

FILED

APR 26 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OWNER-OPERATOR INDEPENDENT
DRIVERS ASSOCIATION, INC., *et al.*,

Plaintiffs - Appellants,

v.

RICHARD COREY, *et al.*,

Defendants - Appellees.

No. 15–16429

D.C. No. 2:14-cv-00186-MCE-AC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Argued and Submitted April 19, 2017
San Francisco, California

Before: REINHARDT and TASHIMA, Circuit Judges, and MOLLOY,** District
Judge.

Owner-Operator Independent Drivers Association, Inc. appeals the district
court's order dismissing for lack of subject matter jurisdiction its challenge to

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Donald W. Molloy, United States District Judge for the
District of Montana, sitting by designation.

Appellees' enforcement of the Truck and Bus Regulation, an EPA-approved rule concerning heavy vehicle emissions. Because, "as a practical matter," the Association's suit challenges the EPA Administrator's final action in approving the Regulation as part of California's State Implementation Plan, we affirm. *Cal. Dump Truck Owner's Ass'n v. Nichols*, 784 F.3d 500, 507 (9th Cir. 2015), *cert denied* 136 S. Ct. 403 (Nov. 2, 2015). *See also* 42 U.S.C. § 7607(b)(1). We need not reach the issue of whether the EPA was a necessary and indispensable party to the action.

AFFIRMED.