



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 NO. HARBOR DR.
SAN DIEGO, CALIFORNIA 92132-0058

IN REPLY REFER TO
5090
Ser N45/
8 November 2006

Mr. Chris Halm
California Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814-2828

Dear Mr. Halm:

Re: Proposed Revisions to the Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program

On behalf of the military services in California, attached are comments to the proposed revisions to the emission inventory criteria and guidelines report for the Air toxics "Hot Spots" Program.

Our specific issues are identified below. Where appropriate, we have suggested language to address the problem.

1. Tactical Support Equipment (TSE)

TSE forms the support backbone for our national defense mission. Quite simply, jet aircraft cannot start without them. Field communications cannot occur without them. Test and Evaluation of new weapons systems cannot occur without them. TSE use remains vital to testing and training evolutions on California bases in support of DoD's overall mission to fight terrorism.

Portable equipment also has a history of regulatory issues in California. Prior to passage of Assembly Bill (AB) 531 in 1995, California installations had growing issues with District regulation of portable equipment that was impacting our ability to use them. It was this issue that resulted in the California Legislature making a special allowance for Tactical Support Equipment in AB 531.

DoD has concerns that the California Air Resources Board (ARB) was not receptive to a request for an exemption for TSE, at the 27 July 2006 workshop. Further, DoD has concerns with ARB's position that it is reasonable for Districts to request annual hours of equipment operation from the owner for the purpose of assessing associated health risks. This is not supportable and potentially violates the AB 531 exemption. The legislative exemption from "emission controls and emission limitations" limits ARB's authority to require TSE emission in its health risk assessment. See Health and Safety Code Sections 41750-54 and 13 CCR 2450-2465. This data is not available on a regular and reoccurring basis as the military does not record regular fuel usage for this equipment and therefore

does not have accurate and regular accounting of the resulting emissions. Lastly, the staff report is in error when it states that two APCDs, specifically San Diego and Ventura, have been requiring TSE owners to submit the annual operational data. While these Districts have included TSE estimates in the emission inventory report (EIR), the military does not concur that there is a legal requirement to provide such data citing District preemption under H&SC 41750-54, nor did we verify the Districts' estimates.

We reviewed the subject regulation and believe that tactical support equipment should be excluded for the following reasons:

- a. The portable Airborne Toxic Control Measure (ATCM) specifically exempts TSE from emission standards associated with that regulation.
- b. Assembly Bill 531 states that any registered portable internal combustion engine, including any turbine, used by the Department of Defense or the National Guard exclusively for military tactical support or other federal emergency purposes, as specified in the state board's regulation, is not subject to any statewide or district emission control or emission limit.
- c. TSE, by its nature, is used on larger installations at locations not proximate to sensitive receptors. We therefore believe that the emissions from TSE are not a significant risk. Military installations have fully complied with AB 2588 requirements over the years including a number of measures to reduce risks. For example, recognizing the dangers posed by emissions of Chromium +6 from plating operations, the Navy has reduced these emissions by 99% by installing a misting tower at the Naval Air Depot on Coronado.

We indicated in previous workshops regarding this draft regulation that TSE should remain exempt from annual reporting and the associated health risk screening assessment.

The intent of the military exemption is to protect portable equipment that may be deployed by the armed forces for nation- or world-wide emergency response, national defense, or world crisis. On page 55 of the Initial Statement of Reasons (ISOR) document, CARB staff states:

ARB staff believes it is appropriate for the district to consider an alternative risk reduction requirement under "Hot Spots" to avoid conflict with U.S. DoD specifications and to not compromise U.S. defense operations.

We believe this verbiage should be removed as it may be interpreted as authorizing a district to require risk reductions and installation of emission reduction devices on TSE. Similarly, references to alternative risk reductions for military TSE equipment on pages 26 and 54 of the ISOR document should be removed. Districts are preempted from requiring emission control devices on TSE. Any such attempts, would be legally limited, as well as practically limit DoD's ability to ensure the worldwide deployability of uniform equipment that is so vital to our national security mission. This would be absolutely inconsistent with the intent of AB 531.

We request CARB add a exemption to the Proposed Amendments to the Emission Inventory Criteria and Guidelines Report in Section VIII, D (Other Requirements, Exempted Uses) that states the following:

D. Exempted Uses.

The following uses of listed substances shall not be subject to this regulation:

(9) Tactical Support Equipment.

2. Routine and Predicable Operations for Diesel Engines

On page 59 of the ISOR document, CARB staff provides a discussion regarding routine and predicable operations for diesel engines. Several examples are provided identifying diesel engine activities a district could determine to be routine and predicable. We are concerned over the potential for numerous interpretations that an activity could receive by an individual district. We suggest CARB revise this section and define routine and predicable operations in the regulation. CARB currently defines routine and predicable in Proposed Amendments to the Emission Inventory Criteria and Guidelines Report to mean:

“Routine and Predictable” is determined by the district, and means all of the regular operations at the facility. Emergency or catastrophic releases at a facility are not “routine and predictable” and are not included in a facility’s emission inventory.

We propose the following definition:

“Routine and Predictable” means standard operation procedures at the facility, including maintenance activities occurring on an annual basis. Emergency or catastrophic releases at a facility are not “routine and predictable” and are not included in a facility’s emission inventory.

With regard to the examples of diesel engine activities that the District could determine to be routine and predictable cited in the ISOR, we request CARB delete or revise the following.

- a. *Standard operating procedures for Regular-maintenance and testing of a diesel engine*
- b. ~~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 those operations)~~
- c. Any maintenance activity that could reasonably be predicted to occur *annually* at ~~least every few years~~ using either a stationary or portable engine

- d. ~~Most “hot standby” or other operations in preparation for a potential electrical outage~~

3. Diesel Engines less Than 50 Brake Horsepower

CARB stated that portable diesel engines, and diesel engines equal to or less than 50 bhp, that are part of “routine and predictable” operations and operate more than 20 engine hours per year combined total at a facility, are subject to the “Hot Spots” Program at the district discretion. We believe that these sources of emissions are insignificant and should not be required in the inventory report for the following reasons:

- a. The CARB portable ATCM specifically exempts engines less than 50 brake horsepower (bhp).
- b. The CARB Portable Equipment Registration Program exempts from registration requirements engines less than 50 bhp.
- c. The California air pollution control districts typically do not permit or otherwise regulate existing diesel engines less than 50 bhp.
- d. The CARB Stationary ATCM does not regulate existing engines less than 50 bhp.

We are concerned that local districts will initiate new rule making in order to remove existing permit exemptions in order to require recordkeeping and reporting associated with these engines.

We request CARB reconsider adding a categorical exemption to the Proposed Amendments to the Emission Inventory Criteria and Guidelines Report in Section VIII, D (Other Requirements, Exempted Uses) that states the following:

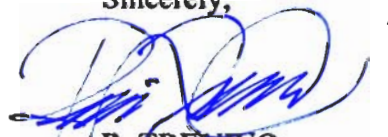
D. Exempted Uses.

The following uses of listed substances shall not be subject to this regulation:

- (10) Portable and stationary engines less than 50 bhp.

Thank you for the opportunity to provide comments on the subject proposed regulation. If you have any questions or concerns regarding these comments, my point of contact is Randal Friedman. He can be reached at (619) 572-5037.

Sincerely,



R. TREVINO
Executive Director