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October 7, 2010

Danielle Robinson
Mobile Source Control Division
Air Resources Board
9528 Telstar Ave.
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Subject: MECA's Comments for 15-day changes to the Verification Procedure

Dear Danielle:

MECA is pleased to provide written comments to the 15-day changes proposed under ARB's amendments to the current *Verification Procedure, Warranty and In-use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines* that were adopted by the Board on January 28, 2010. As we stated in both our written and oral testimony at the Board hearing, MECA supports the proposed amendments and we thank the ARB for the opportunity to continue working with staff to further improve the efficiency of the program. MECA and our members have had the opportunity to review the proposed 15-day changes and we support the modifications that staff has made as directed by the Board.

MECA and our members have been actively engaged throughout the development of the original verification regulation adopted by the Board in May of 2002 and subsequently in providing feedback in workshops and meetings with ARB staff to continually improve the verification, warranty and in-use compliance requirements and make ARB's verification process a model for other retrofit programs in the U.S. and around the world. ARB's Diesel Risk Reduction Plan has served to develop a market for our members and others in the manufacture and commercial application of diesel retrofit emission control technology. The end result of these efforts has been a growing number of technology options for a wide variety of retrofit applications. Given the compliance delays and substantial changes to retrofit implementation requirements proposed in the most recent amendments to ARB's private fleet regulations, our members predict a significant erosion of the market for the products that they have made substantial investments to commercialize in California.

MECA provides the following comments and recommendations in the spirit of striving to continue to improve the current verification, warranty and in-use compliance program. Although our comments likely fall outside of the scope of the 15 day rule change, we believe that these suggestions can substantially improve and streamline the procedures and reduce the costs to end

users while ensuring that the verified technologies are providing real emission reductions and air quality benefits to achieve the goals of the Diesel Risk Reduction Plan. We would welcome the opportunity to work with ARB staff to identify appropriate strategies that will both achieve the goals of the verification and in-use compliance program while not stifling the development of future green technologies.

Over the past several years, ARB has amended the originally adopted in-use fleet rules to provide economic relief to the regulated stakeholders in light of reduced activity and financial hardship caused by the recent economic downturn. The most recent version of these amendments, that will be voted on by the Board on December 16 and 17th, has removed a significant market for retrofits in the on-road sector and only left retrofits as an optional compliance path for off-road vehicles. Retrofit technology investment relies entirely on some level of market stability and the latest round of rule changes has resulted in significant uncertainty in the size of the market opportunity. Retrofit manufacturers have invested millions of dollars and created thousands of green jobs in California over the past five to 10 years to insure that technologies are verified and ready to deliver the emission reduction goals of the Diesel Risk Reduction Plan. Our comments address three areas for further consideration by ARB staff. These include clarification of warranty reporting, the streamlining of in-use compliance testing requirements and the need for adequate resources for the verification and in-use compliance programs. Further details of our recommendations are provided below.

The complexity of the verification process requires an investment of \$500,000 to \$1 million dollars before a retrofit technology can be commercialized and begin providing a return on that investment. Furthermore there exist two retrofit verification and in-use compliance programs in the U.S. that share the same goals and objectives. MECA has continually urged ARB and the U.S. EPA to harmonize the requirements of these programs and allow manufacturers to lower their costs for bringing a technology to market. Although the two agencies have signed a memorandum of understanding to work together towards harmonizing their requirements, substantial differences continue to exist. We believe that harmonizing the requirements provide opportunities for economic relief to technology providers and leveraging of resources for verification staff. For example, California's program requires manufacturers to begin the in-use testing and compliance phase of verification once 50 units are sold where-as the federal program initiates this phase after the sale of 500 units. At the 50 unit sales point, the manufacturer of a Level 3 emission control device has not even paid off the initial verification investment when he is asked to invest another \$500,000 dollars or more to begin the in-use testing phase. This requirement represents a significant financial burden in light of a shrinking market opportunity as a result of the proposed changes to ARB's fleet rules. MECA urges ARB to revise their in-use compliance trigger to harmonize with the federal requirement of 500 units sold. We believe that other synergies exist between the two programs that would allow increased harmonization and reciprocity resulting in sharing of costs and resources for both the agencies and device manufacturers.

Although not included in Attachment B of the 15-day changes, we request that ARB consider incorporating additional flexibility in section 2706 (t) in the adopted regulation to allow manufacturers and installers to use their full experience and resources in conducting their pre-installation assessment and use data-logging data outside of a common ownership fleet when

determining the number of vehicles they believe is necessary to make an accurate pre-installation compatibility assessment. While data-logging is necessary for the purposes of pre-installation compatibility assessment for temperature sensitive devices, for every vehicle data-logged there is labour and hardware cost to carry out the activity. In order to create efficiency and reduce the cost of pre-installation compatibility assessments it is important for the installers and device manufacturers to fully utilize all their data experience, and be allowed the opportunity to utilize data for a given engine family and application across ownership fleets. This would allow each manufacturers and their installer to decide the level of risk that they are willing to assume based on their experience with a particular vehicle type and duty cycle. We agree that all supporting data and documentation used in making a data logging determination must be retained. This approach would reduce the costs to end-users without reducing the effectiveness of the compatibility assessments.

The current regulatory language regarding warranty claim reporting requirements has created some confusion between retrofit technology providers and ARB enforcement staff with respect to the types of claims that must be reported annually to ARB and the recall criteria used by the Executive Officer in taking action against a manufacturer's technology. We urge ARB to issue a guidance document clarifying these requirements.

The availability of VDECS is predicated on efficient and effective retrofit verification protocols. MECA member companies feel the current verification process is too slow and costly. We believe that ARB's retrofit verification program is severely under-resourced to facilitate the efficient transfer of verified technologies to the marketplace and maintain existing VDECS Executive Orders. Retrofits represent a cost effective compliance option to end users, however in order to insure continued investment by our industry and the future availability of retrofit technology, manufacturers need economic relief in light of the shrinking retrofit market in the state as a result of economic relief amendments to in-use fleet regulations. MECA recently provided ARB staff with a list of recommendations for streamlining the verification process and we have reiterated some of these suggestions here with the intent of achieving all of the emission reduction and performance goals of the program while leveraging resources. We urge the Board and ARB Executive staff to continue to support and adequately resource the verification program.

Conclusion

MECA and our members are committed to continue working towards improving and streamlining the verification procedures to control costs while insuring that verified devices are durable and effective in delivering the specified emission reductions. The combined costs associated with the verification process are an important consideration that a technology vendor must consider when deciding to participate in the retrofit market created by ARB's Diesel Risk Reduction Plan or direct resources towards other emission control market opportunities such as the National Clean Diesel Campaign, original equipment diesel engine applications or the plethora of local and regional mandatory and voluntary retrofit programs across the country. We thank ARB staff for their consideration of our recommendations.

MECA staff requests a conference call in the next few weeks with ARB verification staff to discuss the recommendations that we have proposed with respect to economic relief opportunities for technology providers and strategies to harmonize the resources and goals of California's and federal verification programs. Please propose a date and time for this call that is suitable for ARB staff. Once again thank you for your consideration of our recommendations and we look forward to your response.

Best regards,

Rasto Brezny
Deputy Director

cc: Shawn Daley, ARB
Keith Macias, ARB
Sharon Lemieux, ARB
Erik White, ARB