

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

May 12, 2003

U.S. Environmental Protection Agency
EPA Docket Center
Air and Radiation Docket
ATTENTION: Public Docket No. OAR-2003-0046
Mail Code 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

To Whom It May Concern:

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) to express our concerns with the U.S. Environmental Protection Agency's (EPA's) Direct Final and Proposed Rules for the *Control of Emissions from New Nonroad Diesel Engines: Amendments to the Nonroad Engine Definition*, as published in the *Federal Register* on April 11, 2003 (68 FR 17741 and 68 FR 17763, respectively). For the reasons we outline below, our associations urge that EPA withdraw the Direct Final Rule for this action, hold a public hearing and either extend or reopen the comment period on the Proposed Rule to provide for more thorough review and comment by all potentially affected states and localities.

According to EPA, the purpose of this rulemaking is to revise the definition of nonroad engines to include certain diesel engines that would otherwise not meet the current definition. As described by EPA, this action is intended to apply to all

“diesel engines used in agricultural operations in the State of California that are certified by the engine manufacturer to meet the nonroad emission standards for that engine, where the engine is part of an engine family that contains engines that otherwise meet the definition of nonroad engine. Such engines would no longer be stationary internal combustion engines [without regard to whether these engines are portable or transportable or how long these engines remain in one fixed location at a farm]. Thus, farmers would not include the emissions from such nonroad engines when they determine whether their agricultural operation is a major source for purposes of Title V permitting or other requirements.”

STAPPA and ALAPCO have three overarching concerns with this proposed action.

First, although EPA proposes to apply the revised nonroad definition only in California – and notwithstanding the agency’s discussion of the “unique circumstances” warranting this action in that, and only that, state – we remain troubled by the potential implications for other states in the nation, and question EPA’s ability to contain this provision only to California.

Likewise, although EPA proposes to limit this change in definition only to engines used in agricultural operations, we are dubious of the agency’s ability to maintain this limitation. In its rationale for this action, EPA claims that “the engines being reclassified in this rule are doing work that is indistinguishable from work done by engines already classified as nonroad.” We, therefore, question the basis on which the agency would be able to reject requests for similar treatment for similar types of engines used in other types of operations.

Finally, although the very short comment period and lack of advance notice of this action have precluded our ability to fully assess the impacts of this rule, we are extremely concerned that by taking this action, EPA may seriously hinder the ability of California, and potentially other states, to pursue the most effective long-term control of these agricultural, and any subsequently affected, engines.

STAPPA and ALAPCO believe this action has the potential to affect other states in addition to California, as well as engines used in other operations in addition to agricultural. Further, few states and localities across the country had knowledge of this pending action – let alone input into its development – prior to its publication in the *Federal Register* last month. Accordingly, STAPPA and ALAPCO urge that EPA not only withdraw the Direct Final Rule, but also hold a public hearing and initiate an additional comment period to allow all states and localities a sufficient opportunity to thoroughly review and understand the proposal and its implications and provide meaningful input to the agency before any final action is taken. In addition, STAPPA and ALAPCO request that EPA address all of the potential ramifications of this rulemaking for states that may wish to require emission reductions from this source category at some point in the future and then provide states the opportunity to comment further.

On behalf of STAPPA and ALAPCO, thank you for this opportunity to comment. We look forward to your responsiveness to our request.

Sincerely,



Nancy L. Seidman
Co-Chair
Mobile Sources and
Fuels Committee



Eric P. Skelton
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Mobile Sources and
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Shelley Kaderly
Chair
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