

November 14, 2006

Ms. Peggy Taricco
Chief, Emission Inventory Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814

**Subject: Proposed changes to draft AB 2588 Emission Inventory
Criteria and Guidelines Regulation.**

Dear Ms. Taricco:

We the undersigned agricultural organizations submit the following comments on the above referenced rulemaking. We begin with a request of the Board to delay a decision on this issue until additional workshops are scheduled to adequately work out the issues raised by our organizations and others that will be forced to deal with the proposed changes on a day-to day basis.

Many of our members use stationary and portable diesel engines at facilities as defined by AB 2588. These facilities will be directly impacted by the inclusion of diesel engine emissions in the AB 2588 program. It is in their interest as responsible operators, and in the interest of the communities in which they operate, to ensure that any further actions taken pursuant to AB 2588 are based on accurate estimates of the incremental risk associated with diesel engine use at their facilities.

The diesel particulate stationary and portable engine ATCMs only apply to diesel engines rated greater than 50 hp at a stationary source. The proposed health risk assessment regulation revisions are applicable to **all** diesel engines at a stationary source if the total operation of all those engines exceeds 20 hours per year. In addition, CARB proposes that the revisions be applicable to portable engines that are part of "routine and predictable" operations at a facility. These proposals are of concern to us. Such a change will require our members to inventory and report diesel engines not included as part of the diesel ATCM reporting process (e.g., diesel engines rated less than 50 hp). This will result in additional fees by the air pollution control district that processes the data.

We are also concerned about the engines rated less than 50 hp that **already exist** at a stationary source. Our members have already expended extensive

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funds for the elimination of engine permit exemptions for compliance with the diesel stationary engine ATCM including costs associated with reporting, recordkeeping, and permit fees. In addition, if one of these previously exempt and now newly permitted engines fail then the replacement engine will be subject to New Source Review (NSR) requirements. Emission offsets are one of the NSR requirements, and the availability of emission reduction credits (ERC) is very limited throughout California. This action could result in districts requiring the engines rated less than 50 hp to be permitted which means additional permit fees, and as mentioned above, would require permitted engine replacements to be subject to NSR requirements.

We are further concerned on how CARB is proposing to implement the "routine and predictable" provision. On page 59 of CARB's staff report, the following statements are made concerning this "routine and predictable" provision:

"It is not limited to regular activities that occur on a daily or monthly basis but can also include activities that might occur once every few years if the activity is planned in advance and occurs on a repeating basis."

"Because there are such a wide variety of circumstances and conditions between different industries and different air pollution control districts, the determination of what constitutes a routine or predictable activity has been left to the discretion of the districts."

- "... there is some uncertainty among affected facilities about what can be interpreted to be routine and predictable activity."

The utilization of language such as: "might occur", "wide variety of circumstances and conditions", and "some uncertainty" is quite unsettling to us and fails to provide the adequate guidance for the regulated community. Furthermore, CARB is leaving the determination of what constitutes a routine or predictable activity to the individual air pollution control districts leaving industry with no real direction on how this provision will be enforced. A number of issues will arise as a result of this inadequate direction.

The Initial Statement of Reasons (ISOR) at page 59 states that "the Hot Spots program requires emission reporting based on routine and predictable emissions from a facility." However, the definition in the draft regulation focuses only on the "routine" nature of facility operations. It is silent on the concept of predictability as it relates to calculating emissions. An operation should only be viewed as "routine and predictable" if it occurs at the same facility in the same manner on a periodic basis and if the emissions from that operation can be quantified with a reasonable degree of certainty.

This issue could be addressed in the Final Statement of Reasons through an amendment to the second bullet in the section entitled "Routine and Predictable Operations for Diesel Engines" as follows:

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"Routine use of rented or leased portable engines, even if the identity of the engines are not known (the district could require the facility operator to estimate the total number of hours that the engines operated, and a reasonable estimate of the emissions resulting from these operations) if the equipment is used in the same manner on a regular basis and the facility operator can reasonably estimate the emissions at the facility resulting from such recurring operations."

CARB should clarify in the rulemaking record that individual facilities have the option to conduct facility-specific risk assessments. South Coast AQMD staff recently expressed concern about being inundated with poorly prepared risk assessments. They have also expressed their preference to use screening risk assessments, presumably for the purpose of focusing their staff resources on complex facilities that may pose a significant risk. While the air districts may not intend to preclude development of site-specific risk assessments for such facilities, a simple restatement of the language from Health and Safety Code 44360 (b)(3), which requires OEHHA's risk assessment guidelines to **"allow the operator of a facility, at the operator's option" to include supplemental information in a facility-specific risk assessment**, in the Final Statement of Reasons should resolve any confusion among facility operators on this issue.

We believe that the issues raised in this letter are more than enough proof to justify additional workshops on this issue. At this time, the staff report fails to provide adequate guidance to the regulated community. We appreciate your consideration of our comments. If you have any questions, please contact our legislative advocate, Louie Brown, at 916-448-3826.

Sincerely,

Joel Nelsen
California Citrus Mutual

Earl Williams
California Cotton Ginners and
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Barry Bedwell
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Nisei Farmers League

cc: Mr. Robert Fletcher - CARB
Ms. Linda Murchison - CARB
Mr. Chris Halm - CARB
Mr. Dale Shimp - CARB