

# ORIAG Meeting: Fleets Subcommittee Minutes

September 26, 2008

## Member Attendees

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## Items to Discuss

- Progress report to see what developers should be required to do.
- Suggested language for developers and the bidding process.
- Whether guidance document should be developed for this issue.

- The idea of a mass mailing

## Requiring Developers to Hire Only Compliant Fleets

**Chair:** We've come up with a suggested amendment: Agencies or municipalities should make sure fleets they work with are in compliance with CARB requirements—similar to OSHA permit requirements. We think the regulation is impossible to enforce if you don't impose this requirement. The state should mandate all government agencies to check if fleet is compliant with the CARB regulations. Contractors should not be the one to shoulder the entire burden, we need to find a way to penalize the developer, and we do not think this regulation will work otherwise

- **ARB:** Staff recommends that the group comes to Board in January and presents the point, or to mobilize and propose some legislative material additions. Staff will perform outreach to developers so that they know of the regulation, but that is currently the extent of our authority.
- **ARB:** Regarding outreach, trade organizations and lobbyists would be a good path; six ORIAG members are a part of a trade group. A mass mailer to licensed contractors was also sent out in June
- **Air District Representative:** South Coast is working on a requirement for developers to use clean equipment to reduce emissions. All contracted work needs to be compliant with the off-road regulation. South Coast also built on the indirect source regulation.
  - **ARB:** Staff could suggest putting language in the indirect source regulations to include some responsibility for developer to check on CARB compliance.
- **ARB:** Law enforcement agencies are interested in having our DOORS data to help us with enforcement – we need to have an confidentiality agreement with them first. We're working on that. The ability to see who is in compliance is available for anyone. More access will be given law enforcement – highway patrol, local police.
- **Member question:** If the company is compliant statewide, what if they have dirty equipment at a single job site?
  - **ARB:** That's possible, but is not a violation
- **Member question:** Why does this have to be another rule when it seems like a simple request? Couldn't ARB just issue an enforcement advisory? Dealers need to have the disclosure of applicability, ARB can audit that, what's the difference between that and certificate of reported compliance?

- **ARB:** The regulation did not stick the liability with the developer; therefore we cannot penalize the developer.
- **Member question:** The developers in the early stages can get under the wire by hiring uncomplying fleest. However, under the business code, a cheating developer can be caught and the district/city attorney can bring action against that developer – unfair business practice. There is a fine for this unfair business practices, this can be done
  - **ARB:** Lets talk more about this before the next ORIAG meeting, we'll discuss what we can do with the existing laws, and what we can do with the districts to help with this issue.
- **Member question:** So in all public contracts, there is language that says they have to be in compliance?
  - **ARB:** Language like this has always been the contacts, also, it is highly publicized when someone gets busted, and developers are usually a lot more leery when dealing with those folks again. We will do our best to send swift expensive penalties – and we depend on fleets to help us out by reporting non compliant people.
- **Member question:** This should be item one on the special provisions list in a bid packet – a little blurb about you must be compliant
  - **ARB:** We can't require it now that the regulation has been implemented without a regulation change.
    - **Chair:** Regardless, I will pass along our recommended language for developers

### Enforcement Issues

- **Member concern:** We want to minimize fines and compliance actions. We do not need more actions taken – we want to work on outreach to prevent fines
  - **ARB:** How about a fix it ticket approach for EINs
    - **Member:** Contractors won't be as aggressive with compliance if we do this.
- **Member question:** Can T0 machines be purchased for parts, etc.?
- **Member question:** Should have a member of the air district come out within 30 days to confirm that the machine can be used for parts. Would that be ok?
  - **ARB:** We are developing guidance on this.
- **Chair:** Are dealers charging for vehicle info?
  - Most members say “no”.
- **Chair:** Early credit should be extended for VDECS, there are not as many as we thought right now. Only 5 for off-road. A lot of people have asked about double credit. We think passive VDECS availability is the answer, but there aren't enough available.

- **Members:** We need a bigger VDECS pool, and we need more time for double credit.
- **Member question:** What does it really mean to repair a VDECS to working order? We need more procedures and guides for that issue.
- **Member concern:** ORIAG supports a level playing field, but there are thousands and thousands of people that need to be outreached to. Enforcement is getting ready to become the biggest group to outreach too. We will offer all of our resources for outreach, but we need to do more work. We think enforcement really needs to use good judgment when issuing tickets, and you really need to be careful about issuing fines and tickets, because how else are these people going to know that the rule existed.