessment results presented are generic in nature and are given to show the range of potential cancer health risks based on hours of engine idle operation. Idling parameters were developed from actual engine idling operations. The emission sources (idling trucks) were characterized as area sources where diesel truck engines were expected to operate in the idle mode over a period of time. The current ARB estimated average fleet diesel PM emission factor, 2.77 grams per hour per truck, was used to estimate nearby ambient diesel PM concentrations. Sensitivity studies were used to determine parameters such as emission initial release heights, and the difference in ambient impacts based on source characterizations. In addition, because diesel PM has been identified by the State of California as a toxic air contaminant without a threshold exposure level below which no significant adverse health effects are anticipated, even the degree of improvement cited by the commenter would suffice as justification for the ATCM.

8. Miscellaneous

8.1 Comment: The ARB is requested to develop regulations limiting idling from nonroad diesel engines as soon as possible. Nonroad engines, including locomotives, ships, agriculture and construction equipment, contribute over 60 percent of the mobile source particulate matter emissions in California. Limiting idling from the nonroad diesel

engines is necessary to further reduce harmful particulate matter and nitrogen oxide emissions.

[UCS, NRDC, ALA-CA, RT, SC, WOEIP, WCTC, TSDEF, BN, BAPSR, ELF, CCA, CAFA, CBE, OCEF, RAMP, CA-ERA, CA-CAT]

Agency Response: The scope of the ATCM covers only on-road engines. It is possible that if directed by the Board, the staff will investigate issues and formulate solutions to mitigate nonroad sources of diesel idling in the future.

8.2 Comment: (Received during 15-day comment period). A concern was expressed about the potential postponement of the idling restrictions during driver rest breaks. Idling during the rest breaks account for over two thirds of the total idle emissions inventory. While sleeper berths represent only 16% of the vehicles, they are responsible for 70% of the total idle emissions and their impact on human health. The staff report allowed a four year implementation schedule to control vehicle idling during rest breaks. Sacramento Metropolitan Air Quality Management District (SMAQMD) agrees with trucking industry stakeholders that the current amount of parking spaces at truck stops is inadequate to meet the needs of the drivers. However, four years gives adequate time to develop solutions to the problem, especially if all stakeholders agree to address this shortfall expeditiously. Technologies to reduce vehicle idling will not expand unless the Board adopts regulations that force development, similar to other previously adopted, technology measures.

[SMAQMD]

Agency Response: At the Board hearing, the ARB staff presented, and the Board approved modifications to the originally proposed language in response to comments received during the public comment period that began on June 4, 2004. One of the modifications was to remove the January 1, 2009 idling restrictions for trucks during rest periods. As directed by the Board, the ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

9. Economic Impact

9.1 Comment: We encourage ARB to further explore the alternative to require installation of electrical power infrastructure at truck stops. The ARB did not include the second alternative described in the justification for the proposed ATCM (p. xiii), to require the installation of electrical power infrastructure at truck stops and rest areas. While the costs of this technology were detailed, the potential cost savings in lower fuel and maintenance costs were not detailed. Considering that ARB estimates Phase Two cost savings to be approximately \$100 million during the first five years, it seems that the savings of an electrical power infrastructure may be substantial.

[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI]

Agency Response: Originally, the scope of the ATCM also limited the idling of sleeper berth equipped diesel-fueled vehicles during rest periods. At this time, the revised regulation will not address these vehicles during rest periods (when parked further than 100 feet from restricted areas). The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. In that proposal, an in-depth analysis of all alternatives will be considered and presented.

9.2 Comment: Since ARB intends to develop specific emissions standards for the main engine and APS idling in 2005, the actual costs of this regulation are unknown at this time, and can be expected to be higher than the costs of existing units.

[CTA, ATA]

Agency Response: The scope of the ATCM, as stated in the original proposal, limited the idling of sleeper berth equipped diesel-fueled vehicles during rest periods. The revised regulation does not address idling of the main engine or the APS during federally mandated rest periods when located at a distance of greater than 100 feet from a restricted area. Emission and cost issues associated with truck idling and APS operations during rest periods will be addressed by the ARB staff when it returns to the Board with a comprehensive proposal no later than September 2005.

9.3 Comment: Would like ARB to investigate the cost and feasibility of installing electrification systems at all existing truck stops in California as well as develop cost-effective solutions to addressing the existing shortfall of truck parking spaces.

[ATA, CTA]

Agency Response: No change was made in response to this request. The revised regulation does not restrict idling of the sleeper berth equipped vehicles during rest periods (when parked further than 100 feet from restricted areas). The issues of cost, adequacy of parking facilities, and feasibility of alternatives to idling will be addressed by the ARB staff when it returns to the Board with a comprehensive proposal no later than September 2005.

9.4 Comment: The proposed regulation and corresponding staff report contradict one another with respect to cost and benefits associated with compliance.

[CTA, ATA]

Agency Response: The proposed regulation as stated during the 45-day comment period specified that, as of 2009, an operator could not idle the main diesel engine or operate a diesel powered APS during periods of rest. The economic analysis for sleepers, was generated with the assumption that sleepers would operate a diesel powered APS instead of the main engine. This assumption was made with the knowledge that the ARB would be proposing (in 2005) procedures and specifications by which a diesel-fueled APS would be allowed to operate. At the Board hearing, the proposed ATCM was modified to eliminate the 2009 provision, which had limited the idling of the main engine and operation of a diesel-fueled APS during rest periods. The

ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest, and will again perform an economic analysis for review.

10. Outreach / Information

10.1 Comment: As far as a consultation process, it is apparent that perhaps there wasn't enough consultation with the Department of Defense. The Air Force, the Coast Guard, the Navy, the Marines, and the Army all have operations and operate vehicles in California. Perhaps their voice needs to be heard regarding the regulation.
[CNG]

Agency Response: In developing this regulation, the staff attempted to contact the Department of Homeland Security, the Department of Defense, and the California National Guard. Because of the current state of military operations, great care was taken to obtain input from the military organizations. As a result of consultation with the California National Guard, military tactical vehicles are exempt from compliance with the provisions of this regulation during training periods. Additionally, to improve communications, individuals from the California National Guard have been added to the idling mailing list.

10.2 Comment: For the distribution centers, there are no published lists. Can you give a list of the locations and the names of the distribution centers, and how many parking spaces there might be?
[IA]

Agency Response: No change was made in response to this request. This information has not been compiled yet. Planning departments in counties and cities often have lists, which contain pertinent information. However, these lists may not be complete. The ARB staff does not have access to any database containing this information from private entities. In addition, this is not a comment requesting a change in, or questioning the underlying supporting documentation for, the regulation.

10.3 Comment: ARB should reach out to facilities such as rail yards, port terminals, and large distribution centers that commonly have lines of trucks waiting to enter, and are located in Environmental Justice (EJ) communities. Please provide information relating how ARB will notify truck drivers of the new restrictions on commercial vehicle idling?

[UCS, NRDC, ALA-CA, RT, SC, WOEIP, WCTC, TSDEF, BN, BAPSR, ELF, CCA, CAFA, CBE, OCEF, RAMP, CA-ERA, CA-CAT, CLA]

Agency Response: No change was made in response to this request. The ARB is in the process of developing a comprehensive educational outreach effort to include: affected drivers, motor carriers, law enforcement agencies, air districts, affected communities, and industry.

10.4 Comment: Information needs to be provided to the community once the OAL process is completed. In the communities where 90 percent of residents are from minority populations, particularly Hispanic and African American, they don't ordinarily work with the local government but work primarily with their community-based organizations. So, when the message is presented, it should also be presented in Spanish, as well as some of the other primary languages in some of the urban areas. [SDRAC]

Agency Response: The ARB will utilize its public relations staff to develop outreach material and disseminate information through public media, newspaper, television and radio. Additionally, to reach the largest population possible, educational materials will be also generated in multiple languages, including Spanish.

10.5 Comment: Despite numerous drafts, and workshops, ARB has failed to provide adequate process to interested parties or engage the very manufacturers of APS's that would now effectively be banned. It is recommended that ARB hold additional workshops to find a sensible alternative to the APS ban included in the proposed regulation. [EMA, ATA, CTA]

Agency Response: The revised regulation no longer establishes or prescribes limits on the use of APS units unless the units are operated within 100 feet of a restricted area. Multiple manufacturers were contacted during the development phase of the regulation in order to gather comments and suggestions. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. During the future rulemaking public outreach process, staff will again be diligent in contacting manufacturers for comments and suggestions.

11. Emissions

11.1 Comment: The proposed regulation will foster the development of a detrimental California-only emissions standard for idling main engine and operating APS. [CTA, ATA]

Agency Response: The modified regulation does not mandate or prescribe California only emissions standards. The modified regulation does not regulate the emissions of an APS other than not allowing operation within 100 feet of a restricted area when using the sleeper berth. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

11.2 Comment: ARB has not accounted for idle time contained in "In motion" driving cycle. [EMA]

Agency Response: The EMFAC model separates emissions into two categories: idling and driving cycle emissions. Idling emissions during traffic stops etc., are accounted for in the driving cycle, while idling during the rest periods or waiting for a load are accounted for in the idling cycle. For the purpose of this regulation, only emissions from the idling cycle were considered.

11.3 Comment: ARB has not accounted for HC and CO reductions from 2007 engine standards during extended idling
[EMA]

Agency Response: Emissions test data for 2007 and newer model year engines, is not available at the present time. It is possible that catalysts will have a small effect on reducing NOx, HC and CO emissions during prolonged idle periods due to expected low exhaust temperature of 2007 and later engines. However, the primary purpose of the ATCM is to protect public health by reducing exposure to diesel PM emissions from idling vehicles.

11.4 Comment: Data for unnecessary idling time is inaccurate. For general unnecessary idling, ARB relied on three studies, which used GPS devices to estimate vehicle position and thereby speed and total vehicle idle time on a second-by-second basis. The GPS-based data are highly inaccurate for estimating total vehicle idling time.
[EMA]

Agency Response: In absence of other data, the ARB staff used three GPS studies as the basis to estimate idling times. The ARB staff performed a thorough analysis of the data from the GPS studies to separate idle times from the idle cycle versus the driving cycle. For the purposes of this analysis, only idling times during the idle cycles were taken under consideration. The ARB staff believes that the GPS data derived from the studies is sufficient to give a realistic approximation of the idling times for heavy heavy-duty diesel trucks.

11.5 Comment: The ARB has no data on the amount of idle time during extended rest periods.
[EMA]

Agency Response: Data on the number of in-state and out-of-state trucks that idle during prolonged rest periods in California is not readily available. Continued study and research will be a part of a comprehensive proposal that will be presented to the Board no later than September 2005 which will address the idling of trucks and APS operations during periods of rest.

11.6 Comment: Increases in emissions due to accessory load during extended rest periods is overestimated.
[EMA]

Agency Response: This comment was addressed by the modification of the regulation to remove the January 1, 2009, idling restriction for trucks equipped with sleeper berths that limits operation of the main engine or diesel-fueled APS to provide power to a heater, air conditioner or ancillary equipment. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest, including an evaluation of idling emissions due to accessory loads.

12. Enforcement / Penalties

12.1 Comment: Suggest that you focus rural enforcement efforts on distribution centers and other areas in the Central Valley where trucks idle.
[CAFA]

Agency Response: Enforcement and outreach will be targeted for all areas within California. Locations where the trucks congregate, such as truck stops, rest areas, distribution centers, rail stations, etc. will be the major focus of enforcement and outreach efforts. Additionally, district personnel may enforce the proposed regulation along with the California Highway Patrol (CHP) and local peace officers.

12.2 Comment: ARB should actively engage state and local law enforcement, as well as local air districts, in the enforcement of this regulation to ensure a swift response to complaints.

[UCS, NRDC, ALA-CA, RT, SC, WOEIP, WCTC, TSDEF, BN, BAPSR, ELF, CCA, CAFA, CBE, OCEF, RAMP, CA-ERA, CA-CAT]

Agency Response: The ARB will have primary responsibility for implementing and enforcing the regulation. The CHP, local peace officers, and local air pollution control districts are expected to provide support in any enforcement efforts.

12.3 Comment: To ensure that the expected emission reductions are achieved, ARB should periodically evaluate and report on the level of compliance with this regulation.
[UCS, NRDC, ALA-CA, RT, SC, WOEIP, WCTC, TSDEF, BN, BAPSR, ELF, CCA, CAFA, CBE, OCEF, RAMP, CA-ERA, CA-CAT]

Agency Response: During the Board hearing on July 22, 2004, the Board directed the ARB staff to return next year and provide an update on the compliance status of the regulation.

12.4 Comment: Strongly encourage ARB to establish specific dates for the regulation to become effective and also establish specific penalties.
[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI]

Agency Response: The effective date of the ATCM or regulation hereafter is subject to the completion of the OAL process, which the ARB anticipates to be January 1, 2005. For violation of subsection (c), the driver is subject to a minimum \$100 civil penalty and

to criminal penalties as specified in the Health and Safety Code and the Vehicle Code. Those subject to the regulation and to penalties for violating it have sufficient notice both of the onset of potential enforcement and the magnitude of potential penalties.

12.5 Comment: The ATCM to limit diesel vehicle idling must have a clear system of monitoring and enforcement. The enforcement and penalty provisions as stated in the Staff Report: Initial Statement of Reasons (ISOR) must be revised to enforce the regulation fairly and effectively. We strongly encourage ARB to develop a system of citizen enforcement for this regulation along with enforcement guidelines.
[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI, CLA, EMA]

Agency Response: The ARB is in the process of developing educational materials that will be made available to the public. These materials will include information for registering a complaint of non-compliance. Citizen enforcement options include calling the ARB at 1-800-END-SMOG (1-800-363-7664) to report violations, submitting online complaints at <http://www.arb.ca.gov/enf/enf.htm>, and contacting local air pollution control or air quality management districts at <http://www.arb.ca.gov/capcoa/roster.htm>.

12.6 Comment: We would encourage you to make sure that you loop the California Highway Patrol in on this issue when figuring out who's going to enforce so we can make sure that they have the authority to enforce this and so that they know exactly what's going on with the regulation before the sleeper berth issue comes back next year.
[CTA, ATA]

Agency Response: The ARB anticipates that the CHP will provide valuable assistance in enforcement efforts as well as local air pollution control districts and local peace officers. The CHP provided valuable assistance throughout the development of the current regulation. The CHP is also expected to provide valuable assistance in the future development of the ATCM addressing the idling of sleeper berth equipped vehicles.

13. Incentives

Agency Response Note: no comment in this section 13. was directed at changing the regulation or at questioning the analysis underlying the adopted regulation.

13.1 Comment: The California Air Resources Board, in addition to this ATCM, should use the incentives it has at its disposal to encourage early introduction of truck stop electrification. Such incentives include improvements to the Moyer program and using truck stop electrification to generate emission reduction credits. A combination of incentives and regulation would achieve greater emission reductions than the ATCM alone would provide.
[CA-ETC]

Agency Response: Under state and federal law, air pollution control and air quality management districts have primary responsibility for establishing permitting programs for stationary sources. Included within these programs are requirements for generating and using emission reduction credits. The South Coast Air Quality Management District has developed a pilot rule that allows for the generation of RECLAIM trading credits (a type of emission reduction credit unique to that air district) from truck stop electrification. To date, no credits have been generated under that program due to low participation.

The Governor recently signed new legislation (SB1107, AB923 and AB1394) that significantly expands the scope and funding of the Carl Moyer Program. AB923 also expands the program to include particulate matter pollution. Under the expanded Carl Moyer Program, it may be feasible to provide incentives for truck stop electrification.

13.2 Comment: Would like to see sleeper berths addressed at a nationwide level and not just California.
[CTA, EMA]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. We will continue to work with U.S. EPA and others as we move forward with our proposal.

13.3 Comment: Provide incentives to encourage investment by industry, and to owners for replacing older trucks. Also provide information on funding sources.
[IA, PI, CLA]

Agency Response: The idling ATCM or regulation hereafter, does not require the installation of any equipment. The staff expects compliance to be accomplished by manually shutting off the engine. As such, any investment by industry is expected to be minimal with no state incentives necessary for compliance with this ATCM.

Federal, State, and Local programs have been developed to encourage repowering or replacement with less polluting diesel engines. These programs include but are not limited to:

- ◆ U.S. EPA's Voluntary Diesel Retrofit Program (www.epa.gov/otaq/retrofit/)
- ◆ The ARB's Carl Moyer Memorial Air Quality Standards Attainment Program (www.arb.ca.gov/msprog/moyer/moyer.htm)
- ◆ Clean Air Transportation Communities Grant Program - U.S. EPA's SmartWay Transportation Initiative (www.epa.gov/ptaq/smartway/index.htm)
- ◆ The Sacramento Emergency Clean Air Transportation Program (SECAT), which is maintained by the Sacramento, California, Emergency Clean Air Transportation Program. www.4secat.com/what.html

13.4 Comment: Support a community fund. For trucks that travel through different communities, and perhaps other mobile and stationary sources at ports and other locations that produce harmful air emissions, a fee could be gathered and deposited in a community fund. With this fund the community could help support pollution reduction efforts, offer health education, and implement healthy home projects.
[PI]

Agency Response: The ARB currently has no plans to pursue such a proposal, but would consider any specific proposal brought to our attention for further review.

14. Technology

14.1 Comment: Truck stop air conditioning based systems show great promise. But for the non-smokers they tend to get the smell of cigarette smoke into the system. I can't use it because I can't live with the cigarette smoke or the after effects of it. These are things that need to be considered.
[TO]

Agency Response: This idling ATCM or regulation hereafter, does not require installation of add-on devices or the use of specific alternate technologies including truck stop electrification systems. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. Staff expects that the 2005 proposal will provide alternatives to idling that will address potential health concerns.

14.2 Comment: A/C systems without idling primary engine are still in experimental stages.
[TO]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. During the course of this regulatory development, the staff will investigate the feasibility and developmental status of alternatives (including air conditioning systems) to idling the main engine. The staff's findings will also be presented for review and comment during its public outreach period.

14.3 Comment: Develop engine family standards for APS's instead of engine use standards to broaden marketability of the engines.
[PPI]

Agency Response: Developing engine family standards for APS's will be discussed during the rule making for truck idling during rest periods. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest.

14.4 Comment: We encourage ARB to further explore the alternative to require installation of electrical power infrastructure at truck stops.

[PI, CBE, WOEIPC, ELF, ASP, TJWG, RAMP, CDI, UH, CHI, IA]

Agency Response: The modified regulation no longer restricts idling when used to provide power to the sleeper berth when greater than 100 feet from a restricted area. The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. During the course of this regulatory development, the staff will investigate the feasibility and developmental status of alternatives (including requiring installation of electrical power infrastructure at truck stops) to idling the main engine.

14.5 Comment: Emissions information for post-2007 engines and APU's is needed in order to consider idling restrictions for sleeper berths. Additionally alternate technologies using batteries or electrical power may have other impacts.

[ANL]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. During the course of this regulatory development, the staff will investigate and compare anticipated emissions and other environmental impacts for all sources (including pre- and post-2007 engines, APS engines, and idle reducing technologies) to ensure actual emissions reductions occur without unforeseen adverse impacts.

14.6 Comment: APS may emit more particulate than new 2007 model year main truck engines. The Board is urged to make it a priority to develop a rule in 2005 establishing use guidelines and engine standards for APS's starting in 2009.

[UCS, NRDC, ALA-CA, RT, SC, WOEIP, WCTC, TSDEF, BN, BAPSR, ELF, CCA, CAFA, CBE, OCEF, RAMP, CA-ERA, CA-CAT]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. During the course of this regulatory development, the staff will investigate and compare anticipated emissions and other environmental impacts for all sources (including pre- and post-2007 engines, APS engines, and idle reducing technologies) to ensure actual emissions reductions occur without unforeseen adverse impacts.

14.7 Comment: IdleAire believes that issues related to parking space inventory, the capacity for parking lot expansion, and the parking demand need additional study. Additional study is needed to clarify both parking supply and parking demand.

[IA]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. The ARB realizes issues related to parking space inventory, lot expansion and parking demand can impact the methods by which individuals reduce idling of vehicles (such as the ability to use electrification). Staff anticipates additional study to clarify parking supply and parking demand will be performed and presented for public review and comment.

14.8 Comment: The proposed regulation does not account for the federal hours of service requirement or availability of truck stop electrification.
[CTA, ATA]

Agency Response: The ARB staff will return to the Board with a comprehensive proposal no later than September 2005 that will address idling of trucks and APS operations during periods of rest. The ARB realizes the federal hours of service requirements can affect how, when and where an operator must rest and that can dictate the method by which idle reduction can occur (including the ability to use truck stop electrification). During the course of future regulatory development, the staff will investigate and account for all issues (including federal hours of service requirements and availability of truck stop electrification) and present any findings for public review and comment.