



January 3, 2008

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

RE: 15 day Comments -- In Use Off Road Diesel Equipment

Dear Sir/Madam:

The California Construction and Industrial Materials Association (CalcIMA) opposes the adoption of the proposed regulation for In-Use Off Road Diesel Vehicles in its current form. We request an overall extension of the rollover and retrofit requirements by five years. In addition, we have made several other requests for modifications to the rule. We appreciate your consideration in these matters.

CalcIMA, a statewide trade association formed in January of 2007 from the consolidated memberships of the California Mining Association, Construction Materials Association of California, Southern California Rock Products Association and Southern California Ready Mixed Concrete Association. Our 110 member companies operate multiple surface mines producing sand and gravel, crushed stone and multiple industrial minerals such as limestone and silica. Our membership also includes ready mixed concrete companies. In 2006, California's 800 active mines produced minerals valued at 4.6 billion dollars and led the nation in the production of sand and gravel, portland cement, diatomite and natural sodium sulfate.¹ Through our previous associations we have participated in this rule making since it began in 2004.

We recognize the 15 Day comment period allows only comments on those portions of the rule which have changed and will limit our discussion to those items.

¹ California Non-Fuel Minerals 2006, Susan Kohler, California Geological Survey
1811 Fair Oaks Avenue ■ South Pasadena, California 91030 ■ Tel. 626.441.3107 ■ Fax 626.441.0649
1029 J Street, Suite 420 ■ Sacramento, California 95814 ■ Tel. 916.554.1000 ■ Fax 916.554.1042
www.calcima.org

VDECS Maintenance:

We certainly understand the Boards concern that VDECS may be swapped among equipment in a shell game to avoid compliance. However we believe the modifications to this section are too limiting as written. We believe it is necessary to allow operators to move VDECS between equipment upon the retirement of a piece of equipment or when the equipment is sold outside of the state. We see no reason to force operators to dispose of perfectly good VDECS in the situation where the equipment it was originally installed upon will no longer be in the state.

Likewise we have many operators that are concerned that despite the executive officer having approved a VDECS for installation without providing a safety exemption, there is no way for CARB to make that safe use determination binding on either the Mine Safety and health Administration or on Cal-OSHA. As a result we would request that operators be able to remove a VDECS device where the regulatory entity responsible for employee safety has determined the device impedes the safe operation of the vehicle. This is particularly important for our industry as MSHA has authority to upon making such a finding deny us the use of that equipment.

Attainment/Non-Attainment Fleets:

With the division of the rule into a PM and a NOx component we believe Board staff has missed an opportunity to provide extra flexibility to the rule for operators of equipment that operates exclusively within attainment areas as defined by the rule. As an association that represents the mineral industry we have a number of members whose fleets primarily reside at stationary facilities within attainment air basins. However having only a few pieces of equipment at another facility in a non-attainment air district forces them to treat their entire fleet as if it resides within a non-attainment air basin. We believe this is not only inherently unfair on these fleets but also undesirable considering the expected limitations on availability of retrofit and repower technology.

Should you adopt the rule in this manner you will force fleets that are primarily located in attainment air basins to compete for limited technology with fleets in non-attainment air districts. In effect should the fleet primarily residing in an attainment basin place their orders first they could well end up taking the engines and new equipment necessary for reductions in non-attainment air basins. The fleets in the non-attainment basins could still be in compliance with the rule should they simply have placed their order at least 6 months prior to their compliance date.

The rule contains all of the necessary controls to properly regulate equipment operated only in an attainment air basin. That is CARB in providing flexibility to fleets operating primarily in attainment air basins of meeting only the PM provisions of the rule could do so simply by either changing the lettering color of the CARB ID number placed on the vehicle or even through a designated starting alpha numeric string that would be readily apparent to any inspector viewing equipment.

The division of this rule into a NOx or PM compliance path creates the flexibility for CARB to provide this compliance option to operators. The tracking of compliance could still be easily verified by the reporting and labeling requirements of the rule, and providing such flexibility

would ensure that technology necessary for non compliant air districts went to those districts while PM retrofit technology is implemented statewide.

As an industry that primarily operates stationary fleets, sometimes at multiple locations within the state, adopting changes that reflect that NOx requirements do not apply to equipment operated only in attainment air basins would be very helpful. Likewise, we believe it would ensure that what we expect to be limited technology available for NOx reductions would be ensured of being used in non attainment air basins.

We appreciate your consideration of these issues, should you have any questions do not hesitate to contact me at (916) 554-1000 Ext. 102.

Sincerely,


Adam Harper
Manager