

May 10, 2000

Glen A. Barton  
Chairman and Chief Executive Officer  
Caterpillar, Inc.  
100 N.E. Adams Street  
Peoria, Illinois 61629

Dear Mr. Barton:

We write to you today on behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) – the two national associations representing air pollution control officials in the 55 states and territories and more than 165 major metropolitan areas across the country – regarding an issue of critical importance to state and local air pollution control agencies: the regulation of heavy-duty diesel engines and the compliance by Caterpillar, Inc. (Caterpillar) with legally binding in-use emission limits to which your company recently agreed. Our interest in this issue is based on the fact that heavy-duty diesel engines are one of the most significant and ever-growing contributors to a number of serious public health and welfare problems, including ozone, particulate matter, toxic air pollution, visibility impairment, acid deposition and global warming.

Several years ago, our associations were extremely disturbed to learn that Caterpillar was among seven manufacturers of motor vehicle diesel engines alleged to have sold, offered for sale or introduced or delivered into commerce, heavy-duty diesel engines equipped with illegal “defeat devices” in the form of computer software that alters fuel injection timing when the engines are in use, adversely affecting the engines’ emissions control systems for nitrogen oxides (NO<sub>x</sub>). This collective action, which spanned more than a decade, resulted in 88 million tons of excess NO<sub>x</sub> emissions.

As you know, environmental regulators at all levels of government are expending tremendous capital – financial and political – to identify and institute fair and effective air pollution control strategies – particularly for NO<sub>x</sub> – that will allow us to achieve and sustain clean, healthful air nationwide. The costs of these control strategies are being borne by virtually every contributing sector of the economy and the public. In light of our nation’s intensive clean air efforts, the intentional and sustained use of devices that thwart pollution control systems is especially objectionable.

As our associations expressed in January 12, 1999 comments to the U.S. Department of Justice, STAPPA and ALAPCO had serious concerns with the Consent Decrees proposed on November 3, 1998 to settle the environmental violations to which Caterpillar was a party (a copy of those comments is attached). Namely, the proposed agreements fell far short both in recovering the excess emissions that resulted from the use of defeat devices and in imposing penalties that were sufficiently demanding given the magnitude of the violations that occurred. Our concerns remained largely unresolved in the Consent Decrees that were entered by the Court on July 1, 1999. Despite our dissatisfaction, however, our associations believed it was important to move forward and to focus on participating in the effective and timely implementation of the Consent Decrees to ensure that they would at least achieve the full extent of emissions recovery that they were designed to yield, notwithstanding the fact that 12 million of the 88 million tons of excess NO<sub>x</sub> would remain unrecovered.

We cannot overstate how frustrated we are to learn that within just months of formally entering into a Consent Decree, Caterpillar is now seeking to further weaken the terms of the agreement by requesting relief with respect to the Not-to-Exceed (NTE) requirement, which is a central component of the emissions recovery strategy to which you agreed. We understand that representatives of your company have initiated discussions with the U.S. Department of Justice and the U.S. Environmental Protection Agency regarding such relief. We further understand that your company is claiming that much of what you are providing to support your request is Confidential Business Information, thus denying important stakeholders, such as our associations, an opportunity to fully comprehend and evaluate the nature and extent of your request.

At this time, we ask that Caterpillar release to STAPPA and ALAPCO specific data and other information that will clearly demonstrate 1) exactly what relief your company is seeking with respect to the requirements stipulated in your Consent Decree, 2) why you are seeking such relief, 3) the duration for which you are seeking such relief, 4) what additional emissions will occur as a result of such relief, 5) where these additional emissions will occur, 6) how these additional emissions were calculated, 7) what the environmental impact of these additional emissions will be and 8) what you are offering in return for the relief you seek. We are making similar requests of the other Consent Decree companies also seeking relief from their Consent Decree requirements.

On behalf of STAPPA and ALAPCO, we look forward to your timely response and to working in cooperation with Caterpillar to fully understand and assess why you are seeking to renegotiate a pivotal condition of a Consent Decree so soon after you agreed to it. Please feel free to contact either of us or S. William Becker, Executive Director of STAPPA and ALAPCO, at (202) 624-7864.

Sincerely,

Ronald C. Methier  
STAPPA President

Marcia T. Willhite  
ALAPCO President

cc: Members of STAPPA  
Members of ALAPCO

**Recipients of May 10, 2000 Letter from STAPPA and ALAPCO  
Regarding NTE Requirement of Heavy-Duty Diesel Consent Decrees**

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