

# Perry & Shaw, Inc.

## General Engineering Construction

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California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, CA 95812

Attn: California Air Resources Board

Re: **PROPOSED OFF ROAD DIESEL REGULATIONS - 15 DAY COMMENT PERIOD  
AVAILABILITY OF VDECs FOR OFF ROAD APPLICATIONS**

Dear Sirs / Madams,

The purpose of this letter is to address the representations made in the staff report regarding the availability of VDEC technology as it applies to heavy off road applications.

With regard to the availability of VDEC technology, it should be noted that there has been a misrepresentation by CARB staff regarding the current availability/suitability of VDEC technology for high horsepower, heavy off road applications throughout this entire process. This representation has been made to both industry and to the ARB.

The ARB Verification Procedure states: *"The goal of the Verification Procedure...an emission control system that is durable and compatible with various engines and applications."* CARB staff, through their verification process, has indicated that this technology is here and ready for application (HUSS). It is not.

The state "Verification" process as it is currently being applied by staff, is flawed. The suitability of applications is to be determined as a part of the verification process. This was not done as a part of the HUSS verification process.

I had meeting last week with San Diego APCD and ARB regarding our current Moyer contract to repower with Tier 3 and retrofit with HUSS on large CAT equipment. When I made application for this Moyer Grant, we had quotes from HUSS for all our applications and verification from ARB on HUSS devices. Now, after preparing for installation, we have received a letter from HUSS stating that these devices are not suitable on a number of CAT applications, including most of ours (large scrapers and dozers) even though we had quotes from HUSS for doing the work. In addition, it was mentioned in the meeting that HUSS may back away from more CAT applications.

I then stated that I wanted to proceed with both retrofit and repower, the device is verified by ARB, I had funding, I had quotes from the HUSS manufacturer for my specific applications and I am ready to go. There is a requirement of my contract with APCD for retrofit. I was told that at this time I can not do the retrofit but that I can repower and be "waivered" from the retrofit application of Moyer if I repower prior to another "verified" application becoming available for my applications. At this point,

*I guess I don't have enough imagination to even know what a "real VDEC verification" might look like.*

In addition, one of the participants in the meeting ( a large equipment owner) indicated he is getting a letter from his insurance company that states that they will not provide liability insurance on any of his equipment if major, after market modifications to the equipment, such as the installation of these VDECs, are made to the machinery. If this happens, then any equipment owner in the state will have a significant hurdle to face in the event of litigation that may result from any accidents involving modified equipment (ie: because of this letter, plaintiff's attorney position will be that the equipment owner should have been aware of a potential safety issue with equipment that has been similarly modified. This is a liability that none of us can accept, nor will our insurance companies). It is important to note that, during the workshop sessions and hearings, industry repeatedly informed ARB and staff of the complexity of these potential safety issues.

I am sure the staff response will be that the solutions are coming. We have heard this for three years, and now, when we are ready to apply these solutions that are supposed to be here, it turns out that they really don't exist.

How can it be practical to create the type of sophisticated, long range and comprehensive business plan to try to address compliance requiring applications of VDEC's on up to 20% of our fleet horsepower per year when the true, "real world" application of VDEC's is such a moving target?

Sincerely,

Mike Shaw  
President