



# The California Asphalt Pavement Association

2022 OFFICERS March 11, 2022

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Mr. George Wu and Mr. Henry Pourzard  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Re: Proposed Rule 403.2 Fugitive Dust (Follow-up comment letter)

Dear Mr. Wu and Mr. Pourzard:

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The California Asphalt Pavement Association (CalAPA) would like to take this opportunity to offer additional comments to the South Coast Air Quality Management District (SCAQMD) regarding proposed Rule 403.2 on Fugitive Dust. This letter is a follow-up to our Jan. 28, 2021 correspondence on this same topic and is informed by information presented by the SCAQMD at its March 2 workshop. As we have stated previously, our goal is to assist the air district in understanding the uniqueness of the asphalt pavement industry in the development of regulations that are reasonable, achievable and quantifiable in support of the overall air district goals.

After participating in the March 2 workshop on proposed Rule 403.2, we continue to be concerned with what we consider arbitrary limits placed on stockpiles in large transportation improvement project work zones. It is typical that the work area for such projects is very limited, and having smaller piles, taking up more of a footprint, could create hazards for the safe navigation of the work site by construction crews and equipment, as well as by the motoring public that may be nearby. Frequent moving or removal of smaller piles would also require additional truck trips, which would create additional emissions from trucks and equipment and therefore be an undesired and unintended consequence of this proposed rule.

The staff presentation during the March 2 workshop included photos in the slide presentation that are clearly misleading and we appreciate that the SCAQMD has acknowledged this and will endeavor to utilize photos that more accurately portray what happens on a roadway construction project in California. As was noted, and we have commented on previously, there are already robust procedures in place to mitigate impacts to nearby neighborhoods of transportation improvement projects. The California Department of Transportation and the contractors that perform Caltrans work, for example, operate under strict guidelines that we believe already are in alignment with the air quality goals the SCAQMD is championing to protect adjacent communities and therefore make a separate rule unnecessary.

One reference in the proposed Rule 403.2 presentation is that of a “short-term project.” All such projects are considered short-term, but it would be helpful to clarify this reference. We recommend that projects where active construction work is conducted

adjacent to a neighborhood for 30 days or less be excluded from this proposed rule should it go forward.

There is also a reference to an exclusion for highway maintenance that we believe is needlessly vague. We recommend that this exclusion include language “such as projects that are part of, or similar to, the Caltrans Highway Maintenance (HM1) projects and operational safety projects that are included in the Caltrans State Highway Operations & Protection Program (SHOPP).” These projects are largely related to safety, repairs, preservation and emergency work.

With regard to notification provisions of PR 403.2, the air district should note that there are already robust neighborhood notification procedures in place for such projects and that additional requirements by the air district are duplicative.

As others have commented, we also have concerns about the graphic presented by air district staff with regard to pollution “plumes” near highway projects, with no additional detail or modeling to indicate what percentage of those plumes are directly related to construction activity. Furthermore, there also is a lack of transparency in the types of complaints the air district has received, including location and date, that supposedly are the justification for this rule. Information presented by the air district so far to justify this rule has been speculative and not based in science or serious analysis.

In summary, we believe that PR 403.2, as currently represented by the SCAQMD, is ill-conceived, unjustified and ambiguous, and if it moves forward is guaranteed to create confusion for all parties and also create safety issues and liability for transportation agencies and the contractors they hire to perform vitally needed work.

We thank you for the opportunity to provide our comments on this important matter. The California Asphalt Pavement Association, founded in 1953, is the only trade association that exclusively represents the asphalt pavement industry in California. Please feel free to contact me at (916) 791-5044 if you have any questions

Sincerely,

A handwritten signature in black ink, appearing to read "Russell W. Snyder". The signature is fluid and cursive, with a long horizontal stroke at the end.

RUSSELL W. SNYDER, CAE  
Executive Director