



November 24, 2010

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, California 95812

**Subject: Proposed Modifications to the Portable Equipment Registration Program and Portable Engine Airborne Toxic Control Measure**

Dear Reader:

South Coast Environmental Company (SCEC) is a consultant to Caterpillar, Inc. and its dealers. Combined, the Caterpillar dealers in California and neighboring states are responsible for a significant portion of new portable engines that are sold and operated in California. Caterpillar dealers also operate a large network of portable equipment rental yards serving numerous customers throughout California. We appreciate the opportunity to offer the following comments regarding the proposed modifications to the Portable Equipment Registration program (PERP) and the Airborne Toxics Control Measure for Portable Engines (ATCM).

## **PERP Comments**

### **2451(c)(9)**

This section of the PERP regulation identifies exceptions in which PERP engines can be used at a stationary source facility. The proposed modification would delete "operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator; or remote operations where grid power is unavailable". It is not clear why this modification is required at this time, or how it reflects the Board's direction regarding the 15-day rule amendment. There are certainly needs for immediate and temporary use of a portable generator at remote locations or during unusual circumstances. These needs existed when this provision was inserted into the regulation and continue to exist today. For many years PERP has offered the only practical means of meeting these needs because local permits simply cannot be obtained in a timely manner. The proposed deletion of text is a significant revision to the regulation and should not be completed without giving the regulated community ample opportunity to consider and debate the implications of CARB's actions. The 15-day change notice simply does not facilitate the necessary consideration and debate. We strongly request that the language be retained to allow equipment owners to respond to immediate and temporary power needs and to provide local air districts with adequate flexibility to allow such operations to occur in a practical manner until normal regulation amendment processes with adequate public participation can be implemented.

**2453(f)**

The Caterpillar dealers welcome CARB's attempt to streamline the application process and to shorten the period of time between application submittal and registration certificate issuance. We are eager to work with CARB to implement these changes. We are still concerned, however, about the need for several steps in the application process, especially as they relate to the registration of certified engines. It appears that little or no engineering evaluation is needed to review an application for most certified nonroad engines and the need to wait for CARB's review of an application prior to operating these engines may not be warranted. We request that CARB insert text that allows certain engines to be operated upon application submittal. Engines qualifying for this provision would include, but not be limited to, new engines that are certified to EPA nonroad compression ignition or spark ignition standards.

**2458 (b)**

The proposed changes intended to streamline recordkeeping and reporting requirements and to delineate compliance responsibilities of renters and engine owners are greatly appreciated. We strongly support the removal of annual location reports and monthly sales reports that were cumbersome to compile, but offered little value to CARB.

Due to the proposed modifications, we request that CARB provide guidance documents that clarify the compliance management responsibilities of engine owners and renters. The guidance documents would serve to educate engine owners, rental yards and operators of their unique compliance responsibilities. They would also guide local air districts in determining which parties in rental transactions should be held responsible for compliance with the various PERP provisions. The requested guidance is especially critical in the interim because conditions specified in outstanding registrations will become obsolete as new regulatory language is implemented.

Please note also that engines are sometimes rented to end-users through intermediary rental yards, rather than the rental yard that actually owns the equipment. The responsibilities of the engine owners and the intermediary rental yards have historically been unclear. We request that guidance regarding the responsibilities of the intermediary rental yards also be provided in a CARB policy document. The Caterpillar dealers are eager to work with CARB toward drafting the various guidance documents that these regulatory amendments warrant.

**2458(b)(5)**

This section specifies that the renter of an engine make a monthly log entry showing the location of the engine. We interpret this requirement to be only that of the renter and as such, the rental yard will not be required to make such log entries when the engine is in storage or otherwise not dispatched to a renter. We request CARB's confirmation of our interpretation.

Presumably, this provision is intended to assist local districts in determining if an engine is likely to be used in a stationary capacity (i.e. used for more than 12 months at a single location). In any circumstance where monthly log entries are specified, they should be required only if the engine or equipment unit has actually been relocated. In other words, the absence of a log entry should simply indicate to regulators that the engine has not been relocated. It should not be considered a violation of the regulation. Adding the clause "unless the engine or equipment unit has not been relocated" to 2458(b)(5)(C ) and to other provisions that call for location logs would serve to protect operators from frivolous enforcement action while continuing to meet CARB's objectives.

#### **2459(h)**

This section of the regulation requires that the rental yard notify the air district in which the rental yard is located within 5 days of a rental transaction exceeding nine months. Because engines are often rented outside the district in which the rental yard is located, we request that the notification be made to the home district as defined in Section 2452. We also suggest that a universal method be devised for making the 9-month notification. The universal method would include a CARB-standardized notification form to the air districts to prevent owners from having to deal with multiple district forms. Additionally, a listing of designated district fax numbers and email addresses should be posted on CARB's website. Again, we welcome the opportunity to work with CARB in drafting such documents and procedures.

#### **Implementation Schedule**

The proposed modifications will require additional coordination between CARB and the regulated community. Furthermore, it will require that rental yards develop additional documents, policies and procedures to implement the changes. The Caterpillar dealers request that CARB formally delay enforcement of the recordkeeping and notification provisions for a period of 120 days following the date on which these amendments are incorporated into Title 13 to allow these implementation steps to be taken.

#### **ATCM Comments**

##### **93116.3(b)(1)(B)**

The Caterpillar dealers support the amendments made to the ATCM to implement the transition of uncertified engines in a more practical manner than was initially required. It does not appear, however, that the provision requiring that operators commit to a compliance strategy (retiring or replacing with current technology) by December 31, 2011 has merit. Clearly, these engines have already been identified as low use or emergency units and any engine coming into PERP (replacement or fleet addition) must meet current technology due to other provisions of CARB regulations. The complexity of managing the compliance commitment does not appear justified and the commitment would appear difficult to enforce. The language suggests that if an operator committed to replace an existing uncertified engine, but instead subsequently chooses to retire it, the operator would be in violation of the ATCM. Even if the operator committed to retire an engine, it would appear that the local district or CARB would be unable to differentiate between a replacement and a fleet addition, given that a new engine meeting current technology could easily be registered as a prime power unit. We suggest that the 2011 compliance election requirement be deleted and focus instead upon the 2017 final compliance target.

##### **93116.3(b)(2)(E)**

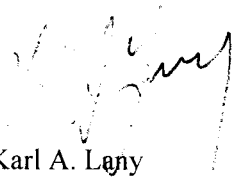
The Caterpillar dealers support proposed amendments that would allow local air districts to permit certified resident engines that do not meet current certification standards. These amendments are necessary to grant prudent compliance options for engines in existing fleets that are required to operate in applications that are not allowed pursuant to PERP.

**93116.4**

The proposed amendments pose an additional opportunity for CARB to provide guidance to the regulated community. We suggest that CARB take this opportunity to also remind the regulated community of its obligation to compile planning inventories of portable engines. Furthermore, due to the lack of data requests from the regulated community at this late date, we suspect that few operators are actually aware of the planning inventory requirement or the March 1, 2011 submittal deadline. We suggest that CARB consider utilizing the 15-day amendment process or executive discretion to extend the initial submittal deadline.

Caterpillar's local dealers and SCEC welcome the opportunity to discuss these issues further with CARB and hope that a meeting can occur promptly. You can contact me at (714) 282-8240 if you wish to discuss further.

Sincerely,  
SCEC



Karl A. Lany  
Vice President