

The California Caterpillar Dealers

May 14, 2018

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

Subject: Comments on Proposed Amendments to the Periodic Smoke Inspection Program (PSIP)

Dear Chairman Nichols and Members of the Board,

On behalf of the California Caterpillar dealers, we would like to comment on proposed changes to the Periodic Smoke Inspection Program (PSIP); specifically: fleet annual reporting, annual smoke test uploads, test requirements for vehicle sales, opacity limits on older vehicles using the low use exception in Truck and Bus, and CCDET training requirements.

Fleet Reporting and Annual Smoke Test Uploads

In a letter to staff on January 31, and another letter to Richard Corey on June 15, 2017 (copies attached for reference) we indicated we cannot support a concept that would require entire fleet reporting and cumbersome uploading of smoke tests annually for each vehicle reported. We indicated this would be over-burdensome, unfair and even more unenforceable than the current program. Additionally, management of the annual reporting for large fleets with vehicles continually being purchased and sold will inevitably lead to inadvertent oversights in reporting those vehicles, ultimately leading to unfortunate enforcement. As staff should be aware from any discussions with the on-road staff, this proposed reporting also defeats the 'no-reporting' allowance in the Truck & Bus regulation for those owners using the model year schedule, and it will force fleets complying with the many other on-road diesel vehicles regulations (e.g. public and utility fleets, solid waste, etc.) to now report their fleets where currently, there are no reporting requirements. That is certainly not a good use of resources by industry, or by CARB. We urge the Board to ask staff to remove the reporting requirements.

Uploading smoke tests would be a manual process of scanning smoke test results for most fleets. There is no electronic system in place as there is for the on-road passenger vehicle smog test system with DMV. Review of these scans by CARB would also be a manual process. This manual process could also put compliant fleets like ours at risk of enforcement for inadvertent omission of any scans. We also indicated to staff that the proposed PSIP reporting and test uploading would put California-based rental fleets at a competitive disadvantage with companies based out of state that have no smoke test or reporting requirements. We would expect the state to encourage California businesses, not create an unfair and unlevel playing field.

CARB staff has indicated they want to incorporate this reporting and smoke test uploads by 2023 in anticipation of pending legislation that would require a joint effort between CARB enforcement and DMV registrations. Staff states they will have access to DMV records to ensure accurate reporting; however, as we have already indicated to staff, DMV records and CARB records do not align for the following reasons:

- There is no synchronized, real-time CARB and DMV electronic database that allows for proper enforcement; the process is manual
- Owners listed on DMV registrations often do not match up with the true fleet owner (e.g. leased and financed vehicles, vehicles owned by a holding company, owners different than company represented, etc.)

- DMV looks at vehicle model year; smoke tests looks at engine model year; VIN numbers do not indicate the engine model year
- DMV registrations do not typically indicate the actual vehicle GVWR; the registrations show the GVWR capacity limits opted by the company
- Vehicles registered out of state are in California operational fleets, but there would be no way for CARB to verify if a company reports all of those vehicles

Unfortunately, until CARB and DMV have a mechanism in place to accurately determine noncompliance through a synchronized database, the manual process staff wants to rely on can only lead to unnecessary enforcement due to inevitable discontinuity between CARB's and DMV's records. We again request the Board to ask staff to remove the reporting and smoke test uploading requirements.

Alternative to Reporting and Smoke Test Uploads

Throughout the workshops and separate discussions with staff we have suggested a far simpler approach using an annual affirmation approach in lieu of burdensome reporting. Many others in industry support this concept. The annual affirmation suggestion provides a simple but effective means to ensure compliance with PSIP. That approach would require an owner to get a TRUCRS ID, but they would only be required to provide ownership information (no requirement to report vehicles other than those already reported for the exceptions). Annually the fleet owner would sign an affirmation attesting to compliance with PSIP (requiring no upload of smoke test scans). CARB could cross reference owner registrations from DMV to see who did not get a TRUCRS ID to use as their first level for enforcement audits. CARB enforcement could also make random selections for audits. Any fleet shown to be noncompliant and who have attested (annual affirmation) that they are complying should get hit hard with fines. Though staff liked the annual affirmation approach we suggested, unfortunately, the more onerous and cumbersome reporting requirement remains in the proposed language.

Smoke Test Requirements for Vehicle Sale

The proposed amendments are also incorporating a requirement that a smoke test be required within 90 days prior to a sale. Yet there is no mechanism to ensure this occurs because there is nothing in the Vehicle Code that makes it a condition of sale so you end up with a condition that is unenforceable. We suggest it be removed. If it is to remain, the 90 days period is too short, especially for rental companies, so we would suggest a 12 month period be used instead. Rental fleets, like those maintained by our dealerships, will typically strive to run smoke tests earlier in the year to ensure absolute compliance before the end of the year for the hundreds of vehicles in their fleets. Because these vehicles are constantly moving from rental to rental, coordinating the tests sooner in the year assures they get completed within the calendar year as required. Rental fleets also move out older inventory for newer vehicles late in the calendar year. Thus, a 90 day period will end up requiring a redundant second test and extra costs for many rental vehicles, and vehicles in other commercial industry fleets, including leasing companies, that turn over vehicles more frequently.

PSIP also excludes an owner of a single vehicle from smoke tests and the PSIP regulation altogether. As a result, they would also be excluded from the pre-sale smoke test requirement. Unfortunately, this could allow a single truck operator to purchase their first truck as one that is illegal in California. If this proposed section is not removed, we would suggest language be incorporated to address this gap. We would propose one paragraph for sales and another for acquisition. The suggested language below still excludes a single truck owner from PSIP annual smoke tests, but it would require a new owner to buy a vehicle that had been smoke tested. Unfortunately, again, because this is not a requirement of DMV registration, this too is still unenforceable.

We ask the Board to direct staff to remove this proposed section. If not removed, the following suggested language should be considered that will allow a more appropriate period of time prior to sale for the commercial smoke tests, and will require this sale condition of all diesel vehicles > 14,000# GVWR:

2193(c) Vehicle Sales and Acquisitions

(1) ~~Vehicle sales~~~~New vehicle acquisition~~. Upon sale of a vehicle subject to the Periodic Smoke Inspection Requirements of this chapter, the seller shall provide evidence of a successful smoke opacity test to the new owner. Record of OBD data review, as described in section 2193(f), is sufficient if the vehicle is eligible. The successful test must have been completed within ~~90 days of~~ 12 months of the sale date. The new owner shall maintain a record of the smoke opacity test or OBD data review provided by the seller. This test record is sufficient to meet the annual testing requirements of section 2193(b)(1) for the year of sale. The new owner is responsible for complying with sections 2193(c)(2), 2194 and 2195 for the given vehicle. This section is not applicable to any vehicles exempted under Section 2190(b), or any vehicle sold out of state, or any vehicle returned to a leasing company, or sold to a broker or reseller.

(2) Vehicle acquisition. California registration of any diesel vehicle subject to the Periodic Smoke Inspection Requirements of this chapter, or any single truck not part of a fleet as defined in this chapter, will require evidence of a successful smoke opacity test. Record of OBD data review, as described in section 2193(f), is sufficient if the vehicle is eligible. The successful test must have been completed within 12 months of the sale date. A fleet owner is also responsible for complying with sections 2194 and 2195 for the given vehicle.

Revised Opacity Limits

Many fleet owners are using the low-use provision in the Truck and Bus regulation. Many of those vehicles have 1990 and older engines which may likely fail a 40% opacity limit. An industry person provided staff specific data for their low use vehicle that indicates it would fail. The reason is these vehicles were only required to meet a 50% peak allowance when certified. An exception should be provided for vehicles operating within the low mileage limits of the Truck and Bus regulation.

CCDET Training

We could support CARB's proposal to require CCDET training for all smoke testers, including those testers that are employees of the company owning the vehicles, to ensure a consistency in statewide test protocol.

We want to thank the Board and its staff for the opportunity to present these comments. If you have any questions, they may be directed back through Jim Halloran, Caterpillar Manager, State Government Affairs - Western Region (916)-580-5467, or email, Halloran_James_P@cat.com.

Sincerely,

The California Caterpillar Dealers



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January 31, 2018

Jason Hill-Falkenthal
California Air Resources Board
1001 I Street
Sacramento, California 95814

Subject: Comments on PSIP Proposed Changes

Dear Mr. Hill-Falkenthal,

On behalf of the California Caterpillar dealers, we would like to comment on proposed changes to the Periodic Smoke Inspection Program (PSIP); specifically: fleet annual reporting, annual smoke test uploads, and opacity limits on older vehicles using the low use exception in Truck and Bus.

In comments provided to staff, and in a letter to Richard Corey on June 15, 2017, we indicated we could not support a concept that would require entire fleet reporting and cumbersome uploading of smoke tests annually for each vehicle reported. We feel this is over-burdensome, unfair and unenforceable. It actually defeats the no-reporting allowance in the Truck & Bus regulation for those owners using the model year schedule, and it now forces fleets complying with the many other on-road diesel vehicles regulations (e.g. public and utility fleets, solid waste, etc.) to now report their fleets. The fleet reporting will also require thousands of vehicles regulated under truck and bus to be reported, only to be retired shortly thereafter to comply with that regulation. That is certainly not a good use of resources by industry, or by CARB. Additionally, a March 1 reporting date as proposed for large fleets puts even more stress on large fleets already reporting for other CARB programs by that same date.

As indicated to both staff and Mr. Corey, presently the California Caterpillar dealers have only a fraction of their overall fleets reported online for those vehicles operating under exception to the model year schedule of the Truck and Bus regulation. The proposed PSIP reporting would now require hundreds more of the dealers' vehicles to be reported and maintained. With so many of these vehicles in our rental fleets, it puts us at a competitive disadvantage with companies based out of state that have no smoke test or reporting requirements.

In our discussions with staff we were left with the impression that the uploading of smoke tests would not be in the final proposal, and the annual affirmation approach in lieu of burdensome reporting was really being considered. Unfortunately, following our discussions, neither part of the proposed regulation has been revised to incorporate industry input on these two items. The annual affirmation suggestion provided a simple but effective means to ensure compliance with PSIP. That approach would require an owner to get a TRUCRS ID, but they would only be required to provide ownership information (no requirement to report vehicles other than those already reported for the exceptions). Annually the fleet owner would sign an affirmation attesting to compliance with the PSIP (requiring no upload of smoke test scans). CARB could cross reference owner registrations from DMV to see who did not get a TRUCRS ID to use as their first level for enforcement audits. CARB enforcement could also make random selections for audits. Any fleet shown to be noncompliant and who have attested (annual affirmation) that they are complying should get hit hard with fines.

We are also very concerned if CARB proceeds with these onerous requirements that CARB will have no way to ensure a level playing field with the added fleet reporting and smoke tests. CARB states they will have access to DMV records to ensure accurate reporting; however, DMV records and CARB records do not align for the following reasons:

- Owners listed on DMV registrations often do not match up with the true fleet owner (e.g. leased and financed vehicles, vehicles owned by a holding company, owners different than company represented, etc.)
- DMV looks at vehicle model year; smoke tests looks at engine model year; VIN numbers do not indicate the engine model year
- DMV registrations do not typically indicate the actual vehicle GVWR; the registrations show the GVWR capacity limits opted by the company
- Vehicles registered out of state are in California operational fleets, but there would be no way for CARB to verify if a company reports all of those vehicles

Given this, we cannot see how CARB can really ensure everybody that is required to comply with PSIP will actually do so. As a result, it leaves companies like ours that are fully compliant at a competitive disadvantage. It also puts compliant fleets like ours at risk of enforcement for missing uploads and discontinuity between your records and DMV's, whereas those that are finding ways to circumvent the system will continue to do so.

On opacity limits, we believe there will be an issue with some 1990 and older engines in meeting the 40% opacity. This would create a conflict for owners using the low use provision of the Truck and Bus regulation for older vehicles with engines that were certified at the 50% peak allowance. An exception should be provided for vehicles operating within the mileage limits of the Truck and Bus regulation.

Again, we want to thank you for the opportunity to present these comments to CARB in advance of the Board package. If you have any questions, they may be directed back through Jim Halloran, Caterpillar Manager, State Government Affairs - Western Region (916)-580-5467, or email, Halloran_James_P@cat.com).

Sincerely,

The California Caterpillar Dealers



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California Caterpillar Dealers
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June 15, 2017

Richard Corey
Executive Officer
California Air Resources Board
1001 I Street
Sacramento, California 95814

Subject: Comments on PSIP Proposed Changes

Dear Mr. Corey,

On behalf of the California Caterpillar dealers, we would like comment on proposed changes to the Periodic Smoke Inspection Program (PSIP); specifically on two aspects: fleet and annual reporting, and CCDET training for testers. But first, we would like to thank your PSIP staff for allowing us the ability to directly discuss the proposed changes separately from the workshop sessions. As you are aware, the California Caterpillar dealers have taken an active role in providing California Air Resources Board (CARB) with comments to your regulations that compliment your efforts. Each of the dealers key people, including those that are signatory to this letter, frequently interact with staff on the many diesel and spark-ignited regulations to help improve your reporting and enforcements processes.

In comment to CARB's proposal to require CCDET training for all smoke testers, including those testers that are employees of the company owning the vehicles, we fully support this concept. This provides a consistency in statewide test protocol.

As for the proposed online fleet reporting requirements and annual smoke test submittals, though, we cannot support this concept. We feel this is over-burdensome, and actually defeats the no-reporting allowance in the Truck & Bus regulation for those owners using the model year schedule, as well as the many other on-road diesel vehicles regulations (e.g. public and utility fleets, solid waste, etc.) that also have no online reporting requirements. Under staff's proposal, every California-registered vehicle would now need to be reported and maintained, and scans of each annual smoke test uploaded annually. Presently, the California Caterpillar dealers have only a fraction of their overall fleets reported online for those vehicles operating under exception to the model year schedule. The proposed PSIP reporting would now require hundreds more of the dealers vehicles to be reported and maintained. With so many of these vehicles in our rental fleets, it puts us at a competitive disadvantage with companies based out of state that have no smoke test or reporting requirements.

In lieu of mass vehicle reporting, and cumbersome scanning and uploading of annual smoke test reports, we have suggested a less onerous approach that would simply require a fleet to submit an annual affirmation form, signed by an officer of the company or a designee appointed by such officers as the Responsible Official, that states the company is in full compliance California's smoke testing requirements. Under this scenario, each company with California registered diesel vehicles > 14,000 pounds GVWR would simply acquire a TRUCRS identification; however, with no requirement to report the vehicle fleet information, excepting those that may already be reported. This affirmation would be similar to the ROAR form used annually as an affirmation to the off-road diesel mobile regulation. This very simple approach would be supported by the dealers. CARB random audits could identify those fraudulently affirming, and fines for those companies could be elevated.

We want to thank you for the opportunity to present these comments to CARB, and we appreciate your consideration of this much simpler direction. If you have any questions, they may be directed back through Jim Halloran, Caterpillar Manager, State Government Affairs - Western Region (916-498-3331, or email, Halloran_James_P@cat.com).

Sincerely,

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