

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0070
(916) 319-2070

DISTRICT OFFICE
JAMBOREE CENTER
3 PARK PLAZA, SUITE 275
IRVINE, CA 92614
(949) 863-7070

E-MAIL

assemblymember.devore@assembly.ca.gov

Assembly California Legislature

CHUCK DeVORE
REPUBLICAN WHIP
ASSEMBLYMAN, SEVENTIETH DISTRICT



COMMITTEES

VICE CHAIR, REVENUE AND TAXATION
BUDGET
VETERANS AFFAIRS

February 17, 2009

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

Re: Temporary Suspension of CARB On-Road and Off-Road Diesel Truck Regulations

Dear Board Members:

As members of the California State Legislature, we are requesting that you temporarily suspend the On-Road Diesel Vehicle Regulations that you approved on December 12, 2008 (<http://www.arb.ca.gov/regact/2008/truckbus08/truckbus08.htm>) and the Off-Road Diesel Vehicle Regulations that went into effect on June 15, 2008 (<http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>). There are strong scientific, legal, and economic justifications for requesting this suspension, which we summarize below.

1) Scientific Justification for Suspension

There are several reasons to question the CARB claim that diesel particulate matter (PM) causes about 4,000 premature deaths per year in California, which is the primary scientific justification for CARB diesel emissions regulations. There is substantial epidemiologic evidence from six independent sources that there is no current relationship between fine particulate matter (PM_{2.5}) and premature deaths in California. The evidence that CARB relies upon is not sufficient to establish a true causal relationship in California. Also, serious doubts have been raised about the professional qualifications of the CARB staff members who prepared the key report on PM_{2.5} and premature deaths. Further, the final version of this report and relevant public comments were never shown to outside peer reviewers as required by state law. Diesel toxicity and PM pollution in California are at record low levels. California has the fourth lowest total age-adjusted death rate among US states and few "premature" deaths. Modifying diesel engines in the way proposed by CARB may be of little value because of the "particulate mass fallacy" and the chemical composition of PM in California vs. other states. These scientific issues should be fully addressed by CARB before enacting regulations which will cost upwards of \$10 billion to implement.

2) Legal Justification for Suspension

On August 27, 1998 the CARB declared diesel PM to be a toxic air contaminant (TAC) and this has subsequently led to the diesel vehicle regulations cited above. This controversial declaration was the direct result of the highly contested April 22, 1998 declaration by the

CARB Scientific Review Panel (SRP) on Toxic Air Contaminants. After historical review, there is substantial evidence that the appointments of the nine members of the SRP as of 1998 were not made in accord with all relevant provisions in Sections 39670-39671 of the California Health and Safety Code and with the intent of the original legislative bills that created the SRP: AB1807 (Tanner, 1983) and AB3792 (La Follette, 1986). There are legitimate questions regarding the precise appointment and reappointment procedure that was followed for specific panel members, their length of service, and the proper public disclosure of their potential conflicts of interest. These legal issues should be fully addressed by CARB before implementing costly regulations on the people of the State of California.

3) Economic Justification for Suspension

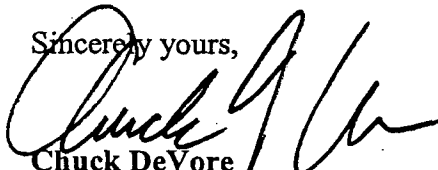
The CARB on-road and off-road diesel regulations have been estimated to cost up to 10 billion dollars to implement. Furthermore, these regulations have been approved at a time when the California economy is in a recession, unemployment is pushing 10%, and trucking-related businesses are struggling to stay viable. In passing its December 12, 2008 regulations, CARB effectively ignored the economic arguments and pleas presented in about 500 written and/or verbal public comments. One California contractor gave particularly telling comments: "The affect on my company is 100 percent of my portable equipment will be illegal to use or sell in the state of California: 100 percent of my trucks, 90 percent of my off-highway. Three regulations all at once. This is a destruction of my capital. I have spent 44 years in this business gaining this equity, and these regulations have destroyed it all at once. Destroys a business model of the entrepreneur who saves money and invests it and provides employment and a tax base for the economy." The economic concerns of individual Californians and of large coalitions, like "Driving Toward A Cleaner California" (<http://www.drivecleanca.org>), should be fully addressed by CARB.

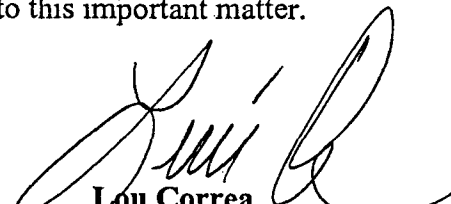
Detailed documentation for these scientific, legal, and economic justifications are available in posted CARB public comments. These are the written comments submitted as of December 10, 2008:

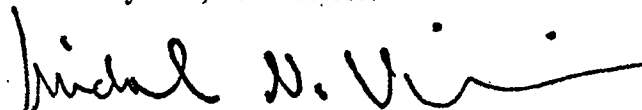
(<http://www.arb.ca.gov/lispub/comm/bccommprt.php?listname=truckbus08>) and verbal testimony delivered directly to the Board on December 11, 2008 (<http://www.arb.ca.gov/board/mt/2008/mt121108.pdf>) and on December 12, 2008 (<http://www.arb.ca.gov/board/mt/2008/mt121208.pdf>). New CARB diesel vehicle regulations should not be implemented until the issues raised in these comments have been fully addressed.

Thank you very much for your prompt attention to this important matter.

Sincerely yours,


Chuck DeVore
Assemblyman, 70th District


Lou Correa
Senator, 34th District


Mike Villines
Assembly Republican Leader