American Automobile Manufacturers Association

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STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 11/3/95
BY BOARD SECRETARY

15-Day Comment
TAC
Legal
MSD

November 3, 1995

Ms. Pat Hutchens
Board Secretary
California Air Resources Board
9528 Telstar Avenue
El Monte, CA 91731

Subject: **AAMA Comments on Mail-Out #95-36 Regarding Proposed Amendments to the Certification Requirements and Procedures for Low-Emission Passenger Cars, Light Duty Trucks and Medium Duty Vehicles and Heavy Duty Engine CO Standard**

Dear Ms. Hutchens:

After reviewing the changes proposed following the September 28, 1995, California Air Resources Board (CARB) Hearing, the American Automobile Manufacturers Association (AAMA) has the following comments.

Smog Index Label Specifications

AAMA believes that the conditions contained in the Smog Index Label Bill (Senate Bill 2050), passed on September 30, 1994, limit CARB's authority to require a Smog Index Label until certain conditions are met. A detailed legal analysis is attached.

Notwithstanding the above concern, AAMA has the following comments on the Smog Index Label itself:

1. AAMA understands that the Smog Index Label requirement should allow manufacturers to label vehicles during the production process. In other words, no labeling is required after production. Labeling during production ensures accuracy of the labels and avoids costly and burdensome post-production labeling by the manufacturers or dealers. The following example illustrates this important point for a dealer trade.

   Assume, for a 50-state certified engine family, a manufacturer places smog index labels on vehicles ordered by California dealers and does not place smog index labels on vehicles ordered by non-California dealers. If a Nevada dealer then trades a vehicle from this family to a California dealer, the vehicle from the Nevada dealer should not have to be labeled even though it will be sold by a California dealer.

   To make this explicitly clear, we recommend the following wording clarification (added wording is underlined):

   "The specifications for smog index labels shall apply to all new passenger cars and light-duty trucks <u>produced for sale in California</u>."

2. The curved line between the 0 to 10 scale and the 0 to 1 scale seems to be unnecessary, is undefined, and would be very difficult to program for the wide range of engine families. Additionally, based on label size and space constraints, it may be desirable to place both scales side-by-side rather than on top of one another. The suggested wording in paragraph 3 below should adequately explain the two scales and eliminates the need for the curved line.

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3. CARB's proposed wording for the label communicates two points: (1) SI indicates pollution level; and (2) lower SI means lower pollution levels. The following wording communicates these two points and additionally explains the two visual scales with about the same number of words:

   "The Smog Index for all vehicles ranges from 0 (lowest polluting) to 10 (highest polluting), with new vehicles ranging from 0 to 1."

4. Sections 5, 6, and 7 of the "California Motor Vehicle Emission Control and Smog Index Label Specifications" were originally meant to apply to Vehicle Emissions Control Labels and do not appear necessary for Smog Index Labels. However, the way in which the Smog Index Label was added to these specifications implies that these sections should apply to Smog Index Labels as well. In particular, it does not appear necessary for manufacturers to submit actual production labels to the Executive Officer for all possible combinations, when the only change will be the Smog Index number. AAMA recommends CARB clarify that these sections apply to vehicle emissions control labels only.

5. We are very concerned about the amount of space the label will take, and expect that CARB will be open to alternatives that take up less space, including the use of one visual scale, if such alternatives effectively communicate the desired information.

Otto-Cycle Heavy Duty Engine (HDE) CO Standard

The 2004 and later model year otto-cycle HDE CO standard proposed is not consistent with the provisions in the Statement of Principles (SOP) agreement. In the SOP, EPA and CARB agreed not to increase the stringency of the CO and diesel PM standards beyond current levels for the 2004 model year standards. This trade off was essential for HDE manufacturers as they attempt to meet the stringent NMHC+NOx standard in the SOP.

Shortly before the September 28 CARB Hearing, Staff informed AAMA that they planned to incorporate standards consistent with the SOP agreement for the diesel/incomplete medium-duty vehicle and otto-cycle HDE categories in their proposal. However, in Staff's suggested changes to the original proposal distributed at the Hearing, Staff proposed a 2004 model year CO standard of 14.4 g/bhp-hr for over 14,000 pound otto-cycle HDEs. This standard is much more stringent than the current CO standard of 37.1 g/bhp-hr for this category. AAMA recommends correcting the apparent error by changing the 2004 model year otto-cycle HDE CO standard to 37.1 g/bhp-hr.

Thank you for considering these changes. If you have any questions, please do not hesitate to call Steven Douglas at (916) 444-3767, or me at (313) 871-2304.

Sincerely,

Gerald A. Esper

for Gerald A. Esper
Director,
Vehicle Environmental Department

cc: Bob Cross
Steve Albu

Attachment

ARB Does Not Possess The Statutory Authority To Unconditionally Require Inclusion Of A Smog Index On The Window Label Of 1998 And Subsequent Model Year Light-Duty Vehicles

Background

At a public hearing held September 28, 1995, the Air Resources Board ("ARB") considered and approved a number of regulatory amendments, including "California Motor Vehicle Emission Control and Smog Index Label Specifications" (hereinafter, "smog index requirements").[1] As originally proposed by ARB staff, the purpose of the smog index requirements was "...to implement the requirements of Senate Bill 2050 (Stats-1994, Chapter 1192) ... [by] requiring that smog index labels be affixed to new motor vehicle windows as provided in Health and Safety Code Section 43200.5." [2] Consistent with the provisions of S.B. 2050, the original proposed smog index labeling requirements were to apply 90 days after both of the following occur:

> (1) The system required by subdivision (b) of Section 44060 of the Health and Safety Code for the electronic filing of certificates of compliance or noncompliance is determined to be operational by the Department of Consumer Affairs and that fact is reported by the department to the California Secretary of State.
>
> (2) Both the San Diego County Air Pollution Control District and the Ventura County Air Pollution Control District have sufficient funds available to implement the pilot program established pursuant to subdivision (b) of Section 43705 of the Health and Safety Code, as determined by each of those districts and reported by each district to the California Secretary of State.[3]

The labeling requirement was to become inoperative five years from the date determined above. [4]

The applicability provisions of the original proposal, accordingly, tracked precisely Sections 32 and 31 of S.B. 2050 which contain identical conditions affecting the starting and ending dates of operation of the smog index labeling program established by the Legislature.

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[1] ARB Resolution 95-40 (September 28, 1995).
[2] See Staff Report: Initial Statement of Proposed Rulemaking, August 11, 1995.
[3] Section 2(b) of the proposed California Motor Vehicle Emission Control and Smog Index Label Specifications.
[4] Ibid.

Prior to the September 28, 1995 ARB hearing on the proposal, however, ARB staff suggested a number of changes to the original proposal, including deletion of the S.B. 2050 provisions setting the starting and ending dates of the smog index labeling requirements. Instead, staff proposed that the labeling requirements be effective starting with the 1998 model year. The Board, in adopting Resolution 95-40, approved the changes recommended by staff.

Discussion

The Legislature has specified in Sections 32 and 31 of S.B. 2050 when the smog index labeling requirements are to apply, conditions which ARB has apparently ignored. Resolution 95-40 makes no finding whatsoever regarding whether the Department of Consumer Affairs or the Air Pollution Control District certifications have been made.[5] The model year 1998 effective date of the ARB labeling requirements is, therefore, unauthorized by S.B. 2050, the authority cited by ARB in Resolution 95-40. As an administrative agency, ARB may not "make a rule or regulation that alters or enlarges the terms of a legislative enactment." [6]

Resolution 95-40 also cites as authority to adopt regulations relating to smog index labeling Sections 39600, 39601 and 43200 of the Health and Safety Code. None of these sections provides any basis for the unconditional 1998 implementation of the smog index labeling requirements.

The general authority of Sections 39600 and 39601 to "do such acts" and to adopt regulations "necessary for the proper execution" of its powers, and the provisions in Section 43200 do not permit ARB to bypass the specific limitations of the relevant statute. A court would construe these provisions with reference to all relevant statutes, including S.B. 2050, so that the entire scheme of law would be harmonized.[7]

Even if ARB had the authority to implement a "smog index" label requirement prior to the enactment of S.B. 2050, its disregard of the subsequent legislative direction is arbitrary and capricious. [8] The Legislature has spoken directly to the issue of the applicability of the smog index labeling requirements. ARB's purported adoption of the requirements outside of those statutory limitations is illegal.

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[5] As of the September 28 adoption of Resolution 95-40, those reports had not, in fact, been received by the Secretary of State.

[6] *Whitcomb Hotel, Inc. v. California Employment Commission*, 24 Cal.2d 753, 757 (1944).

[7] See *Bowland v. Municipal Court,* 18 Cal. 3d 208 (1976).

[8] Resolution 95-40 contains no findings concerning why implementation of the labeling program outside of the time-frame prescribed by S.B. 2050 is necessary or appropriate.

CALIFORNIA MOTOR CAR DEALERS ASSOCIATION

GOVERNMENT AFFAIRS OFFICE
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STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 11/1/95
BY BOARD SECRETARY

15-Day Comment
TAC
Legal
MSD

October 31, 1995

Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Comments To Amendments to the Certification Requirements and Procedures for Low-Emission Passenger Cars, Light Duty Trucks and Medium Duty Vehicles.
Section 1965, Title 13, California Code of Regulations
Deadline for Public Comment: November 3, 1995

Dear Board Secretary:

The California Motor Car Dealers Association (CMCDA) is a statewide trade association which represents the interests of over 1400 franchised new car and truck dealer members. CMCDA members are primarily engaged in the retail sale of new and used motor vehicles, but also engage in automotive service, repair, and parts sales.

We are writing today to object to modifications to the originally proposed regulatory amendments, noticed August 11, 1995, which amend: Section 1965, Title 13, California Code of Regulations; a document incorporated by reference in that Section entitled "California Motor Vehicle Emission Control and Smog Index Label Specifications; and, ATTACHMENT V entitled "Establishment of Smog Indices for New Light-Duty Vehicles.

CARB Lacks Authority to Mandate Smog Index Decals

Pursuant to the proposed modifications to the "California Motor Vehicle Emission Control and Smog Index Label Specifications," the California Air Resources Board (CARB) proposes to mandate that smog index labels be applied to all new passenger cars and light-duty trucks starting with the 1998 model year. However, the Health and Safety Code Sections relied upon by CARB to promulgate regulations specifying a form of smog index decal [Section 44254(b)] and mandating that new motor vehicles may not be sold

or registered unless a smog index decal is affixed to the vehicle by the manufacturer [Section 43200.5], are not presently operative.

Section 43200.5 was added to the Health and Safety Code pursuant to Section 11 of Chapter 1192, Statutes of 1994 [S.B. 2050 (Presley)], and Section 44254 was added to the Health and Safety Code pursuant to Section 30 of the same act. However, Section 32 of that act states:

> SEC. 32. (a) This act, except Section 29, shall not become operative until both of the following occur:
>
> (1) The system required by subdivision (b) of Section 44060 of the Health and Safety Code for the electronic filing of certificates of compliance or noncompliance is determined to be operational by the Department of Consumer Affairs and that fact is reported by the department to the California Secretary of Sate.
>
> (2) The San Diego County Air Pollution Control District and the Ventura County Air pollution Control District have sufficient funds available to implement the pilot program established pursuant to subdivision (b) of Section 43705 of the Health and Safety Code, as determined by each of those districts and reported by each district to the Secretary of State.
>
> (b) On the date that all of the reports have been received by the Secretary of State pursuant to subdivision (a), subject to the exceptions stated in Section 33 of this act, this act shall be operative. (emphasis added.)

None of the contingencies specified in Section 32 of Chapter 1159, Statutes of 1994, have been fulfilled and therefore, Health and Safety Code Sections 43200.5 and 44254 remain inoperative as of this date.

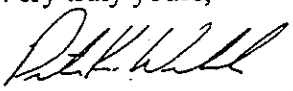
As first proposed in its notice of rulemaking released August 11, 1995, CARB's proposed modification of the "California Motor Vehicle Emission Control and Smog Index Label Specifications" contained provisions which conditioned the requirement of smog decal labeling upon fulfillment of the same conditions as those specified in Section 32 of Chapter 1159, Statutes of 1994. However, CARB's October 12, 1995 Notice of Public Availability of Modified Text and Supporting Documents states that the CARB Board approved regulatory amendments to the originally noticed rulemaking which include a deletion of the original language which provided that smog labeling requirements would only be operative upon fulfillment of the legislatively specified conditions discussed above. Instead, the new regulation would mandate the inclusion of a smog index on the window label of 1998 and subsequent model light-duty vehicles regardless of fulfillment of the legislatively specified conditions.

The Legislature was very specific in its grant of authority to CARB to promulgate regulations relative to smog indices and decals. Moreover, the Legislature specifically conditioned such grant of authority upon the fulfillment of conditions specified in Section 32 of Chapter 1159, Statutes of 1994. Finally, even if those conditions are satisfied, the Legislature provided only for a temporary program that would become inoperative five years from the date determined pursuant to Section 32, and would be automatically repealed the following January 1. In light of those restrictions, CARB cannot simply ignore a specific enactment of the Legislature and unilaterally impose smog index regulations without the fulfillment of conditions and restrictions specified by the Legislature.

Predicated upon the foregoing, we object to the suggested changes to the original proposed amendments to Section 1965, Title 13, California Code of Regulations and the "California Motor Vehicle Emission Control and Smog Index Label Specifications" and respectfully urge that those suggested changes not be adopted.

Should you have any questions or comments, please do not hesitate to give me a call.

Very truly yours,



Peter K. Welch
Director of Government
and Legal Affairs

PKW:la

cc: Office of Administrative Law

The Gas Company

Lauren S. Dunlap
Special Projects Manager
Transportation Segment

STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 11/3/95
BY BOARD SECRETARY

November 2, 1995

15-Day comment

TAC
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Ms. Pat Hutchens
Board Secretary
California Air Resources Board
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Southern California Gas Company

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Re: Notice of Public Availability of Modified Text and Supporting Documents and Information (Mail-Out #95-36) for Public Hearing to Consider Amendments to the Certification Requirements and Procedures for Low-Emission Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.

Dear Ms. Hutchens:

Southern California Gas Company (The Gas Company) appreciates the opportunity to provide comments regarding the California Air Resources Board's (ARB's) modification of the Ultra Low-Emission Vehicle (ULEV) emission standards for medium-duty vehicles (MDVs) certified to the optional heavy-duty engine standards to align these standards with the United States Environmental Protection Agency (EPA) Statement of Principles (SOP) issued July, 1995.

Generally, The Gas Company believes that relaxation of California's engine-certified MDV emission standards in order to "align" with the EPA's proposed standards provided in the SOP is inappropriate and counter to the intent of the congressionally approved provisions of the Clean Air Act. The SOP is in a very early stage of the rule development process and it is hoped that significant modifications will be incorporated prior to final rule-making that ensure maximum emission reductions are achieved from mobile sources.

Furthermore, it should be noted that ARB's commitment to the SOP was not publicly noticed and approved and emission standard amendments based on this document seem to circumvent the public notice process.

The Gas Company submitted strong objection to the SOP to EPA during the Advanced Notice of Proposed Rule-Making public comment period. The Gas Company is strongly opposed to the SOP because it significantly reduces required reductions from heavy-duty mobile sources. Reductions from heavy-duty mobile sources are a critical component to California's attainment strategy and as the primary supplier of fuel for stationary sources in the South Coast Air Basin, we are extremely concerned that industry will be unfairly burdened with this responsibility. The Gas Company's submission to EPA is attached and incorporated by reference.

In conclusion, The Gas Company urges delay of any regulatory amendments based on the SOP until: 1) EPA has concluded its publicly reviewed rule-making process and the final form of the EPA program is fully developed; and 2) the lost reductions are fully and enforceably restored to the mobile sources from which they were removed.

Sincerely,

Attachment

The Gas Company

Andrew C. Hirsch
Governmental Affairs Manager
ETS Support Services

September 29, 1995

Public Docket A-95-27
United States Environmental Protection Agency
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Gas Company
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Los Angeles, CA
90013-1011

Mailing Address:
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Los Angeles, CA
90051-1249

Re: **Comments of Southern California Gas Company on the Control of Air Pollution from Heavy-Duty Vehicles, Environmental Protection Agency Public Docket No. A-95-27**

Dear EPA Officials:

Southern California Gas Company (The Gas Company) is pleased to provide comments regarding the United States Environmental Protection Agency's (EPA's) Advanced Noticed of Proposed Rule (ANPR) regarding the Control of Air Pollution from Heavy-Duty Vehicles. The Gas Company agrees with EPA that standards designed to reduce emissions from heavy-duty vehicles (HDVs) are critical for attainment of clean air goals. However, The Gas Company feels that the proposed actions described in the ANPR do not provide California with the tools needed to successfully achieve air quality attainment goals; The Gas Company also reminds EPA that those California-specific tools were recently reauthorized by the Congress. As the primary supplier of stationary source fuel in the South Coast Air Basin, The Gas Company is very concerned that our customers - those businesses and industries that keep the Southern California economy running - will be unfairly burdened with this responsibility.

The Gas Company strongly objects to the proposed rule-making under the Statement of Principles (SOP) because it significantly reduces required reductions from mobile sources. In fact the proposed rule-making is so inappropriate that it ignores the emission reductions presently available from already commercialized technologies, including those using natural gas. The SOP implies that cooperative ongoing research for cleaner technologies will continue, but without detailed requirements, The Gas Company is skeptical any serious effort will be undertaken to achieve standards beyond the proposed levels.

Furthermore, The Gas Company again notes that Congress reaffirmed California's need for independent state-established emission standards as recently as the 1990 amendments to the Clean Air Act. The State of California itself reaffirmed that need

most recently through its current application for that Congressionally authorized waiver.

The proposed rule-making yields fewer emission reductions (by about a third) than called for in the California State Implementation Plan (SIP) Amendments of 1994. According to the SOP "...California's obligations to comply with state and federal law including the SIP" cannot be abridged. How can California meet its SIP requirements if mobile source emission standards are relaxed, as will likely be required under this proposed action?

Again, The Gas Company is concerned that stationary sources will be the target of the needed reductions lost by the SOP and this subsequent proposed action.

The ANPR and the SOP also note that the obligation to demonstrate attainment of the National Ambient Air Quality Standards for ozone requires "the use of photochemical grid modeling (e.g., Urban Airshed Modeling, or UAM)." The Gas Company questions how the proponents of the SOP can claim that these statutory obligations (including the previously mentioned attainment demonstrations and statutory requirements for rates of progress demonstration) will be met without complete and public use of the Urban Airshed Model. Accordingly, EPA should require that the proponents of the SOP publicly demonstrate, through the use of the UAM with all of the relaxed standards, that southern California will be able to meet all of the federal and state statutory requirements prior to the promulgation of any standards under the SOP.

The ANPR indicates that data provided in Figures 1 and 2 are for the entire country and that in nonattainment areas, "the fraction of NOx and VOC total emissions contributed by mobile sources on average .... is in excess of the stationary source contribution." This distinction is critical in understanding The Gas Company's strong objection to this ANPR proposal.

The Gas Company also notes that Section 40920.5(c) of the California Health and Safety Code calls for the use of "Any other feasible controls that can be implemented ...." in regions with extreme air pollution, such as the South Coast Air Basin. Since portions of the currently adopted California motor vehicle emission reduction program will be rescinded or weakened as a result of these rule-makings, compliance with this section of state law seems threatened.

The opening summary of the ANPR states that ozone precursor reductions will be achieved without increases to particular matter (PM) emissions. This is not true since California will be required to permit greater PM emissions under the SOP's call for the achievement of "harmony" between state and federal regulations. In

fact, the California Air Resources Board has already relaxed certain PM standards as a result of the SOP agreement. The Gas Company believes these actions are premature until ongoing review of PM inventory and health effects studies are completed. Furthermore, Section VI summarizes public support for EPA action and quotes a request from environmental organizations to "tighten the heavy-duty engine standards to 0.05 g/bhp-hr for particulates and 2.0 g/bhp-hr for NOx." The proposed action is clearly not responsive to this request.

The Gas Company was surprised to note that the entire Federal Register notice treads lightly upon any consideration of the rule-making's effect on the State Implementation Plan. Will EPA accept SIP amendments that are deficient due to the reduced clean-up resulting from the rule-makings?

The Gas Company questions whether EPA (and ARB) will apply the same relaxed, national standards to the determination of Best Available Control Technology for stationary sources? Typically each incremental improvement in technology triggers a mandatory BACT reduction. Since already-certified and commercially available engines meet or exceed the proposed rule-making "standards," there is a serious conflict with the process currently required for stationary source technology implementation.

While the continuing undercount of mobile source emissions has been widely demonstrated and need not to be re-established in these comments, a few words on the emissions inventory are instructive. Based upon a recent technical analysis prepared by the Desert Research Institute (August 8, 1994), a corrected 1991 oxides of nitrogen (NOx) inventory tells us that residents of the South Coast Air Basin are exposed to some 1306 tons per day (tpd). As a category, light-duty automobiles contribute the most (320 tpd), closely followed by other mobile equipment
(250 tpd), and heavy-duty diesel trucks are the third most polluting category at 230 tpd. It is worth noting that all stationary sources contribute only 207 tons per day. Since SIPs are modeled on a regional basis, these numbers are much more telling than the ANPR's national projections. These regional numbers clearly demonstrate that the proposed rule-making is not supportive of California's clean air goals.

The Gas Company is also concerned that the review process for this action, as well as the proposal to provide an opportunity for re-evaluation in 1999, assumes that the proposed standards are the most stringent to be considered. All review of this proposal should allow for consideration technology may exceed the ANPR proposed standards, and that more stringent standards are achievable *today*, specifically with regard to lower PM standards in conjunction with a 2.0 g/bhp-hr NOx standard.

In conclusion, The Gas Company urges rejection of the proposed rule-making because it undermines efforts to promote a more diverse and technologically advanced fuel supply, it eliminates the need for the advancement of already commercialized alternative fuel technology, and it will result in significantly fewer regional air quality benefits (in California) than the currently adopted rules.

Sincerely,

Andrew C. Hirsch
Governmental Affairs Manager

cc: Mr. Tad Wysor (also via FEDEX)
United States Environmental Protection Agency
Regulation Development and Support Division
2565 Plymouth Road
Ann Arbor, MI 48105
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Engine Manufacturers Association
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STATE OF CALIFORNIA
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November 3, 1995

BY TELECOPIER AND
FIRST CLASS MAIL

Pat Hutchens
Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, California 95812

Re: EMA's Comments On The Proposed Amendments To The Certification Requirements And Procedures For Low-Emission Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles

Dear Ms. Hutchens:

The Engine Manufacturers Association ("EMA") hereby submits its written comments regarding the proposed amendments (and modifications thereto) to the Certification Requirements and Procedures for Low-Emission Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. EMA is the national association representing world-wide manufacturers of engines for all applications other than passenger cars and aircraft. EMA's members manufacture, among other things, the engines used in medium-duty vehicles (MDV's) as well as heavy-duty otto-cycle engines. Accordingly, EMA has a vested interest in the amendments at issue.

As a result of the cooperative efforts between representatives of EMA and CARB, EMA has just one remaining concern regarding the pending amendments as they relate to heavy-duty otto-cycle engines. More specifically, the proposed amendments to Title 13, California Code of Regulations, section 1956.8(c)(3) -- "Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy-Duty Engines and Vehicles" -- would set a carbon monoxide (CO) standard of 14.4 g/bhp-hr for new 2004 and subsequent model heavy-duty otto-cycle engines. This standard is markedly different from the applicable federal CO standard for 2004 and subsequent model engines, which is 37.1 g/bhp-hr. This creates a clear conflict between the proposed CARB standard and the federal EPA standard.

This clear conflict between CARB and EPA standards is violative of the letter and spirit of the comprehensive Statement of Principles (SOP) recently entered into among EPA, CARB and the engine industry regarding future emission regulations for heavy-duty on-highway vehicles. A fundamental tenet of the SOP is a harmonization of CARB and federal requirements. To that end, EPA and CARB specifically agreed in the SOP not to increase the stringency of the CO standard (or the diesel PM standard) beyond the current levels for the 2004 model year. This agreement was an essential component of the engine manufacturers' commitment to attempt to meet the stringent NMHC + NO_x standard set forth in the SOP. In addition, the conflict between the CARB and EPA CO standards is at odds with the separate discussions and agreement between the engine industry and CARB to pursue harmonization through a negotiated implementation of the MDV Rule.

The proposed 14.1 g/bhp-hr standard obviously is not harmonized with EPA's 37.1 g/bhp-hr standard, and therefore is contrary to the SOP and to the discussions that EMA representatives had with Tom Cackette and members of the CARB staff.

Accordingly, to correct this discrepancy, and to harmonize the CARB and EPA standards as the Board and all other parties have intended and agreed, EMA urges CARB to change the 2004 model year heavy-duty otto-cycle CO standard to 37.1 g/bhp-hr.

Very truly yours,

Jed R. Mandel
General Counsel

JRM:vg

cc: Tom Cackette
Don Drachand
Bob Cross
Steve Albu

C:\56701\EMA\HUTCHENS.001