

Engine Manufacturers Association

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February 10, 2011

BY FIRST CLASS MAIL AND E-MAIL
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Mr. Pierre Marin
Director General, Environmental Policy
Transport Canada
330 Sparks Street
Place de Ville, Tower C
Ottawa, Ontario K1A 0N5

Re: Proposed Locomotive Emissions Regulations

Dear Mr. Marin:

The Engine Manufacturers Association (“EMA”) appreciates this opportunity to comment on the proposal that Transport Canada (“TC”) is developing to control the emissions from the locomotives operated by federally-regulated railway companies in Canada (hereinafter, the “TC Railway Emissions Program”). EMA is the U.S.-based trade association that represents the interests of the world’s leading manufacturers of internal combustion engines, including the large compression-ignition engines used to power locomotives. Accordingly, EMA and its members are among the key stakeholders in the pending regulatory process relating to the TC Railway Emissions Program.

As an initial matter, EMA fully endorses and supports the core objective of the TC Railway Emissions Program, which is to develop “regulations aligned with those of the U.S. Environmental Protection Agency (“EPA”). (See TC Issue Brief, December 2010, p. 21.) Locomotives regularly operate across the U.S.-Canada border, which necessitates a uniform and harmonized regulatory regime between the two countries. In addition, the North American market for locomotive engines and locomotives is simply too small to sustain multiple emission control programs that are not fully aligned and harmonized. Moreover, the EPA “Tier 3” and “Tier 4” regulations on which the TC Railway Emission Program is to be based are “technology-forcing” and, as a result, already stretch the limits of what is feasible with respect to the control of emissions from new locomotives and locomotive engines. Thus, there is no basis or justification for any additional control measures beyond those already adopted by the U.S. EPA. As a result, full and complete alignment with those EPA regulations is a necessary linchpin to any

feasible and cost-effective emission-control program for locomotives operating in Canada, especially if that program is to take effect later this year.

In light of the foregoing, EMA appreciates TC's assurance that "the Canadian emission standards for locomotives will be identical to those in the U.S." (See TC "Overview" Presentation, Dec. 2010, p.4.) EMA also supports the proposed scope of the Railway Emissions Program, which "would apply to 'new locomotives' (as defined in the U.S. regulations) placed into service on or after the date that the regulations come into force until the end of their useful life." (See TC "Proposed Elements" Presentation, Dec. 2010, p.3.) EMA also agrees that TC should adopt "emission standards that equal to U.S. standards for each locomotive type and Tier level," including acceptance of FELs that are a part of the U.S. "ABT program." (*Id.* at 7.)

Despite the EMA's broad endorsement of the pending proposal for a fully-aligned TC Railway Emissions Program, there are a number of detailed issues that will warrant special attention as the regulatory process moves forward. First, TC will need to ensure that any required labels for locomotives and locomotive engines can be in English (not both English and French), so a new labelling program will not need to be developed. Second, TC will need to ensure that any production line testing ("PLT") results or in-use testing results from any tests conducted in the U.S. (*see, e.g.*, 40 CFR §§ 1033, Subpart E, and 1033.810) will be accepted under the TC Railway Emissions Program, so that Canadian railways will not need to perform any unnecessary and duplicative in-use or PLT-type testing. In that regard, the two major Canadian freight railroads are already contributing locomotives for testing as a part of the U.S. in-use testing program. Thus, there should be no need for TC to adopt a separate in-use program. Third, TC will need to ensure that for any locomotives equipped with selective catalytic reduction ("SCR") systems, the emissions management (*e.g.*, actions required when there is no DEF, or when the DEF is frozen or of poor quality), diagnostic, and reporting requirements applicable to those SCR systems will be identical to those in the U.S. (*See, e.g.*, 40 CFR §§ 1033.112 and 1033.815.)

In that regard, and given the potential for unintended misalignment between the myriad details of the U.S. and Canadian regulatory programs, TC would be well advised to premise its Railway Emissions Program around a simple requirement that new locomotives and replacement locomotive engines operating in Canada need to be covered by a certificate of conformity issued by U.S. EPA. Such a straight-forward requirement would streamline the Canadian program, address any cross-border operations issues, ensure that regulatory amendments in the U.S. were duly incorporated into the Canadian program, and would avoid the need for any separate or unique labeling provisions.

Finally, TC should work to ensure that its Railway Emissions Program effectively preempts any efforts by any of the Provinces to regulate or control locomotive emissions. Just as full regulatory alignment is required between U.S. and Canada, so to it is required throughout all of Canada's provinces and territories.

EMA greatly appreciates the opportunity to provide input relating to the development of the TC Railway Emissions Program, and we look forward to working with TC to implement a locomotive emissions program that is fully aligned and harmonized with the program that U.S. EPA has adopted. In the event that you have any questions regarding EMA's comments, please do not hesitate to contact me.

Sincerely,

Timothy A. French
EMA General Counsel

cc. EMA Locomotive Engine Committee

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