

August 25, 2011

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

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

Metropolitan Stevedore Company, and its sister companies Metro Cruise Services, LLC and Pacific Warehouse Company, conduct cargo handling operations at ports within California. As such, we are regulated by the Mobile Cargo Handling Equipment regulations. In anticipation of CARB's September 22nd and 23rd Public Hearing to consider amendments to this regulation we would like to send our written comments in regards to several of CARB's proposed amendments.

In order to clearly address each proposal, we have copied several items in your document and placed our comments under each proposed amendment.

1. Additional time for equipment with no VDECS available

Metro supports this proposed amendment as it will allow us to use several pieces of speciality equipment with current extensions to continue to be used.

2. Add a safety provision for VDECS

Metro has already used safety in previous extension requests which were granted by CARB even though this was not specified in the current regulation. This clarifies the need for safety as one of the conditions. Metro operates a number of pieces of equipment that are also covered in the off-road regulations so this issue is especially relevant.

3. Require equipment with a "No VDECS Available" extension to be brought into compliance within 6 months after a VDECS does become available

As mentioned in item 1 above, Metro has several pieces of equipment that have been granted exemptions due to no VDECS available. We were under the impression (apparently in error) that we were required to retire this equipment at the end of the current two 1-year extensions and were unaware that we could retrofit them during the extensions and bring them into compliance. Metro fully supports the ability to bring this equipment into compliance in the event a viable VDECS becomes available.

Under the proposal, is annual opacity required regardless of hours-of-use? What about the proposed "low-use" extension equipment? The DPFs on this low-use equipment will not need to have the filter cleaned for many years.

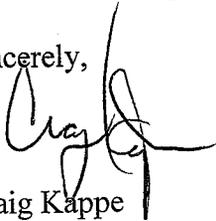
What are the parameters for this testing? Are newer engines (4 years and newer) exempt from this as they are in the Truck & Bus regulations? Is there annual reporting required by this proposed opacity testing?

How does opacity reading translate to engine diesel particulate standards (grams per brake horsepower-hour) as approved for each engine? Are the requirements the same as for the "On-Road Truck & Bus" regulation – i.e. a truck that is 1991 or newer can measure up to 40% opacity and a truck 1990 or older can measure up to 55% opacity? None of these items are mentioned in the proposed changes.

Metropolitan Stevedore Company (and our sister companies) would support an amendment requiring downstream opacity testing for CHE with on-road engines as there are similar requirements in the "On-Road Truck & Bus" regulations. However, we cannot support any opacity testing for equipment with off-road engines as there is huge disparate impact to our off-road equipment vs. the same equipment covered by the "In-Use Off-Road" regulations.

Thank you for allowing us to provide comments on these proposed regulatory changes. We look forward to dialog with you at the upcoming public hearing on September 22nd and 23rd.

Sincerely,



Craig Kappe
Environmental Compliance Manager
Metropolitan Stevedore Company

4. Allow rental of non-compliant equipment for manufacturer delivery delay

While the focus of this amendment pertains to the renting of equipment due to manufacturing delivery delays, it discusses a condition for rentals that has not been addressed by CARB staff: The rental or leased equipment that could be used under the amendment can 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). As CARB staff is aware, most, if not all, of the equipment at ports and rail yards would likely be regulated by the "In-Use Off-Road Diesel Vehicle Regulations" if the Mobile Cargo Handling Equipment regulations did not exist as this equipment is basically "off-road" equipment.

The "off-road" regulations do not have a similar requirement (to our knowledge) in their regulations that require the rental of equipment to be a tier lower than required engine standards. The equipment rental companies are required to meet "fleet average requirements" for both PM and NOx based on their fleet size. If a certain "older" piece of equipment that is compliant under the "off-road" regulations (based on the rental fleet pool size) is needed for temporary (short duration) rental at a marine terminal, we would be unable to rent that piece of equipment. It is unfair that the ports and rail yards should be held to a higher compliance standard than for the off-road sector. If the equipment is compliant under one regulation, it should also be compliant under other regulations for the same type of equipment. This could limit our ability to conduct business if the correct tier engine is not available for rental.

5. Initiate CHE opacity based monitoring program

This is another proposal with disparate impact where the marine terminals and rail yards are being held to a higher standard than other diesel regulations for similar equipment. We don't see this being proposed in other CARB regulations.

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. As discussed above, much of our equipment would be regulated by the off-road regulations if they were not located at a marine terminal. Why are the ports and rail yards singled out for the added burden.

As you are aware, many of the UTR's (yard hustlers) in use at ports have on-road engines in them (with inherent duty-cycle issues related to their use in this equipment). The on-road (Truck and Bus) regulation requires annual opacity testing downstream of the particulate filter, not ahead of the filter. Why are you proposing that our industry be required to test ahead of the DPF? Again, there is a disparate impact to our industry as it is being held to a higher regulatory standard than similar engines falling under different regulations.

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 coming from an engine with a CARB verified DPF is not up to those standards, then the equipment owner needs to correct this. The manufacturer's warranties for their respective DPFs state that the equipment owners are responsible for maintaining the engines to specific emission standards. If a DPF were to fail or plug up prematurely due to engine maintenance/performance issues the equipment owner is responsible for any costs associated with the neglect – per the warranty. After one or two expensive filter cartridge replacements, the equipment owner will realize it is more cost effective to correctly maintain their equipment. There should not be an added need to test opacity upstream of the DPF. There will be a detrimental impact to production due to the increased downtime due to the opacity testing upstream of the DPF.