

William Davis
06-11-4

Comments for the Air Resources Board December 7 meeting regarding

Opening the Portable Engine Registration Program

December 7, 2006, Bakersfield, California:

Dr. Sawyer and members of the board, we thank you for the opportunity to continue the discussion on an item of critical importance to the entire California construction industry—the reopening of your Portable Engine Registration Program.

We want to commend your staff, particularly Mike Tollstrup, Kitty Howard and Wayne Soberlsky for their efforts on this emergency regulation to at least partially accomplish this goal. But, as good as their intentions have been, there is a little work that remains.

When we last had the opportunity to discuss this matter at your September 28th meeting there were many contractors present, large and small, to plead with their case that they would have registered under the PERP if they had only known about the program.

As you can see today, there are more voices being added to this effort. The issues remain the same:

The PERP must be opened on a permanent basis to owners of all portable equipment. The staff position to keep the statewide registration program closed to Tier 0 engines, an engine class that makes up nearly two thirds of the construction fleet is nonsensical. The intent of the program is to clean California's air—how can this be accomplished if ARB and the local districts don't know about two of every three pieces of equipment in the state?

While the staff has modified its original proposal on fees for those who were previously unaware of the program, they have retained a punitive attitude to potential registrants—penalty fees of 150, 200 and 300 percent are just wrong, especially since the reason we are here today is the agency's admission of abject failure on the outreach effort to the affected industry.

Another punitive element of the staff proposal is the provision to charge these fees for Tier 1 engines based on the date of manufacture of the equipment rather than the date the equipment was actually purchased and put in use. This will result in unnecessary fees being charge to the equipment operators who purchased products in good faith but were supplied with out of Tier engines. There are still Tier 1 engines being sold in this state today—and it is not the operator's fault but rather a loophole in the federal EPA program that allows equipment manufacturers to continue to supply these older technology engines.

The proposal to allow the registration of Tier 0 engines only through the discretion of local air districts is a direct violation of the legislative intent of the program, which was set up originally to provide a comprehensive approach for the construction industry rather than having to deal with the Byzantine web of regulations and fees of 37 local districts. We already know that some districts will refuse to allow this equipment with a misguided zeal to improve their performance numbers. Failing to register the Tier 0 engines will not result in cleaner air—it will only make it more difficult for your agency and the local districts to reach their ultimate goals.

Respectfully Submitted

William E. Davis

Representing the interests of the Mobile Crane Operators Group, Engineering & Utility Contractors Association, Southern California Contractors Association and the American Concrete Pumping Association.



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December 06, 2006

To: California Air Resource Board Members and Staff:

While we greatly appreciate the board's consideration in reopening the Portable Engine Registration Program (PERP) and the timeliness with which the board has chosen to act, the recommended draft concepts as proposed by CARB staff still creates unfairness and undo hardship for the owners of small businesses.

- **Point 1:** Why not allow Tier 0 engines into the program? There are tens of thousands of unregistered Tier 0 engines operating in the state every day. To register with each local air district is costly and ineffective; in fact, this patchwork of districts is the reason the PERP was created in the first place. If the true intent of the CARB is to identify older engines in an attempt to retire these types of engines from future use, why not include them into the statewide program so you know where they are?
- **Point 2:** The proposed registration and late fees are unreasonable. The fee schedule as presented by CIAQC and endorsed by all the representing associations at the November 20th meeting is clearly more realistic and inline with the current fee structure.
- **Point 3:** Imposing back registration and late fees for Tier 1 engines by the *manufacture* date instead of *purchase* date is grossly unfair. How can you go back and impose registration fees and penalties for purchasing new equipment that is approved for sale in the State of California just because a new version of the same engine could, but may not necessarily be available? Realistically, when purchasing new equipment, a buyer would assume that the engine is acceptable for use and would not inquire about the availability of a less-pollutant engine. In the case of concrete pumps, they are still not available.
- **Point 4:** A six-month "sell through" provision does not account for backorders and tier availability of new engines. A twelve-month "sell through" would be more practical.

The valiant efforts of the CARB and its staff to increase the air quality in the State of California are to be commended. However, let's not lose sight of the true intent of the program. By your own admission, your outreach program was ineffective in reaching hundreds of thousands of owners of portable equipment. Let's now move forward and create a workable, fair, program that will encourage all owners to register their equipment thereby purging out the older, higher-pollutant engines, and increasing the air quality for the residents of California.

We would also welcome the opportunity to discuss ideas with CARB staff for a more wide-spread, effective outreach program for owners of portable engines.

Respectfully submitted,

Christi Collins, Executive Director
American Concrete Pumping Association



Engineering & Utility Contractors Association
**REGULATORY
 BULLETIN**



*A bulletin of the Construction Management & Technology Committee
 Taking Action...Getting Results!*

December 7, 2006

A Member Service – Page 1 of 1

CARB to propose severe penalties to re-open PERP

A meeting is scheduled for 1 p.m. Monday to discuss re-opening the Portable Engine Registration program, but the proposal is fraught with peril for the construction industry.

Late yesterday California Air Resources Board (CARB) released a draft concept for an emergency regulation to accomplish the directive of their Board to re-open the PERP after a delegation of contractor groups, lead by EUCA, SCCA, MCOG, and the American Concrete Pumpers Association appeared at the Board's September 28th "public comment section" to protest CARB's closure of the PERP to older equipment.

The meeting will be held at, starting at 1 p.m. at Cal/EPA Headquarters Building 1001 I Street, Training Room 1 East and West, Sacramento, California 95814. You can listen in on the session by teleconference. The call-in number is: (800) 369-3382. Passcode: 55651.

CARB's proposal

They will allow registration of what they call "resident" Tier 1 and 2 portable engines, but not Tier 0 engines, although this engine class is allowed to continue to operate by the 1916 firms who registered before the December 31, 2005 deadline for the last registration period.

They define "resident" engines as those pieces of equipment for which the owner has proof that the engine operated in California between March 1 2004 and October 1, 2006. They are asking for this to ban the registration of used equipment being imported into the state.

Proposed is a set of punitive fees—backdated to the original purchase of the equipment plus a 50 percent penalty, which will be "shared" with the local air districts as a sop to the California Air Pollution Control Officers Association (CAPCOA), the politically powerful group of local district officials.

If the equipment owner is ensnared in a local district enforcement action, which CARB terms "non-voluntary," they will be increased by roughly one-third. Check out the attached Draft Concepts and Fee Schedules for details.

While many EUCA members have registered their portable equipment, we know that some have not, so EUCA will be fighting for you at Monday's meeting. We will oppose the ban on Tier 0 engines, the ban on importation of used equipment and the punitive fees.

You are urged to attend the meeting as well—either in person or by teleconference. If you chose to do so, please let us know by email to williamedavis@cox.net or by telephone at 323-336-1242, so we can provide you any additional assistance you may require for your participation.

DRAFT FEE MODIFICATIONS (Fees Are for Each Engine Registered)

Before January 1, 2008

Portable Equipment Purchase Date	First Three-year Cycle	Each Three-year Cycle Thereafter
1996	\$3,075	\$570
1997	\$2,768	\$570
1998	\$2,460	\$570
1999	\$2,153	\$570
2000	\$1,845	\$570
2001	\$1,538	\$570
2002	\$1,230	\$570
2003	\$923	\$570
2004	\$615	\$570
2005	\$308	\$570

Between January 1, 2008 and December 31, 2009

Portable Equipment Purchase Date	First Three-year Cycle (Voluntary)	First Three-year Cycle (Non-voluntary) local district enforcement action	Each Three-year Cycle Thereafter
1996	\$6,150	\$9,225	\$570
1997	\$5,535	\$8,303	\$570
1998	\$4,920	\$7,380	\$570
1999	\$4,305	\$6,458	\$570
2000	\$3,690	\$5,535	\$570
2001	\$3,075	\$4,613	\$570
2002	\$2,460	\$3,690	\$570
2003	\$1,845	\$2,768	\$570
2004	\$1,230	\$1,845	\$570
2005	\$615	\$923	\$570



SCCA Regulatory Action Report

Current Regulations that will affect your business, brought to you by the SCCA Legislative Committee

Vol. 1 No. 2

November 30, 2006

CARB rejects industry call to reopen PERP to Tier 0

The California Air Resources Board will be voting December 7th, in Bakersfield, on a flawed staff proposal to reopen the state-wide Portable Engine Registration Program (PERP).

The agency staff position is to allow registration of Tier 1 and 2 engines but not for the thousands of Tier 0 engines (pre 1998 on many portable units). The staff concepts (see attached), at least in part, follow some of the proposals of the Construction Industry Air Quality Coalition (CIAQC) regarding registration fees. But, CARB is sticking to planned 50 percent penalties. The money, for the most part, will go to local air districts, ostensibly so they can hire more air quality inspectors.

While a step in the right direction, this staff proposal still fails to account for the agency's failure to notify the 260,000+ contractors in the state of the registration provisions in the first place, a failure that was brought to the Board's attention at their September 28th meeting. This industry effort, led by SCCA and our Mobile Crane Operators Group (MCOG), led to a directive by the Board to come up with a solution to the problem. When the registration program closed, January 1 of this year, only 1,916 construction concerns had registered under the statewide program.

More changes?

In addition to the PERP proposal, staff is proposing emergency changes to the Airborne Toxic Control Measure (ATCM) for Diesel Fueled Portable Engines and the Airborne Toxic Control Measure for Stationary Compression-Ignition Engines. At least in part, these emergency changes will call for a provision to change compliance dates by up to one year if it can be verified that new engines (Tier 3) are not available to replace the existing older equipment.

This is a recognition by CARB that their goals to replace all Tier 0, 1 and 2 engines with Tier 3 and 4 (when available) is overly ambitious. Apparently the agency is now recognizing that the construction equipment industry cannot supply product merely on the basis of their regulatory schemes.

We don't know what other surprises may await the industry in these additional emergency regulations, as the agency's staff presentation on the topics is not yet available, but we will be watching for additional changes.

We urge our members to attend this meeting to add their voices on this important issue.

SCCA and MCOG, along with CIAQC and other associations will be at the Bakersfield meeting to again ask the Board for a fair approach for all equipment owners. But your physical presence and your voice, as demonstrated at the September 28th meeting is really important. The Board hears the voices of the folks in boots, rather than those in suits, on issues such as this.

The meeting will start 9 a.m. at Kern County Board of Supervisors Board Chambers, 1st Floor 1115 Truxtun Avenue Bakersfield, California 93301. SCCA staff will be present to help you with the process.

If you can't attend, you can add your voice to this effort in other ways. Send comments in favor of opening the PERP to Tier 0 engines and adoption of a reasonable fee structure without penalty and let the Air Resources Board know you support the industry's position.

Click http://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=statemg06&comm_period=E to submit your comments on line. To send them by FAX (916) 322-3928 or send them by mail send them to **Clerk of the Board**, 1001 I Street, 23rd Floor, Sacramento, CA 95814 and reference agenda item 06-11-4.