

April 19, 2021

Clerks Office  
California Air Resources Board  
1001 I Street, Sacramento, CA 95814

Via electronic submission:

RE: OPEI Comments to CARB Proposed Mobile Source Certification and Compliance Fees

The Outdoor Power Equipment Institute (“OPEI”) respectfully submits these comments to the California Environmental Protection Agency Air Resources Board’s (“CARB”) Proposed Mobile Source Certification and Compliance Fees (“the Rule”).

OPEI is an international trade association representing more than 100 manufacturers and their suppliers outdoor power equipment. OPEI members products are ubiquitous in California households, including products such as lawnmowers, garden tractors, utility vehicles, grass trimmers, brush cutters, lawn edgers, chain saws, snow throwers, tillers, leaf blowers and other lawn and garden equipment. As manufacturers of small off-road engines (“SORE”) and SORE powered equipment, OPEI members will be directly affected by the Proposal. In addition, to the extent that concerns are not included here-in, OPEI supports the comments provided by the Truck and Engine Manufacturers Association (“EMA”) as they regard proposed SORE fees.

OPEI opposes the SORE, SORE powered equipment, SORE component, and equivalent zero-emissions equipment (ZEE) certification fees described in the Rule. OPEI request SORE be exempted from the Rule until the impact of ongoing SORE rulemaking can be understood.

**Comment 1: The Rule does not consider the impact of CARB’s ongoing SORE rulemaking. CARB’s ongoing SORE rulemaking will significantly impact the sectors certification and compliance costs. CARB should postpone SORE fee rulemaking until CARB SORE rulemaking is complete.**

Foremost, the Rule does not consider the impact of ongoing SORE rulemaking. On March 24, 2021 CARB staff proposed setting SORE emissions to zero starting with model year 2024 (with the exception of portable generators, which CARB staff proposed significant reductions for before setting emission limits to zero for model year 2028). The impact will be immediate, forcing most manufacturers out of the California market for model year 2024. As a result, if adopted, the number of model year 2024 Executive Orders (EO), both exhaust and evaporative, will be reduced to a small fraction of today's certifications. ZEE applications, with the exception of zero emissions portable generators, will be zero starting with model year 2024. It is expected only a limited number of generator manufacturers will comply with the new regulations, further reducing the number of EOs in model year 2024 and thereafter. Total CARB certification and compliance costs will be greatly reduced as a result. The Rule's cost analysis does not reflect this reality.

It is not yet possible to quantify EO, sales volume and the cost impact of CARB's 3/24 proposed rule on the SORE sector, but without doubt the staffing and facility and operational costs should be minimized as a result of the proposed rule. With a limited number of manufacturers remaining, CARB Certification Staff will be reduced. Working with fewer manufacturers it is reasonable to expect both Certification Staff and manufacturers will be more efficient in the certification process. Overhead will be reduced. If the proposed SORE rule is approved, it would be unnecessary to proceed with expensive test equipment and new facilities for the purposes of SORE certification and compliance for just a few additional years and small number of products.

**Comment 2: The Rule does not accurately reflect the end-use cost impact. CARB overestimates the SORE certified population in its analysis, in-turn underestimating the cost impact to the end-user.**

The Rule describes in vague detail the costs associated with the off-road sector certification and compliance programs, included there-in are the SORE and SORE-related categories. Associated costs include the specific certification and approval costs and facility and operational costs, amortizing capital expenditures over ten years. Estimating the number of EOs based on historic numbers, and forecasting sector

growth, the Rule estimates end-user cost increases across the sector (as a result of manufacturers passing down fees). Holding the number of EOs constant and estimating a 0.6% overall SORE sector growth, the Rule calculates the equipment fee to be \$0.68-\$0.70 per piece of equipment after phase-in.

The Rule's estimates SORE New Off-Road Engines and Equipment model year sales growing based on the CARB SORE2020 model<sup>1</sup>, ranging from 3.9M to 4.2M units from 2018 to 2031. However, OPEI believes these model year sales populations do not reflect the population of equipment subject to certification fees. Significant portions of the of the estimated sales in the Rule appear to include (1) low-cost zero-emissions equipment not certified (for the purpose of credit generation) and (2) preempt equipment not subject to CARB certification and compliance jurisdiction. For example, CARB models approximately 738,000 residential (2hp equivalent) model year 2023 sales (sold between 2023-2025). These are historically not certified, nor would be as they would not meet the commercial-grade performance criteria for credit generation in the current CARB program. As a result, the end-user costs in the Rule are grossly underestimated. CARB must correct the estimated population and forecast, and in-turn the SORE cost impact accordingly.

**Comment 3: The Rule does not accurately reflect the end-use cost impact. The cost burden will fall hardest on minority and low-income small businesses.**

The Rule applies a broad-brush strategy of averaging the cost across the SORE fleet. In fairness to all consumers, CARB should present the cost impact on a per-category basis.

CARB estimates hundreds of different SORE equipment types (including segregating similar equipment by use category)<sup>2</sup>, with equipment costs ranging from less than \$100 to tens of thousands of dollars. In many cases engine and equipment EOs are unique by both product and use type. Speaking generally, as the different categories increase in cost, the volumes decrease. The percent cost increase to professional-grade wide-area walk-behind mowers with low California sales will be

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<sup>1</sup> CARB SORE2020\_Final\_Version1.1 model

<sup>2</sup> CARB SORE2020\_Final\_Version1.1 model

significantly different than low-end consumer chain saws with high California sales. As a result, it is likely small California businesses, primarily the estimated 50,000-75,000<sup>3</sup> individual-proprietor landscapers, many of which are minority and/or lower-class owned, will shoulder a disproportionate load of the certification fees due low volume sales of commercial products.

The Rule relies on the Form 399 for the Public Hearing to Consider Proposed Amendments to the Evaporative Emission Requirements for Small Off-Road Engines, to estimate Off-Road Percent Purchase Splits, suggesting the purchase split to be 33% businesses and 67% individuals. However, the CARB SORE2020 model suggests commercial products have a much lower split, which results in a disproportionate allocation of fees to businesses. For example, CARB models approximately 1,277,251 gas-powered non-exempt lawn and garden model year 2023 units sold (between 2023-2027), of which only approximately 276,477 units (of 18%) are used for commercial (“business” plus “vendor”) use. It is unclear why CARB uses the SORE2020 model for some data, and not for other. CARB must correct the business and individual splits accordingly and more accurately estimate the product cost for different product categories and user groups.

**Comment 4: The Rule does not accurately reflect the end-use cost impact. The SORE sector is largely non-integrated; regulated components will be subject to mark-up by Original Equipment Manufacturers.**

The SORE sector is sufficiently non-integrated; meaning engine and fuel system component suppliers are not the equipment manufacturer. As a result, the associated fee cost to engine and fuel system components may be passed through multiple suppliers or manufacturers before reaching the end user. If each manufacturer is expected to maintain sales margins, the fee’s will similarly be marked up as the products move through the distribution channel.

**Comment 5: The Rule does not adequately describe the associated costs for the purpose of stakeholder comments.**

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<sup>3</sup> ARB-SORE-16MLD011\_FullReport\_Final\_11-26-19. Table 376 Comparison of Survey Sample and Statewide Licensed Vendor Population by Size; Pg. 521 Estimating the Size of the Population of Inference

The Rule provides only a single number labor cost per year for certification and compliance costs. For example, for the SORE exhaust category, a single cost of \$1,193,054 and 5.9 Person Years (PY) is attributed. Historically CARB SORE exhaust compliance activity is minimal. As a result, we might conclude that the majority of this cost is wrapped up in certification. The result would be  $[(5.9\text{PY} * 40 \text{ hr/week} * 52 \text{ week/yr}) / 689]$  approximately 18 hours per certification. OPEI's initial reaction is that this number is high, as (1) CARB staff is well trained in reviewing certification, handling hundreds per year, and (2) many applications are likely carryover and require limited review. However, without any detailed breakdown of how the 5.9 PY was derived, stakeholders can only guess, limiting meaningful comments. Additionally, a more detailed breakdown would help clarify the PY cost of \$202,213, which appears to be between the top 2 mid-range cost salaries by class described in the Rule.

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Thank you for the opportunity to submit comments to the Rule. In closing, OPEI opposes the Rule. OPEI requests CARB exempt SORE from the Rule until the ongoing CARB SORE rulemaking is completed and its impact on the market can be understood. If CARB decides to move forward with SORE fee rule despite ongoing major SORE rulemaking, CARB must first correct the cost impact on SORE equipment as a result of the Rule and provide stakeholders an opportunity to provide comments on the correct cost implications.

Kind regards,



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