



January 26, 2010

Clerk of the Board  
California Air Resource Board  
1001 I Street 23rd floor  
Sacramento, CA 95814

**SUBJECT:** Proposed Amendments to the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines and the Statewide Portable Equipment Registration Program

The San Luis Obispo County Air Pollution Control District appreciates the opportunity to comment on the proposed amendments to both the Airborne Toxic Control Measure (ATCM) for Diesel Particulate Matter from Portable Engines and the Statewide Portable Equipment Registration Program (PERP). We believe the following concerns need to be addressed to effectively and fairly impose the regulatory requirements on portable diesel engines.

#### **The ATCM Should Not Restrict the Ability to Issue an Air District Permit**

The Air Toxic Control Measure should not restrict an Air Pollution Control District from issuing permits to engine owners who would otherwise be in compliance with the emission standards of the regulation; we believe the existing permitting restriction does not belong in the regulation. The latest ARB staff proposal partially acknowledges this concern by allowing for both permitting and registration of certified engines when a permit exemption is lost due to a change in District rules. However, this does not adequately address the situation in many districts.

We have not yet been able to secure permits for all small business owners subject to the regulation in our area, such as concrete pumpers and wood chippers. Despite an extensive state and local outreach effort, many may still not be fully aware of the regulatory requirements or the consequences of failing to comply. There are also unique businesses that use engines for purposes that were not identified and targeted for notification; for instance, just a few months ago we found a 170 hp engine that powered an ice grinder used to make artificial snow for small events like Birthday parties. Additionally, under the current economic climate, some individuals may not have the funds to obtain permits and some have even stopped operation until the economy recovers.

Air districts need the ability to effectively handle situations that do not fit the norm and permit otherwise lawful businesses, some of which may collapse from the cost of purchasing new engines or be forced to continue to operate without permits and remain unregulated.

#### **Engines Not Meeting the Current Certification Standards Should Not Be PERP Eligible**

Many air districts have required permits of portable engines for over a decade and would not issue a new permit for an engine unless it met the current tier. The proposed provision to allow engines into the PERP because they lost a permit exemption from a District that did not previously require permits fosters an uneven regulatory playing field and puts the engine owners already under permit for many years at an economic disadvantage.

We believe the issues identified above can be addressed by incorporating the following revisions to the regulations:

3433 Roberto Court, San Luis Obispo, CA 93401 • 805-781-5912 • FAX: 805-781-1002  
info@slcleanair.org • www.slcleanair.org

### **Recommended Changes to the ACTM Proposal**

1. Remove proposed section 93116.3(b)(2)(D)
2. Replace 93116.3(b)(2)(D) to allow District-only permitting of discovered Tier 0 engines with the following:
  - (D) *low use engines permitted or registered by a District, where the owner agrees in writing to replace the engine with a certified Tier 4 engine according to the requirements in section 93116.3(b)(1)(B); or*
3. Add new section 93116.3(b)(2)(F) to allow any certified engine to be permitted, as follows:
  - (F) *certified engines permitted or registered by a District.*

### **Recommended Changes to the PERP Proposal**

1. Modify the resident engine definition to apply to only previously permitted certified engines that were historically allowed into the registration program, as follows:
  - (mm) *“Resident Engine” means a certified engine that at the time of applying for registration, has a current, valid district permit or district registration that was issued prior to January 1, 2006.*

The proposed changes recommended above would result in a more equitable and effective regulation while maintaining the emission reductions expected from both the ATCM and from local District permit programs.

We appreciate the opportunity to provide input to this process and look forward to ongoing coordination with your staff to effectively implement these regulations.

Sincerely,



LARRY R. ALLEN  
Air Pollution Control Officer

cc: James Goldstene, Executive Officer