



September 16, 2011

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

Re: Response to the Proposed Amendments to California's Mobil Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation.

Yusen Terminals Inc. (YTI) conducts container handling operations at the Port of Los Angeles. YTI operates in compliance with the Mobil Cargo Handling Equipment Regulation. YTI participated in CARB's May 26, 2011 Technical Meeting and appreciates CARB's acknowledgement of the challenges faced by our industry including; safety concerns, performance and availability of approved engines and VDECS. In advance of CARB's Sept. 22nd and 23rd Public Hearings on proposed amendments to this regulation we are submitting our written comments for your consideration.

In order to clearly address each proposal we are commenting on, we have copied the verbiage from your June 24, 2011 "Quick Reference for Proposed Amendments to California's Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation" document and from your September 15, 2011 e-mail "ARB Staff to Propose Additional Conditions on Proposed Compliance Extension Years" and have placed our comments under each proposal.

Require CHE opacity testing and set maximum allowable levels.

Staff is considering requiring annual testing and recording of exhaust gas opacity levels of all non-yard truck cargo handling equipment. If opacity levels are greater than maximum levels set per engine age and tier level, the engine must be pulled from service until repaired to meet maximum opacity levels. For CHE equipment retrofitted with VDECS, opacity of the exhaust gas upstream of the VDECS must be tested and recorded.

It appears the VDECS manufacturers are attempting, through CARB regulations, to shift the burden of providing a product that is designed to work efficiently and effectively in the marine environment off the manufacturer by making the terminals responsible for annual testing. The problems we face with VDECS are due to the VDECS design being intolerant of our duty cycles, not opacity levels. Under the proposed testing, the DPF has to be removed, the measurement done, the DPF reinstalled and measured again. The testing and record keeping will be labor intensive and costly, in excess of \$550.00 per unit for testing alone, in addition to the negative impact resulting from additional down time of the equipment. This would place a significant financial burden on equipment operators who are already bearing higher costs from the manufacturer for "compliant" equipment and VDECS.

Additionally, this proposal has a disparate impact on marine terminals and intermodal rail yards as they are being held to a higher standard than other diesel regulations for similar equipment. Annual opacity testing is not required under the "In-Use Off-Road" regulations for equipment with or without retrofits. It is only necessary as part of the filter selection process prior to installation. The On-Road (Truck and Bus) Regulation only requires opacity testing downstream of the particulate filter. Most of our equipment would be regulated under the off-road regulation if it were not domiciled at a marine terminal or intermodal rail yard.

The current regulation is a performance standard with specific particulate and NOx levels required after the DPF, irrelevant of what the engine is producing. If the exhaust from a CARB verified engine with a DPF does not meet the standards, the equipment owner is responsible for making the corrections. The DPF manufacturer's warranties state that the equipment owners are responsible for maintaining the engines to specific emission standards. Proper maintenance of equipment is critical for a terminal operator as poorly maintained engines increase costs for the operator in fuel, performance and down-time. DPF failures resulting from engine maintenance or performance issues are the responsibility of the equipment operator, per the warranty. The additional cost to replace DPF filter cartridges is further rationale for properly maintained equipment. We see no benefit or justification for requiring additional opacity testing upstream of the DPF. The increased down-time and cost will be detrimental to our operations and productivity, with no evident emissions benefit.

The testing parameters are also not specified. Are newer on-road engines (4 years and newer) exempt as they are in the On-Road (Truck and Bus) regulation? How does the opacity testing translate to diesel particulate standards (grams per brake horsepower-hour) as approved for each engine? There are many questions with this proposed amendment and we recommend further study and discussions with equipment operators to develop a beneficial, reasonable and consistent regulation for downstream opacity testing.

Manufacturer delays for new equipment.

Staff is considering allowing rental of equipment that does not meet current standards for up to six months if equipment meeting current standards are not available and the owner/operator can demonstrate need for the equipment. Rental equipment could only be one Tier lower than required engine standards (i.e. if Tier 4 engine standards are in place, only Tier 3 engines could be rented).

This amendment is beneficial as it enables an equipment operator to obtain rental equipment in the event compliant equipment is not available from the manufacturers. However, it also has a disparate impact on marine terminals and intermodal rail yards due to their being held to a higher standard than other diesel regulations for similar equipment.

The requirement that rental or lease equipment can only be one Tier lower than the required engine standard does not appear to consider that the majority of rental equipment would be regulated under the In-Use Off-Road Regulation. The rental companies are required to meet "fleet average requirements" for both PM and NOx, based on their fleet size. Therefore an older, lower Tier, piece of equipment may be compliant for the rental company however we would not be able to utilize this equipment under this amendment. For short-term rental purposes, rental equipment that is compliant for the rental company should also be considered compliant for the renting company. The Industry also suggests that rental companies serving this market in California should be required to provide equipment that is compliant with California laws.

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Equipment owners or operators would agree to replace the equipment for which a third or fourth year of "No VDECS Available" compliance extension was granted with either electric or hybrid equipment, if available, at the end of the extension period.

This proposal must consider the applicability and cost of available electric or hybrid equipment at the time the extension expires. Tests of heavy duty battery powered electric equipment in a real time marine terminal operation have not, to date, been successful. Grid powered electric equipment requires very substantial capital investment in electrical infrastructure as well as lengthy permitting and construction processes which could make an electric option impractical if a grid based power supply does not already exist. In the event that neither a hybrid or electric option are viable, the equipment operator needs a viable diesel option.

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Equipment, for which the basic reason a VDECS is not available is high engine exhaust opacity, would not be eligible for a third or fourth year of "No VDECS Available" compliance extension.

Similar to our comments on opacity testing, the problems faced by our industry are engine and VDECS designs being intolerant of our duty cycles. Manufacturers doing business in California must provide products that will comply with California regulations, for the expected life of the product. If a "compliant" engine or VDECS fails to perform when operated and maintained in the duty cycle it was approved for, the manufacturer must be held accountable for providing whatever remedy necessary to bring that product back into compliance. Penalizing the end-user will not improve the quality of product provided by the manufacturers.

We appreciate the opportunity to provide comments on these proposed changes and look forward to further dialogue with you at the upcoming Sept. 22nd and 23rd public hearing.

Sincerely,



Linda Frame
Director, Environmental & Quality Affairs
Yusen Terminals, Inc