



# OPERATING ENGINEERS LOCAL UNION No. 3

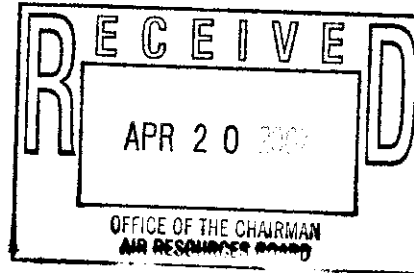
3920 Lennane Drive, Sacramento, CA 95834 • (916) 419-3260 • FAX (916) 419-3210

Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

Business Manager Russ Burns

April 18, 2007

Dr. Robert F. Sawyer, PHD, Chair  
California Air Resources Board  
Main Office  
1001 "I" Street  
PO Box 2815  
Sacramento, CA 95812



RE: In-Use Off Road Diesel Vehicle Proposed Regulation

Dear Dr. Sawyer:

I am writing on behalf of the over 40,000 members of Operating Engineers Local Union # 3 to request that the board adopt two changes to the proposed In-Use Off Road Diesel Vehicle Regulation as proposed by the staff of the California Air Resources Board.

The first change would exempt training facilities from the requirements of this regulation. Our training facility operates as a not for profit educational facility on a fixed and limited income and is unable to pass costs on to the consumer as the staff proposes the industry does. To absorb these costs would gravely limit our ability to train the equipment operators of the future and could eventually endanger the ability of California to maintain and grow the infrastructure of this great state. With this exemption our training facility would remain eligible to receive Carl Moyer funds and could continue to utilize these funds (as we are currently doing) to voluntarily improve our fleet. This exemption could be written into section 2449 (b) by adding to the last paragraph of (b) (State approved apprenticeship training programs and other non profit or not for profit organization who utilize off road equipment solely for the purpose of training are exempt from the provisions of this regulation). See Appendix A. This exemption would primarily affect our training facility in Northern California, our sister union Operating Engineers Local Union # 12 training facility in Southern California and the Job Corps program which assists at-risk youth.


The second change we request the board makes is to reevaluate the total cost of implementation of this regulation. My staff and I have been interviewing our signatory employers to evaluate the total loss of jobs this proposal will cost



the state of California and our membership. The Division's Staff published estimate of less than a thousand jobs per year loss is unrealistically low. The majority of small employers we have spoken with are planning to move out of California. Nevada and Texas seem to be the preferred relocation states. Several medium size fleets, whose owners are near retirement age, are looking to sell their equipment and retire early. Several of these employers feel their business will no longer be marketable after this regulation takes effect. The overall loss of jobs could easily be 30,000 to 40,000 state wide with the majority of these jobs being higher paid and skilled positions within the construction industry. This equates to over 1.6 Billion Dollars per Year in lost payroll. The additional loss of benefits and the dollars they provide to the California economy as well as the effects to retail sales, loss tax revenues to local and state government and the added cost to the state for unemployment and uninsured medical costs will make this regulation the most costly regulation that the working men and women of this state have ever had to endure.

We request that the board postpones voting on this regulation until after such time that a five year extension can be obtained from the Federal EPA. That with this extension the board directs the division to extend the 2020 compliance deadline to 2025. This additional five years will allow the industry the time needed to make these significant changes to their fleets while minimizing the impact on the working men and women of this state. The overall savings of jobs and their impact on the California economy will far outweigh the costs associated with the extended time in meeting these environmental goals.

Respectfully,



Russell E. Burns  
Business Manager  
IUOE General Vice President

cc: Officers  
Executive Board Member

REB:GP:sm:iuoe3/afl-cio

## **Appendix A**

### **Proposed Change To Section 2449 (b)**

#### **(b) Applicability**

Except as provided in the paragraph below, the regulation applies to any person, business, or government agency who owns or operates within California any diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle. Vehicles that were designed to be driven on-road, have on-road engines, and still meet the original manufacturer's on-road engine emission certification standard are considered on-road and are specifically excluded from this regulation, even if they have been modified so that they cannot be registered and driven safely on-road. Off-road vehicles that were designed for off-road use and have off-road engines are considered off-road and are subject to this regulation, even if they have been modified so that they can be driven safely on-road.

This regulation also applies to any person who sells a vehicle with such an engine within California.

Persons who provide financing in the form of "finance leases," as defined in California Uniform Commercial Code Section 10103(a)(7), for in-use off-road diesel-fueled vehicles, do not "own" such vehicles for the purposes of this regulation.

Vehicles with engines subject to this regulation are used in construction, mining, rental, government, landscaping, recycling, landfilling, manufacturing, warehousing, ski industry, composting, airport ground support equipment, industrial, and other operations. The regulation does not cover locomotives, commercial marine vessels, marine engines, recreational vehicles, or combat and tactical support equipment. The regulation also does not cover stationary or portable equipment, or equipment or vehicles used in agricultural operations, or equipment at ports or intermodal railyards. Off-road diesel vehicles owned and operated by an individual for personal, noncommercial, and non-governmental purposes are exempt from the provisions of this regulation. State approved apprenticeship training programs and other non profit or not for profit organization who utilize off road equipment solely for the purpose of training are exempt from the provisions of this regulation.