



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 N. HARBOR DRIVE
SAN DIEGO, CA 92132-0058

IN REPLY REFER TO:
5090
Ser N45/183
April 23, 2007

Tony Brasil
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814-2828

RE: Proposed Diesel Particulate Matter Control Measure for In-Use Off-Road Heavy-Duty Diesel-Fueled Vehicles

Dear Mr. Brasil:

On behalf of Rear Admiral Hering, the Department of Defense ("DoD") Regional Environmental Coordinator for EPA Region IX, and the Military Services in California, I write to communicate DoD's concerns with certain aspects of the proposed regulation. While we appreciate that several of our previously expressed areas of concern have been addressed, several issues remain unresolved.

The staff of the California Air Resources Board (CARB) has acknowledged the cost of this regulation to be \$3 billion. However, industry sources believe it could be at least three times this amount. Moreover, uncertainty persists regarding the reliability of diesel emission control devices on off-road engines (which can vary greatly in shape, size and duty cycle, and which may be tasked to operate under difficult conditions in austere environments). Therefore, we join with many other stakeholders in requesting that CARB staff consider postponing submission of the rule for Board approval (currently scheduled for May 25, 2007) until a wider representation of stakeholders are afforded the opportunity to participate in the rule development process and evaluate the likely impacts to their off-road fleet operations.

In support of this request, we ask you to consider the amount of time and stakeholder input that CARB has authorized during comparable rulemaking efforts. By way of comparison, development of the Portable Equipment Registration Program (PERP) regulation occurred over four years with final adoption of the rule in 1997. Following codification of the PERP program into the California Health and Safety Code, two phase-in periods were authorized and a third grace period went

into effect on December 7, 2006 to allow unpermitted equipment into the PERP or local air district programs. CARB appeared to recognize with the PERP rule that there was a large inventory of potentially regulated portable equipment, and that the regulation of this inventory would result in unique compliance challenges for PERP equipment owners/operators in California. CARB accordingly granted a measured phase-in approach that mitigated cost and reliability concerns for the regulated community. CARB staff has estimated that 30,000 PERP eligible units exist in California today. Of these, approximately half are in the PERP. The population of equipment in the inventory potentially subject to this proposed rule is roughly 7 times larger than the PERP eligible inventory and presents even greater compliance obstacles for regulated industry, yet the proposed regulatory compliance schedule is far more compressed than the implementation schedule for the PERP. Our recommendation is for CARB staff to develop a complete outreach program, with continued workshops, to ensure that all stakeholders are included in this rule development process before submitting the draft regulation to the Board for consideration and approval.

Before discussing specific comments, we would also raise in a general sense our continued concern with the treatment of B20 "bio-diesel" fuel in off-road applications. As CARB staff is aware, DoD is one of the pioneers in promoting alternative fuel use in California, and DoD installations across the state are increasingly using B20 in lieu of standard diesel across the spectrum of military activities. While we understand and appreciate the ongoing efforts of CARB to acknowledge B20, by non-regulatory policy, as a CARB sanctioned diesel fuel, we are concerned that there are very limited certified retrofit devices have been verified with B-20 (and there is not any indication that this situation is likely to change in the near future). Given the non-regulatory status of the CARB bio-diesel "policy", in combination with the fact that very few of the potentially available Diesel Emission Control Systems (DECS) have been verified with B20, we remain concerned about potential engine warranty difficulties post-retrofit.

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

1. Fleet Designation/Compliance Deadline:

We appreciate the CARB decision to categorize federal fleets as medium versus large fleets in order to provide additional time

for our budgetary cycles. However, an initial compliance date of 2010 does not provide adequate flexibility for our regulated federal fleets. While state agencies have annual budgets for operation, we operate under longer term budgetary cycles for large scale programmatic changes which span a five to seven year period. We request CARB revise the initial compliance date for medium fleets to 2015 (e.g., Tables 1 and 2) to account for these federal budgetary constraints. We believe 2015 provides the federal fleets at our facilities the minimum amount of time needed to meet the proposed emission standards given mandatory federal budgetary procedures. Moreover, the 2015 deadline will ensure that higher horsepower and polluting Tier 0 engines that are phased out can be replaced by new low-polluting Tier IV engines, available in 2014 and 2015, and won't require subsequent retrofits.

2. Labeling:

The proposed regulatory language requires that all vehicles with engines subject to the regulation be labeled with a CARB-issued Equipment Identification Number (EIN).

Our recommendation is for CARB staff to develop a unique sticker or license plate with small numbers to be placed on the equipment or approve an alternative method approved by the Executive Officer. The PERP regulation requires similar labeling. However, we are concerned about regulatory liability if a label becomes lost or unreadable. We believe that the Executive Officer of CARB should have the discretion to approve alternative means to demonstrate that a regulated vehicle is compliant. Accordingly, we suggest that that CARB revise to read as follows:

For each vehicle subject to this regulation, CARB will issue a unique EIN to the fleet owner for each vehicle subject to the regulation in response to the initial reporting described in Section 2449(g)(1) and the annual reporting described in Section 2449 (g)(2). All owners of engines subject to the regulation must perform the following or provide an alternative form approved by the Executive Officer or designee that is reasonably accessible at the time of inspection by the enforcement agency:

Affix an Equipment Identification Number - Within 30 days of receipt of the CARB issued EIN, owners shall permanently affix or paint the EIN(s) on the vehicle in clear view according to the following specification:

(A) The EIN shall be white on a red background.

(B) The EIN shall be located in clear view on the left (port) side of the outside of the vehicle approximately 5 feet above the ground, or, if the vehicle is not 5 feet tall, on the highest point of the vehicle.

(C) Each character shall be at least 3 inches (7.6 centimeters) in height and 1.5 inches (3.8 centimeters) in width.

(D) The EIN shall be maintained in a manner that retains its legibility for the entire life of the vehicle.

We believe that the language suggested above provides flexibility while meeting CARB's regulatory intent.

3. Section (D)1:

It appears that language in this section requires a diesel particulate filter (DPF) or highest level verified diesel emission control systems (VDECS) for Tier 4 engines. It is our understanding that Tier 4 engines meet all the regulatory emission standards without additional retrofits. Please clarify. Are DPFs or VDECS required for Tier 4 interim and final engines? *It is our understanding that all Tier 4 engines will be factory equipped with DPFs. The mention of VDECS is in regards to Tier 3 and possibly Tier 4I. We believe a clarification should be made to read as follows:*

(D) Compliance after the Final Compliance Date -

1. Commencing respectively on March 1, 2020 for large and medium fleets, and March 1, 2025 for small fleets, no fleet owner may add a vehicle to his fleet, unless the vehicle is equipped with an engine meeting the Tier 3, Tier 4 interim, or Tier 4 final emission standards, and the engine is equipped with a diesel particulate filter (DPF) or the highest level VDECS within 3 months of acquisition, unless a DPF is already provided by the engine manufacturer.

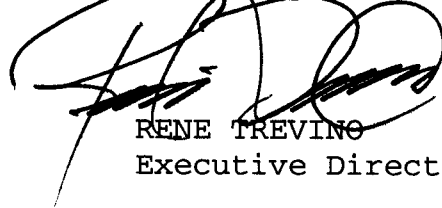
4. Extremely Remote Facilities:

Consistent with the Board's action on the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater, modification/replacement of engines should not be required for San Clemente Island and San Nicolas Island.

I want you to know that DoD truly appreciates the dedication and commitment of the CARB staff in seeking innovative ways to reduce diesel emissions in California. I can assure you that the military services in California remain very dedicated to air pollution reduction and innovation in improving air quality. I have every confidence that we will continue to work constructively with CARB Staff, as we have in the recent past on a number of CARB regulatory initiatives, and together we will develop ways to address the unique challenges faced by the military services in California.

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,

A handwritten signature in black ink, appearing to read 'Rene Trevino', is written over the typed name. The signature is stylized and somewhat illegible due to the cursive nature of the handwriting.

RENE TREVINO
Executive Director