

Southern California Contractors Association, Inc.

6055 E. Washington Blvd., Suite 200
(323) 726-3511
Website: www.sccaweb.org



Los Angeles, California 90040
FAX: (323) 726-2366
infoplease@sccaweb.com

January 4, 2008

OFFICERS

DAVID ELSBERG
PRESIDENT
SETH HAMMOND
VICE PRESIDENT
LARRY NODLAND
SECRETARY
CHARLES RASMUSSEN
TREASURER
DOYLE POWELL
PAST PRESIDENT

Ms. Mary Nichols, Chair
California Air Resources Board
1001 I Street
P. O. Box 2815
Sacramento, CA 95812

DIRECTORS

MIKE BARTH
JOHN BLAKELY
LONNIE CLAUSEN
SCOTT DANON
CURTIS FARROW
CATHY GREINKE
STANLEY HOWARD
RENE ISENHART
RICK KALISH
TOM KOVACHIK
ED LYON
DARIN MCCOY
SHELL MEDALL
MIKE MURPHY
MIKE NUNLEY
DAN PILCH
SYLVIA PIZARROSO
PETE RASIC
DENNIS RICKENS
CHRIS TORRES
MIKE TUDOR
DAN UGALDE
MIKE ZANLONZI

Dear Ms. Nichols:

The Southern California Contractors Association (SCCA) has had a long history as a proactive, progressive organization in the area of improving air quality—particularly in the area of emission reductions from diesel construction equipment. Over the past several years our members have been active participants in the Carl Moyer Program, providing major reductions through the repowering of nearly 1,000 engines and eliminating thousands of tons of pollutants from southern California skies.

It is with this history that we are writing to ask for correction of errors in the ARB's off-road, in-use heavy-duty diesel regulation. We were active in the process that led to this rule's adoption by the Board July 26, at which time we shared our concerns about the rule's current structure and likely failure to achieve its objectives. Those concerns remain and include:

- The availability and applicability of verified diesel emission control systems (VDECS);
- The unnecessary inclusion of financial requirements in determining the status of small fleets;
- The ill-conceived and poorly thought-out SOON Program; and
- The likely unintended consequences of such a sweeping rule, especially with regard to the impact on the regulation on the fleet owners between small fleets and those over 20,000 horsepower.

The rule is largely predicated on the availability of functional VDECS for large classes of equipment—virtually everything currently in the fleet. But, despite expansive promises for these products, the reality is that even the few devices “verified” by your agency do not cover more than a tiny percent of the equipment. We have members who have received final Moyer funding to improve their emissions contingent on the use of VDECS who are unable to find such equipment, even after receiving quotes from the manufacturer. The VDECS provisions must be placed on hold until the technology is actually available. To do otherwise would make a sham of this section of the rule.

As a participant in the rulemaking process, we can tell you unequivocally that we were repeatedly promised that the financial standards definition for small fleets

PAST PRESIDENTS

EDWIN M. KALISH	1974
LEONARD BRITOCAS	1975
LEE VOLLMER	1976
CHARLES W. POSS	1977
DON THOMPSON*	1978
JACK SALL, JR.	1979
JOHN J. CLARKE	1980
DONALD CLADDEN	1981
BILL MANNING*	1982
TIM MACDONALD	1983
ARNOLD S. NELSON	1984
DAN GRANDPRE	1985
DONALD L. MCCOY	1986
JAMES D. SERCKEL	1987
GEORGE B. COOKE	1988
LEROY McAFEE*	1989
JOE SALATA	1990
JAMES T. CASPARO	1991
DEAN RASMUSSEN	1992
LES FARROW	1993
SHAN HOWARD	1994
DOUG BURHOE	1995
JACK BLAKELY	1996
GREG BRICKSON	1997
JIM O'KANE	1998
BRAD COOKE	1999
GEORGE BRAGG	2000
CHUCK POSS	2001
GREG DINEEN	2002
MIKE CRAWFORD	2003
PAUL VON BERG	2004
DORNA SEANEZ	2005
DOYLE POWELL	2006

*DECEASED



SCCA comments on the off-road diesel regulation

2

would be dropped from the final regulation. It was not. This breach of trust, of actual promises before witnesses must be rectified. The financial standards built into the state code have no bearing on the actual emissions of small fleets and thus must be viewed as a political rather than air quality improvement approach to the regulation. While it is appropriate for the elected officials in the legislative process to take in political considerations, like class envy, it is both inappropriate and unnecessary for regulatory agencies such as yours to do so.

When first proposed to the Construction Industry Air Quality Coalition (of which SCCA is a founding member) the SOON program seemed like a modest, workable approach to getting additional reductions in exhaust emissions in the South Coast District. By the time it made it to the CARB Board meeting it had changed into a restrictive, required rule for large fleets, but was still promised to be voluntary and fully funded.

Today this proposed regulation is mandatory, punitive and misdirected. It has become a tangled web of rules that will fail in its promise to obtain additional emission reductions, while imposing unnecessary burdens on our members while they are trying to cope with the portable, off-road and on-road state rules.

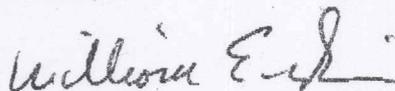
Since the SOON program morphed into a mandatory effort for large fleets, it will require them to develop costly compliance plans and apply for funding whether or not they intend to participate or even have matching funds available to satisfy your additional requirements, much less the already burdensome state regulations.

Forcing the program to comply with Moyer guidelines is unnecessary and unfair. Your agency promised full funding availability when you approved the SOON Program as part of the off-road rule, July 26. Failure to meet these and other promises requires modification to the regulation and elimination of the SOON program as a part of the rule.

The economic consequences of the regulation are already rippling through our industry with many negative impacts. Companies are closing their doors in response to the unnecessarily complex and unclear regulation. Attached is an article that appeared in a recent edition of *SCCA Magazine* that makes this point extremely clear.

You will have gotten many, many other comments to the current regulation. Please take the time, make the effort to encourage your staff to reexamine this regulation and correct the deficiencies we and others have pointed out. It may take a bit more time but will certainly truly help improve air quality in our state.

Sincerely,



William E. Davis, Executive Vice President

Cc: Governor Arnold Schwarzenegger
California Air Resources Board
SCCA Board of Directors

Supremes block expansion of Endangered Species Act

The U.S. Supreme Court overturned a lower court ruling June 25 that would have injected another layer of bureaucracy and delay into the transportation planning process.

The decision prevents the Endangered Species Act (ESA) from being elevated to the nation's preeminent environmental standard.

The American Road & Transportation Builders Association (ARTBA) helped lay the foundation for the court's 5-4 decision in the consolidated cases of National Association of Homebuilders v. Defenders of Wildlife and United States Environmental Protection Agency v. Defenders of Wildlife by filing a February 20 "friend of the court" brief in partnership with the Nationwide Public Projects Coalition.

At issue was an earlier ruling by the U.S. Court of Appeals for the Ninth Circuit, which could have severely impacted the decision-making process

for many vital transportation projects by elevating ESA considerations above all other factors. While the current environmental review process for transportation projects requires ESA considerations to be taken into account, the Ninth Circuit's decision would have forced transportation planners to forecast projects' future indirect effects on species.

"If the Ninth Circuit's reasoning is allowed to stand, the ESA will be greatly broadened. The statute will, in effect, become a 'trump card' in relation to the other environmental requirements of the transportation planning process," the ARTBA brief said.

Under this scenario, ESA considerations would have applied to transportation construction projects and any future development that may be linked to those projects. According to ARTBA's brief, "This type of prediction would be impossible to measure. As a result, transportation projects could face a

substantial increase in ESA-related delays because planners would not be able to forecast indirect impacts to species caused by their projects."

ARTBA also highlighted the negative public health and safety impacts concerns associated with delaying transportation projects, including increased congestion and slower delivery of first responder services.

With National Association of Homebuilders v. Defenders of Wildlife and its companion case decided, ARTBA will continue to work towards sensible ESA reform in a manner that strengthens species recovery efforts and reduces unnecessary delay and litigation involving transportation construction projects needed throughout the nation.

ARTBA is the transportation construction industry's "consensus voice" on environmental and regulatory matters before Congress, the White House, federal agencies and courts. ♦

657 PUSH-PULL FLEET

20 of California's Best CAT 657 Scrapers Operated & Maintained at CAT Spec or Above

CRASHED BY
HEAVY EQUIPMENT RENTALS

We stock spare parts for our full line to insure no down time for your work

CALL US VISIT OUR NEW YARD

224 W. Congress • Colton, CA 92324
 FAX: (909) 825-8300

Mailing Address:
 P.O. Box 1666 • Riverside, CA 92502



Mike Rasmussen
 PRESIDENT

Jim Atkins
 VICE PRESIDENT

Dale Rasmussen
 SECRETARY

January	February
March	April
May	June
July	August
September	October
November	December

Auctioneers early winners with new CARB regulations

Ritchie Bros. Auctioneers scored big earlier this year, thanks to the California Air Resources Board's off-road diesel regulation. Signs are that all auction houses are going to be very busy going forward.

Take the case of three-generation equipment rental house Cobra Equipment Rentals of Colton.

They put their entire fleet in the November 14th Ritchie Bros auction, including 25 pieces that had Carl Moyer grants for repowers and retrofits attached.

"It is just too confusing right now," said Jim Atkins, CEO of Cobra Equipment. "We have talked to our lawyers, our accountants and our air quality consultants and this is the best decision we can come up with right now."

Atkins said the current state of the rental market was a factor in his decision as well.

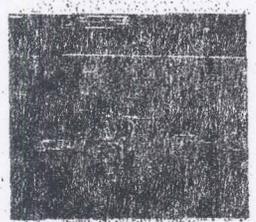
"Our rates are going down and our costs, particularly with the CARB rules, are going up," he said. "We may take the money and get back in with new equipment and we may not."

Atkins cited the deep uncertainty held by many in our industry regarding the durability of the bolt-on verified diesel emission control systems (VDECS) required by CARB as a key factor in the firm's decision-making.

"Nobody knows when those things are going to start falling off and hurting someone," he said.

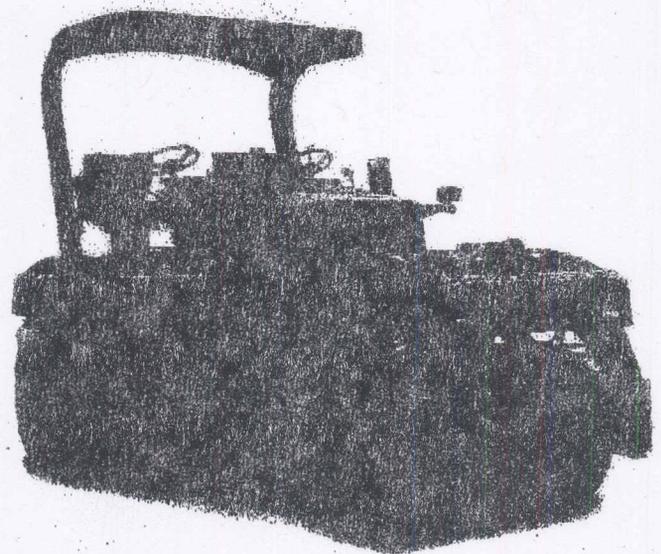
The final version of the regulation had not seen the light of day as of press time, but, many equipment owners have been grappling with the rule for a long time.

Ritchie Bros. three-day auction in May of this year generated more than \$41 million in gross auction sales and featured more than 2,900 lots from over 500 consignors—new site records for both categories, the company said. ♦



The world's first vibratory pneumatic tire roller. Designed especially for breakdown and intermediate rolling on Superpave and other contemporary mix designs. Sakai's GW750 offers both the vibrating and kneading actions required for meeting density and smoothness specs fast. Works great on thin lift overlays of profiled pavements too. The Sakai GW750 - It's Bonus Time!

THE PNEUMATIC ROLLER - IT VIBRATES!



To feel the vibration for yourself, stop by one of our four California locations today.

INDIO
44-817 Self Center Pkwy
Indio, CA 92201
780-942-8900

IMPERIAL
3275 Hwy 86
Imperial, CA 92251
800-484-4931

POWAY
13825 Danielson St.
Poway, CA 92084
800-805-1150

RIVERSIDE
20 Iowa Ave
Riverside, CA 92507
800-484-4863