

Quinn Power Systems

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July 16, 2007

Clerk of the Board
California Air Resources Board
1001 I street
Sacramento, California 95814

Subject: Portable Engine Registration Program

Dear Reader:

In June of 2006 CARB adopted amendments to CCR Title 13, Article 5, Section 2458 with guidance from the California Air Pollution Control Officers Association (CAPCOA). During the amendment process, Caterpillar Inc. and its California dealers worked closely with CAPCOA to craft regulatory language that would facilitate prudent management of portable engines and to ensure that local air districts can adequately enforce the provisions of the regulation. Unfortunately, the final version of the rule now includes two provisions that conflict with the understanding that was formed between CAPCOA and the engine dealer community. These provisions were added to the language adopted by CARB, but were not present in draft language leading up to Board adoption or in CAPCOA's proposal to CARB. The first provision [2458 (b)] calls for rental agreements to be located onsite with the rental engine. The second provision [2458 (j)(2)] calls for detailed monthly transaction reports. Both provisions create unfair market conditions that would place Caterpillar dealers at a disadvantage to their competitors and would also place all engine dealers in California at a disadvantage relative to distributors located elsewhere in the United States and internationally who sell into the California market.

Section 2458 (b) – Placement of Rental Agreements

The final version of this section includes a provision requiring that the rental agreement be located on or near the engine. CAPCOA never suggested that rental contracts be located near the engine during any of its planning sessions with the engine dealers and CARB never suggested the need for this provision during the numerous working group meetings and public rule workshops leading up to the July amendment. Consequently, the engine dealer community neither anticipated, nor noticed the last-minute changes. The requirement to place rental contracts onsite with the engine places a significant burden on the rental customer / operator due to logistical constraints. Rental transactions are often initiated via telephone, and often between people who are hundreds of miles away from the engine or jobsite and are not directly involved with the physical placement of the engine. The rental agreement simply does not follow the engine to the jobsite. Additionally, most rental contracts include sensitive and confidential data that if located at a jobsite, would expose critical elements of rental transactions to competing entities. A much more practical method of ensuring that engines

are under rental contract is simply to require that confirmation of a rental agreement be made available upon request. Most rental yards could immediately provide confirmation to a district inspector via telephone and could provide documentation within a few hours of receiving a request to do so. We suggest CARB amend the second sentence in this section to read as follows: "The written rental or lease agreement shall be made available to an inspector upon request."

Section 2458 (j)(2) – Monthly Transaction Reports

The final version of this section calls for detailed monthly transaction reports, rather than volume summary reports as initially envisioned by engine dealers and CAPCOA. The adopted language was not in CAPCOA's proposal to CARB, nor was it in draft language leading up to Board adoption. Caterpillar dealers and CAPCOA had detailed discussions regarding reporting requirements for sales of new engines. The reporting requirement comes from an initial concern of CAPCOA that purchasers of new engines were failing to obtain permits or to register with CARB. Caterpillar dealers subsequently provided significant data to CAPCOA showing that only a small fraction of new portable engine sales are made to entities other than dealer rental operations. The few new engines sold outside the dealer rental operation are often sold to large customers that also have strong compliance records, to out-of-state operators, to equipment fabricators, or for stationary use. The outcome of the meetings between CAPCOA and engine dealers was that while monthly reports would be pursued, they would only entail transaction volume summaries and would not include detailed customer information. If after a reasonable period of time notable discrepancies between sales transaction volume and PERP registration volume were noted, CAPCOA would then pursue more detailed reporting requirements. The delay in requiring detailed reporting requirements would also give CARB a chance to enhance its data management system to simplify the reporting and registration processes. Without an enhanced data management system, the process of compiling detailed monthly reports creates an undue burden for engine dealers.

Caterpillar dealers are concerned about the confidential data that would be shared with CARB on an ongoing basis, CARB's ability to adequately and permanently protect confidential data, and CARB's ability to enforce this provision on any dealers other than those that are actually located in California. Although CARB may have processes in place to protect data confidentiality, such processes are vulnerable and the risk of inappropriate or accidental disclosure to our business competitors exists. The risk of inappropriate disclosure and the burden of compiling the detailed reports are not in balance with the limited value of the data to CARB or local air districts. CARB's inability to enforce this provision upon engine dealers located elsewhere in the United States and throughout the world also creates an uneven and unfair business environment for those dealers located in California who take great pains to comply with PERP. As our compliance costs are passed to our customers and

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as we share critical customer data with CARB, we will also create inadvertent opportunities for out-of-state dealers that are less prone to be in compliance with PERP recordkeeping and reporting provisions to erode our market share.

We suggest that CARB modify Section 2458 (j)(2) to reflect CAPCOA's proposal and CAPCOA's resolution with dealers. Specifically, on a monthly basis dealers would submit to CARB a summary report identifying only the number of portable engines sold outside the dealer / rental operation and believed to be for use as portable engines in California. The engine-specific information requirements listed in this section should be removed from the regulatory language.

Thank you for the opportunity to present our comments to CARB. Please call me at 562-463-6013 if you require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Bob Shepherd".

Bob Shepherd
Manager – Emissions Solutions