



**SWEPI LP**

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**VIA U.S. Mail and E-Mail**

Joseph Jakuta  
Ozone Transport Commission  
Hall of the States  
444 North Capitol Street  
Suite 638  
Washington, D.C. 20001

**Re: OTC Model Rule: Nonroad Diesel Equipment Anti-Idling; Guidance for Implementation; Nonroad Emissions Estimates Methodology; NOx Analysis Methods**

Dear Mr. Jakuta:

SWEPI, LP (Shell) submits the following comment to the above-referenced draft model rule and guidance being developed by the Ozone Transport Commission (Commission). Shell owns and operates oil and gas producing assets within the Ozone Transport Region and has a direct interest in how the draft model rule is formulated by the Commission and implemented by the member states in the region. We appreciate your consideration of our comments.

The stated purpose of the idling limitation is to “prevent idling when it is not necessary, [but not] to limit the functions of the vehicle or business.” *OTC Model Rule: Guidance for Implementation of Nonroad Idling Rule* (8.24.2011 Draft). While the rule may be reasonable as applied to construction equipment, the Commission did not gather the necessary information from the oil and gas industry to ensure that this rule would not defeat its stated purpose by limiting the functions of engines for this industry.

The methodology documents state that the Commission utilized three sources of data to estimate idling emissions—CARB, John Deere, and EPA—while acknowledging that “data on idling activity as compared to total usage time are scarce.” *Nonroad Idling Emission Estimate Methodology* (Draft) at 1. It appears, however, that while the data for agriculture, commercial, construction, industrial, lawn and garden, logging, railroad and recreational equipment were scarce, the Commission did not consider equipment specific to the natural gas industry at all.<sup>1</sup>

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<sup>1</sup> CARB asked individuals with “significant experience in the industry” to estimate unnecessary idling, but the “industry” does not appear to be oil and gas exploration and production. John Deere installed devices on 19 construction machines to monitor when the machines idled. The Commission selected 65 nonroad engine types (none of which typify oil and gas drilling rigs or engines used for hydraulic fracturing of horizontal wells) from EPA’s nonroad model to calculate annual activity for each equipment type.

Because the Commission's sources of data did not address or include the types of equipment used for exploration and development of natural gas, any assumptions about avoidable idling or emissions are not applicable to this particular industry, its practices or operations. As the Commission acknowledged, real-world idling behavior and the fraction of idling that can be reasonably controlled varies substantially among machine types. This will be especially so where the specific machine types were not even considered.

Additionally, the anti-idling rule does not appear to apply to drill rigs and fracking engines. The proposed definition of "idling" is "that the engine is running while the nonroad equipment is not moving and is not performing any other function for which it was designed." Drill rigs and fracking engines, however, do not run when they are not performing functions for which they were designed. These types of engines are used as part of an overall process of drilling and then hydrofracturing gas wells. During the overall process, the load on the engine will vary at different times but even at low load, the engines continue to perform the function for which they were designed. For example, a drilling rig engine continues to operate at low load but continues to power a genset that generates electricity. Accordingly, the operation for which this engine is intended continues such that the engine does not idle. Part A XXXX.03 of the rule should thus be modified to include oil and gas exploration and development among list of equipment and engines to which the rule does not apply.

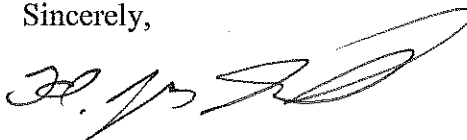
Even if the rule were to apply to drill rigs and fracking engines, an exemption should be added to Part A XXXX.06 to specify that the idling limit would not apply where the operation of such equipment is necessary for work-related mechanical, safety, or electrical operations. Such an exemption would be appropriate in light of how these engines are operated and utilized, as noted above. An exemption is necessary to retain the proper scope of the rule, which is "not intended to limit the functions of a vehicle or business."

Aside from rule applicability, Shell would like to further understand the authority under which the states would promulgate such regulation of nonroad sources in the context of the extensive federal regulation under the Clean Air Act. Various provisions in the Clean Air Act, i.e. § 209(e), suggest that nonroad emission control is a federal issue and that states may not have such authority.

Finally, the Commission should consider whether this model rule should be postponed to avoid needless regulatory uncertainty in light of the administration's direction to EPA to wait until 2013 to review the primary ozone NAAQS.

We respectfully ask the Commission to consider our comments. I would be happy to discuss this further and provide information necessary for the Commission to understand the impact of an anti-idling rule on natural gas operations. Please feel free to contact me at (724) 778-9153 if I can be of further assistance.

Sincerely,



H. James Sewell  
Environmental and Regulatory Team Lead