

March 5th, 2008

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA. 95814

Subject: Comments regarding SOON portion of the proposed regulation for in-use off-road diesel vehicles

Dear Members of the California Air Resources Board and Staff:

The purpose of this correspondence is to share our comments regarding the most recent release of modified text addressing the Surplus Off-Road Opt-in for NOx (SOON) program.

As a general statement by one who has been engaged with the Off-Road In-Use Diesel Regulation since inception, I question the reasonableness and legality of inserting SOON into this regulation. Including SOON as an over-compliance (mandatory/voluntary) component of the off-road in-use diesel regulation makes an already over complex and confusing regulation extremely difficult for a layperson to understand as well as being over burdensome to comply with.

Following are our specific concerns regarding the SOON addition to this regulation:

- **Fleet size:** The SOON program is unfairly targeted at large state-wide fleets (greater than 20,000 horsepower). We believe the fleet categories should be consistent with the regulation as defined in section 2449 (c) (25). More realistically, the program should target machines that will yield the reductions within the applicable district, regardless of fleet size.
- **Reporting and applications:** The reporting requirements and application filing requirements of SOON are excessive and burdensome. It seems unjust to us that we must report our state-wide fleet and district fleet to every district that ops-in, must apply for funds, and must prepare and submit a compliance plan all before determining whether we have any machines that are even applicable to the SOON

program. Isn't there a more direct way to determine if a machine meets the criteria of the SOON program?

- Mandatory/voluntary nature of the program: To include a program that provides incentive funding to create additional reductions of oxides of nitrogen sounds great. But, to make this mandatory and not allow industry to include the reductions created from a SOON project towards their state-wide fleet average is wrong and unjust. This simply appears to be a strategy to circumvent a law (incentive funds can not be used to meet compliance of a regulation) that unfairly places the burden on the construction industry.
- Excessive cost of SOON: Because emission reductions created by SOON projects can not be used in the calculation of a state-wide fleet average, fleets will have to spend additional dollars to meet target goals than they would have in the absence of SOON. This is placing additional burden on an industry that already is facing a depressed market and will struggle to meet the requirements of the state-wide regulation.

We believe that these concerns must be addressed to make SOON a workable program, or the SOON portion should be deleted from the off-road in-use diesel vehicle regulation.

Thank you for taking our comments into consideration.

Sincerely,



Dave Sbaffi
Granite Construction, Inc.
Equipment Department
Special Projects Manager