

-OAR 17008-0691



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October 17, 2008

Mr. David Dickinson
Compliance and Innovative Strategies Division (6405J)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

OCT 27 2008

Re: California Request for Waiver of Federal Preemption of Standards for Off-Road Diesel Emissions, Docket ID No. EPA-HQ-OAR-2008-0691

Dear Mr. Dickinson:

On October 7, 2008, the U.S. Environmental Protection Agency (EPA) announced that California had requested a waiver of federal preemption of the state's new standards for off-road diesel emissions (73 F.R. 58585). At the same time, EPA tentatively scheduled a public hearing on the request to be held in Washington, DC, on October 27, 2008, and announced that all written comments on the request would be due on November 28, 2008.

California's new standards will affect my business and my employees in serious ways that merit thoughtful consideration. For my company alone, these regulations will eviscerate the value of our well maintained fleet of equipment, cost us millions of dollars, and cost our valued employees their jobs. We simply can not afford to replace and retrofit well maintained equipment and maintain our current level of employment, let alone future growth plans.

As a California construction contractor who would have to comply with the state's new standards for off-road diesel emissions, I am urgently requesting that the public hearing on the state's request for a waiver be held at a later date in order to provide more time and opportunity for public involvement.

In addition, I strongly urge EPA to hold at least three subsequent public hearings in California, in geographically diverse locations, in order to receive maximum input from the public and the construction industry. As well, I encourage EPA to extend the deadline for submitting written comments beyond the November 28th date.

EPA has several compelling reasons to take a carefully measured approach to California's request, and not to proceed in such great haste. The state's new standards for off-road diesel emissions are enormously complex and are projected to cost billions of dollars to meet. Since the California Air Resources Board (ARB) adopted these standards in July 2007, both technological and economic circumstances have changed dramatically. New technology has been slow to arrive and the available technology has come into conflict with federal and state safety standards. Financial markets have frozen and the construction industry now stands on the edge of a deep downturn. As the construction industry has slowed down, engine emissions have also dropped, precluding any plausible claim that EPA needs to proceed so quickly.

Turning more directly to EPA's plans for responding to California's request, let me add that it would be fundamentally unfair for EPA to require California's construction contractors to clear their calendars to almost immediately fly to Washington simply to exercise their right to address a matter of such great


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importance. Indeed, the agency's current plans seem far more calculated to discourage public input into the agency's decision making process than to ensure that the agency gets it right.

Most of the state's construction contractors are small businesses, and few can bear the expense and other burdens of traveling to Washington on such short notice. That's why it's imperative that EPA hold three hearings in California – in the southern, central and northern parts of the state – and to grant the construction industry more time to prepare and submit written comments. Our livelihoods – and the jobs we provide to others – are at stake.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Albanese', with a long horizontal stroke extending to the right.

Kevin J. Albanese
Vice President/Chief Operating Officer