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MAR 11 2008



ENVIRONMENTAL QUALITY BOARD

121 Champion Way
Canonsburg, PA 15317
Writer's Number
814-659-3764

March 11, 2008

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Re: **Proposed Rulemaking, Environmental Quality Board**
[25 PA. CODE CHS. 121 AND 126]
Diesel Vehicle Idling; and Auxillary Power Systems
[38 Pa.B. 229]
[Saturday, January 12, 2008]

INDEPENDENT REGULATORY
REVIEW COMMISSION

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Dear Sirs and Madams:

Following are comments of the Reliant Energy Power Generation, Inc. and its affiliates (collectively "Reliant") to the draft final rulemaking for 25 PA. Code CHS. 121 and 126. Reliant owns and operates approximately 16,000 megawatts of power generation in the United States. In Pennsylvania, the company owns and/or operates 18 power plants with approximately 8,800 net megawatts of generation capacity. Reliant is based in Houston, Texas and the Eastern Regional Office is located in Canonsburg, PA.

Reliant supports a diesel idling regulation

Reliant supports a diesel idling regulation. This type of regulation is a necessary measure to address the effects of the emissions of nitrogen oxides; fine particulate matter, particularly carbonaceous materials; hazardous air pollutants; and energy efficiency and conservation. Significantly, as other emissions reduction programs such as the Clean Air Interstate Rule (CAIR) are implemented, the mobile sector emissions are becoming a much larger portion of the emissions inventory. Importantly, diesel idling typically occurs in the proximity of local populations which can result in considerably higher local exposure and consequently greater effects on the health and welfare of affected populations.

Environmental Quality Board

Page 2 of 7

March 11, 2008

This regulation forces companies and/or persons where vehicles load or unload persons or materials to police the activities and actions of the operators which deliver goods, materials and people to your sites

The regulation states that "...no person subject to this subchapter may cause or allow..." idling of an affected vehicle for more than 5 minutes in any hour. It is inappropriate for this regulation to make a site at which deliveries are made responsible for actions to force compliance with environmental regulations by a non-affiliated party. It is the responsibility of the department or other government agency to enforce this and other regulations. It should be solely the responsibility and accountability of the owner and operator of an affected vehicle to comply with these regulations.

This proposed regulation primarily addresses long haul trucking issues and does not appear to consider short haul trucking issues

This regulation primarily focuses on long haul trucking and does not appear to consider short haul trucking issues. The coal and electric generation industries rely significantly on short haul trucking for the transportation of coal and other fuels, waste coal and materials necessary for not only the operation of critical energy production facilities, but also the operation of air cleaning and pollution control devices such as flue gas desulfurization (FGD) and mercury sorbent systems. Short haul trucking is also used to transport recyclable products such as gypsum and coal ash to manufacturing sites and sites being remediated by the product(s) such as abandoned mines and other areas polluted by acid mine drainage. The gypsum produced by an FGD can be used for wallboard manufacturing or soil remediation. Fluidized bed and other coal ash are beneficially used for waste coal and abandoned mine site remediation. These activities are valuable because they provide needed resources, reduce the volume of waste streams that consume increasingly scarce land resources, and conserve energy compared to using raw materials. Consequently, it's important to Pennsylvania's economy and environment to adequately address the needs of short haul truckers working within the Commonwealth.

Reliant proposes two changes to the exemptions provided in the proposed regulation

The most important change to this regulation is the modification to an existing proposed exemption. Reliant's proposed additional verbiage to the exemption in § 126.611(a)(3) of the proposed regulation is consistent with the intent of the exemption contained in the proposed regulation, but is more descriptive and specific. The suggested changes to this provision are highlighted in yellow:

An attended vehicle must idle for active delivery, weighing, sampling, receipt, loading or unloading of property or passengers.

These changes are necessary to accommodate the time necessary to pass through a plant to get to either a sampling or delivery point and to wait to load, unload or be sampled. Due to daily issues, it is sometimes necessary for a truck to remain motionless while other trucks conduct these activities or until the receiving facilities can conduct these activities.

Environmental Quality Board

Page 3 of 7

March 11, 2008

The other change that should be made to this proposed regulation under the exemptions identified in § 126.611 is the inclusion for a short haul trucker to be exempted from this requirement if ambient conditions necessitate the operation of air conditioning or heating. This should be added to avoid the use of another exemption contained in the proposed regulation that allows this activity for health or safety reasons. The additional exemption that should be added is highlighted in yellow;

An occupied vehicle not equipped with a sleeper berth compartment must operate air conditioning or heating and the outside temperature at the location of the vehicle is less than 40 degrees or greater than 75 degrees Fahrenheit.

This provision recognizes the need to provide a comfortable work place for the drivers and also limits the potential uses of the currently proposed exemption. It's noteworthy that another provision in the proposed regulation allows this exemption for long haul truckers until May 1, 2010. It is expected that by that time, alternative options will be available to that class of trucker. Currently, those alternatives are not readily available for short haul truckers. It is important to the integrity of this regulation to be specific in the exemptions to avoid the misuse of some exemptions or to have parties claim safety or health issues which undermines the purpose of the proposed regulation.

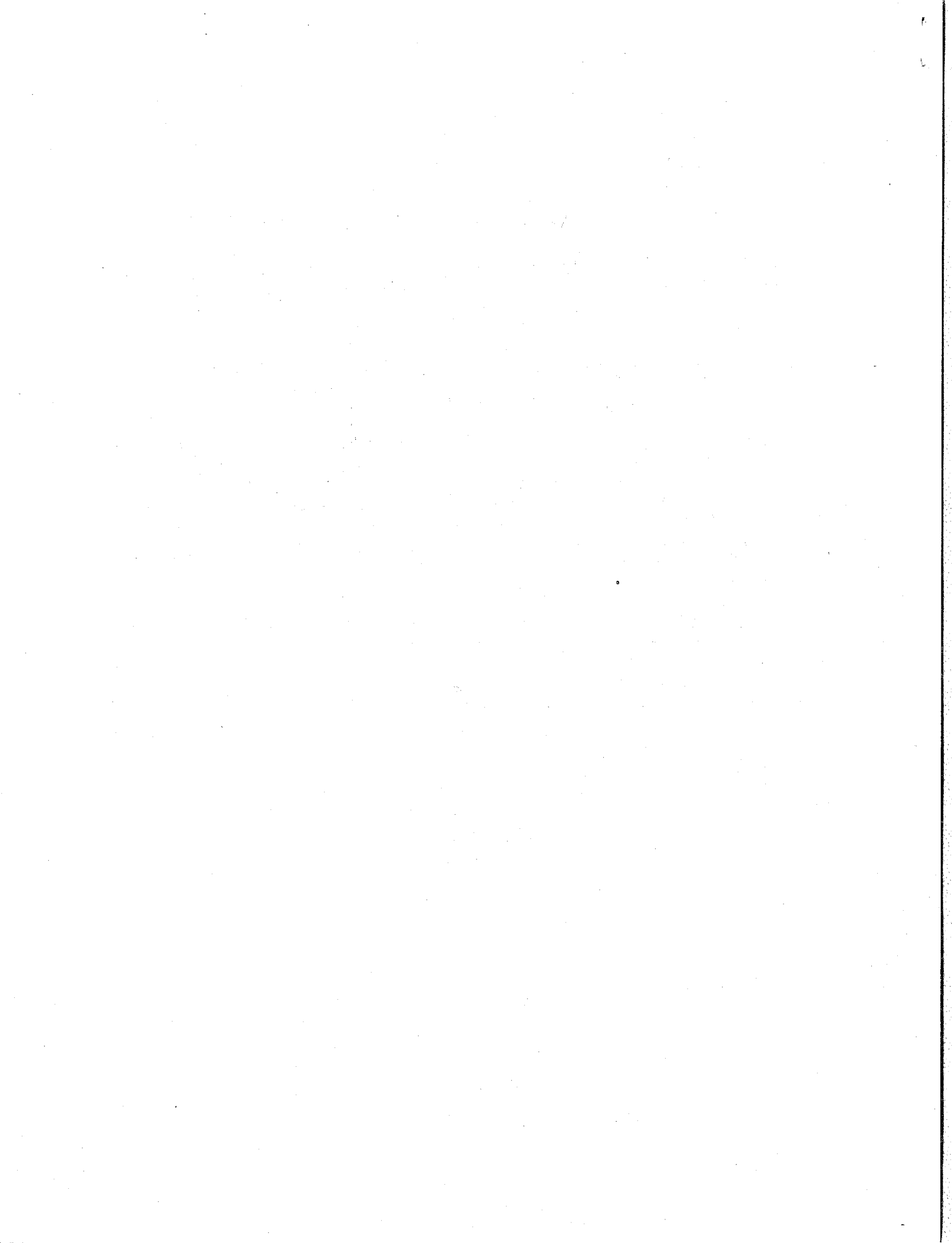
I have included a copy of the proposed regulation with the Reliant Energy suggested revisions "tracked" into the document to avoid any confusion.

Reliant appreciates the opportunity to submit these comments. If you have any questions or wish to discuss our comments in greater detail, please contact me at (814) 659-3764.

Sincerely,



Vincent J. Brisini
Manager, Air Resources





Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

ARTICLE I. DEPARTMENT OF ENVIRONMENTAL
PROTECTION

SUBPART C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Auxiliary power system--A device installed on a commercial motor vehicle to provide electrical, mechanical or thermal energy to the primary diesel engine or the cab, sleeper berth or bus passenger compartment as an alternative to idling the primary diesel engine.

* * * * *

Commercial motor vehicle--A self-propelled motor vehicle used on a highway to transport passengers or property when the vehicle meets one or more of the following conditions:

(i) The vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater.

(ii) The vehicle is designed or used to transport more than 8 passengers, including the driver, for compensation.

(iii) The vehicle is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.

(iv) The vehicle is used in transporting material found by the Secretary of the United States Department of Transportation to be hazardous under 49 U.S.C. § 5103 (relating to general regulatory authority) and transported in a quantity requiring placarding under regulations prescribed by the Secretary of the United States Department of Transportation under 49 CFR, Subtitle B, Chapter I, Subchapter C (relating to hazardous materials regulations).

* * * * *

GCWR--Gross combination weight rating--The value specified by the manufacturer as the loaded weight of a combination motor vehicle.

* * * * *

Highway--The entire width between the boundary lines of every way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel. The term includes a roadway open to the use of the public for vehicular travel on grounds of a college, university, public or private school, or public or historical park.

* * * * *

Idling--For purposes of Chapter 126, Subchapter F (relating to diesel vehicle idling), the operation of the main propulsion engine of a commercial motor vehicle while the vehicle is stationary. (Editor's Note: An unrelated definition of this term is expected to be published for comment in the *Pennsylvania Bulletin* later in a proposed amendment to Chapter 129 (relating to standards for sources) concerning glass melting furnaces. The later of these two rulemakings to be published as a final rulemaking will include both definitions).

* * * * *

(Editor's Note: Subchapters F and G are new and are printed in regular type to enhance readability.)

CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS

Subchapter F. DIESEL VEHICLE IDLING

GENERAL PROVISIONS

Sec.

126.601. Applicability.

RESTRICTIONS ON DIESEL VEHICLE IDLING

126.611. Idling restriction.

126.612. Exemptions.

GENERAL PROVISIONS

§ 126.601. Applicability.

This subchapter applies to owners and operators of diesel-powered commercial motor vehicles.

Deleted: and owners and operators of locations at which diesel-powered commercial motor vehicles load, unload or park

RESTRICTIONS ON DIESEL VEHICLE IDLING

§ 126.611. Idling restriction.

No owner or operator of a commercial motor vehicle subject to this subchapter may cause or allow the engine of a diesel-powered commercial motor vehicle to idle for more than 5 minutes in a 60-minute period, except as provided in § 126.612 (relating to exemptions).

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§ 126.612. Exemptions.

(a) A diesel-powered commercial motor vehicle may idle beyond the time allowed in § 126.611 (relating to idling restriction) for one or more of the following reasons:

- (1) When idling is necessary for an occupied vehicle equipped with a sleeper berth compartment to operate air conditioning or heating during a rest period and the outside temperature at the location of the vehicle is less than 40° F or greater than 75° F. This exemption expires May 1, 2010. This exemption does not apply if the vehicle is parked at a location equipped with stationary idle reduction technology that is available for use.
- (2) An occupied vehicle not equipped with a sleeper berth compartment must operate air conditioning or heating and the outside temperature at the location of the vehicle is less than 40 degrees or greater than 75 degrees Fahrenheit.

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(3) When idling is necessary for a passenger bus to provide heating or air conditioning when nondriver passengers are onboard. For the purposes of this exemption, the bus may idle for up to 15 minutes in a 60-minute period.

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(4) When an attended vehicle must idle for active delivery, weighing, sampling, receipt, loading or unloading of property or passengers.

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(5) When idling is necessary for a vehicle to operate work-related mechanical or electrical operations other than propulsion.

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(6) When a vehicle must remain motionless because of one or more of the following:

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(i) Traffic or other obstruction on the highway.

(ii) An official traffic control device or signal.

(iii) The direction of a uniformed police officer or other person authorized to direct traffic under 67 Pa. Code § 101.2 (relating to persons authorized to direct traffic).

(7) When idling is necessary as part of a State or Federal inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection.

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(8) When idling is necessary for maintenance, servicing, repairs or diagnostic purposes, provided idling is required for this activity.

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(9) When idling is necessary to operate defrosters, heaters, air conditioners or cargo refrigeration equipment, or to install equipment, to prevent a safety or health emergency and not for the purpose of a rest period, or as otherwise required by Federal or State motor carrier safety regulations or local requirements.

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(10) When idling is necessary for a police, fire, ambulance, public safety, military or other vehicle while being used in an emergency or training capacity.

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(11) When idling is necessary for an armored vehicle while a person remains inside the vehicle to guard the contents.

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(12) When idling by a school bus during queuing for the sequential discharge or pickup of students is necessary because the physical configuration of a school or the school's surrounding streets does not allow for stopping.

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(b) The restriction on idling in § 126.611 does not apply to a vehicle that has a model year 2007 or newer engine and exhibits a label issued by CARB under 13 CCR 1956.8(a)(6)(C) (relating to exhaust emissions standards and test procedures--1985 and subsequent model heavy-duty engines and vehicles) showing that the vehicle's engine meets an optional NOx idling emission standard.

(c) A person will not be considered in violation of § 126.611 for idling that exceeds 5 minutes in a 60-minute period if each of the following occurs:

(1) The vehicle owner or operator asserts at the time of the exceedance that the vehicle idled more than 5 minutes in a 60-minute period due to a mechanical problem over which the driver had no control.

(2) The vehicle owner or operator demonstrates to the Department or other enforcing agency within 10 business days of exceeding the idling restriction that the mechanical problem has been identified and repaired.

(d) A county, city, town, township, borough or local air authority with idling regulations in existence before _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) may approve alternative compliance plans for bus terminals to minimize idling.

Subchapter G. AUXILIARY POWER SYSTEMS

§ 126.701. Applicability.

This subchapter applies to owners and operators of diesel-powered commercial motor vehicles with a model year 2007 or newer engine.

§ 126.702. Auxiliary power system.

For a diesel-powered commercial motor vehicle with a model year 2007 or newer engine, an auxiliary power system powered by a diesel-powered internal combustion engine may only be used in this Commonwealth if its exhaust is routed through the exhaust system of the main propulsion engine. This requirement does not apply if the vehicle or auxiliary power system exhibits a label issued by CARB under 13 CCR 2485(c)(3)(A)(1) (relating to airborne toxic control measure to limit diesel-fueled commercial motor vehicle idling) for the auxiliary power system.

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