

December 3, 2008

Chairwoman Mary Nichols and Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

**RE: Proposed Statewide Truck and Bus Regulation
and Greenhouse Gas (GHG) Truck Regulation**

Dear Chairwoman Nichols and Board Members:

The undersigned organizations write to you in strong support of the On-road In-Use Truck and Bus Rule. Forecasts of statewide costs and health effects of air pollution suggest that an effective regulation is becoming increasingly urgent and carries even greater importance for improving public health and preventing unnecessary suffering in California than previously thought. The Air Resources Board's (ARB) revised estimate anticipates up to 24,000 premature deaths annually from particulate matter exposure, including 4,500 annually due to trucks and buses. Furthermore, the November 2008 Jane Hall study found that air pollution in just the South Coast and San Joaquin Valley regions costs the California economy \$28 billion annually. This regulation must be adopted swiftly to protect public health and ensure that California can meet federal air quality standards. However, we ask the Board to consider amending the regulation to restrict the proposed exemptions for agricultural trucks and provide a margin of safety for meeting SIP commitments.

Our organizations also strongly support reducing GHG emissions from heavy-duty trucks as part of meeting our AB32 climate change goals. Adopting basic improvements to heavy-duty truck rolling resistance and aerodynamic drag can reduce greenhouse gas emissions while providing co-benefits of reduced NOx emissions and operating costs. Through increased fuel efficiency, installing these devices will result in a payback of upfront costs after only 2-3 years. However, the measure could achieve even greater emission reductions. We urge ARB to consider expanding some of the provisions and to commit to revisiting the requirement for new vehicles.

We recognize the challenging economic times that the state and the nation are facing as the Board is presented with these two regulations that will affect thousands of businesses in California. The budget crisis also exacerbates the health and other problems created by diesel pollution. Families now, more than ever, are faced with tough decisions about whether to go to work or stay home and care for their loved ones, and of how to pay for health care and hospital costs.

We applaud ARB's efforts to move forward with these ground-breaking regulations that will reduce costly public health emergencies, clean our air, and protect our climate. Please find below our recommendations to improve the proposed regulations.

Recommended Improvements to the Truck and Bus Regulation

The following outlines our concerns and suggestions regarding the October 24, 2008, proposed regulation:

- The agricultural vehicle exemptions must be tightened to preserve the health protections of the rule.
- The proposal should include additional reductions to ensure that State Implementation Plan (SIP) commitments for ozone and particulate matter in the San Joaquin Valley and the South Coast are fully met.
- The regulation's enforceability should be improved with better plans for inspection and third-party evaluations.
- CARB should continue vigorous outreach to truck owners to ensure incentive programs are understood and accessible.

Minimize PM Exposure Risk from Agricultural Vehicles

We do not support the Agricultural Vehicle Provisions, or exemptions, that are in the proposed regulation. They are far too broad and compromise the health protections of the regulation for those who live or work near agricultural operations or the roads used by agricultural trucks to transport their goods. These provisions could result in acute PM exposure for many years but the potential localized impacts resulting from the proposed provision are unknown. While ARB staff is planning to study the localized impacts, the results of those studies may not be available to inform the adoption of this regulation and ensure adequate protections for workers and residents of these communities.

According to ARB's inventory, the current proposal would exempt about 70 percent of agricultural trucks from any emissions controls until 2017 and then exempt 50 percent of agricultural trucks from 2017 to 2023. ARB broadly defines an agricultural vehicle as an on-road vehicle used in agricultural operations, which includes harvesting crops, cutting or removing timber and other wood products, transporting any horticultural or livestock product from the farm to the point of processing, and delivering fertilizer or other crop protection chemicals (*ARB Proposed Regulation for In-Use On-Road Diesel Vehicles, Appendix, pg. A-3*).

While we recognize that the agricultural industry is unique and special considerations may be warranted, what is currently on the table must be more health protective. Reducing the mileage threshold, requiring PM filters, limiting fleet size, and not expanding the definition of agricultural vehicle to include trucks owned by ancillary businesses will allow for flexibility and protect public health. Instead, we offer the following counter-proposal:

- **Limit Fleet Size**: Limit the size of the fleet subject to the agricultural provision to three vehicles or fewer. This is consistent with ARB's definition of a small fleet for the entire rule. A cap on the fleet size will help to specifically protect the family farmer and smaller farming operations.
- **Reduce Mileage Threshold**: Vehicles driving under 10,000 miles a year will be required to install a filter by January 1, 2015 and meet the 2010 NOx engine standard by January

1, 2023. This allows additional time before a replacement vehicle would have to be purchased. Yet, by requiring the more affordable PM retrofit, PM exposure would be dramatically reduced. The rule currently requires all trucks to have a PM retrofit by January 1, 2014. By adding an additional year before requiring a retrofit, agricultural interests are also given another year to acquire incentive funding.

- Definition of Agricultural Truck: Do not expand the definition of agricultural truck to include fertilizer, pesticide, and other farm chemical trucks.
- Replacement Vehicles: If a truck breaks down, the replacement vehicle must have a filter. This is another measure to improve the health benefits of the rule that will also bolster a market for older, retrofitted trucks.

Please see Appendix A for a more detailed explanation of our concerns and what we propose as an alternative. Note that several of the undersigned organizations – specifically Association of Irrigated Residents; Center on Race, Poverty & the Environment; East Yard Communities for Environmental Justice; Environmental Health Coalition; Madera Coalition for Community Justice; Merced/Mariposa County Asthma Coalition; Moms Clean Air Network (Moms CAN); Rose Foundation for Communities and the Environment; Save the Air in Nevada County; and West Oakland Environmental Indicators Project – do not support any kind of exemption for agricultural vehicles.

Agricultural trucks also have several incentive funding sources to aid with rule compliance. Any historical bias working against agricultural trucks' competitiveness for incentive funds is melting away as other cheaper emissions sources, such as irrigation pumps, have been cleaned up. In addition to the available Moyer and Sacramento Air District SECAT funding, the Proposition 1B guideline revisions will expand eligibility, and there are federal and other sources of funding on the horizon. Please see Appendix B for a summary of funding opportunities and options available specifically for agricultural trucks.

Secure SIP Commitments

We are greatly concerned that the state's plan for attainment of health-based air quality standards in the San Joaquin Valley and the South Coast region is so heavily dependent on the emission standards set by this regulation along with the successful implementation and enforcement of these standards. For example, while the ARB inventory shows that the newly-added agriculture provision will allow the South Coast and San Joaquin Valley to meet SIP commitments, there is no margin for error. A simple inventory error, low compliance rates, changes in compliance dates, or different weather, VMT, vehicle, and population projections may result in just a slight increase of emissions, which may cause a region to fail to meet its SIP commitments. We therefore ask that the Board adopt a rule that will obtain the reductions needed to provide a margin of safety in meeting SIP commitments.

On a related matter, several signers of this letter are also concerned about Board Resolution 03-22, which directed ARB staff to adopt rules to achieve major reductions from diesel trucks by 2010 with specific targets for VOC and NOx reductions in 2006 and 2010. ARB staff has not adopted the regulations in Resolution 03-22 and have withdrawn the resolution, without Board authorization, from EPA review and approval into the SIP. In order for the South Coast and San

Joaquin Valley to attain the one-hour ozone standard by 2010, the Board and staff should resolve this issue and seek to achieve the reductions sought in Resolution 03-22.

Ensure Compliance through Vehicle Inspections and Third Party Evaluations

With hundreds of thousands of individual trucks, both in-state and out-of-state, affected by this regulation, it is extremely important that it be designed for ease of implementation and enforceability. The proliferation of exemptions, compliance pathway alternatives, regional variations, and special provisions has raised concern about enforceability.

The labeling requirement for agricultural vehicles and two-engine sweepers, where the operator must affix or paint a label on the vehicle, may be subject to manipulation. Enforcement staff should target and inspect these vehicles, regardless of any visible label.

Fleets opting to follow the fleet averaging compliance pathway could be subject to periodic third party evaluations. While this would impose an additional cost on fleets, they would still be receiving the benefit from the flexibility of the fleet averaging provisions. It would also potentially reduce the additional ARB enforcement staff needed to effectively implement this regulation. This is an important consideration given ARB enforcement budgets are subject to the annual legislative budget process.

Improve Clarity and Accessibility of Incentive Funding Programs

Implementing this necessary regulation will require additional costs to owners of these fleets. Fortunately, the state had over \$125 million in 2008 in grants and bond money to assist businesses to clean up their diesel equipment. There will be additional funding sources in the coming years with ARB's loan programs, federal funding sources, and San Joaquin Valley's recently approved AB 2522, with at least \$1 billion expected to be available to assist with early compliance. With 30 percent of the fleets as single truck owner-operated, incentive programs should target the greatest air pollution reductions from those most in need of funding assistance.

We urge ARB to provide adequate outreach in multiple languages and work closely with air districts to ensure there is effective targeted outreach that also provides assistance to truckers in navigating the application process on the wide variety of available funds. We support ARB developing loan guarantee programs to assist truckers with financing new equipment. It is critical, however, that any lease or loan program aimed at individual drivers reflects the economic reality of truck drivers, and does not push drivers into onerous, unsustainable, or predatory loan or lease terms. We want to ensure that these programs provide for actual air pollution reductions, while providing truckers another option to comply with the regulation.

Expand Greenhouse Gas Measure

The undersigned organizations also strongly support the adoption of a regulation to curb global warming pollution from heavy-duty trucks. Heavy-duty trucks represent approximately 20 percent of the GHG emission from transportation in California and are expected to increase 40 percent by 2020. To meet our climate change goals by 2020 and 2050, we must reduce the emissions from

this sector. We urge the Board to adopt the regulation with modifications that will increase the overall emissions benefits of the program.

A recent analysis by the Union of Concerned Scientists (UCS)¹ found that individual long-haul truck fuel economy could be improved up to 13 percent using a full package of aerodynamic technologies and low rolling resistance tires. The cost savings to long-haul operators was estimated to top \$30,000 over the life of the truck, while positive net savings were also found for trucks operating shorter distances and for some non-tractor-trailers (straight box trucks). In addition, improvements in fuel economy through aerodynamic and tire improvements also reduce NOx emissions.

In evaluating the statewide benefits of applying aerodynamic and tire requirements in California, the UCS study indicates that 60 percent greater reductions in global warming pollution are possible by 2020 with today's technology compared to the proposed regulation. These additional emission reductions are possible by applying tire requirements to a larger set of trucks, eliminating some mileage exemptions, increasing performance requirements for new trucks and trailers, and including requirements for straight trucks (non tractor-trailers). We believe the Board can adopt some of these changes at the December hearing to increase the emission reductions from the rule, while further evaluation by ARB staff is needed for the remainder.

We urge the Board to adopt the following changes at the December board hearing to increase the level of emission reductions achieved through this measure.

- **Apply tire requirements to all tractor-trailers; not just tractors pulling van trailers.** Tractors pulling non-van trailers (flat beds, tankers, etc.) account for 40 percent of the total miles traveled by tractor-trailers, and can benefit from the use of low rolling resistance tires. The incremental cost of low rolling resistance tires is approximately \$25 per tire which offers fuel efficiency improvements up to 3 percent.
- **Remove 100-mile range limit exemption.** Trucks operating in short distance applications (less than 100 miles) with high annual mileage (above the proposed 50,000 mileage exemption threshold) can still realize emission reductions and cost savings from tire and aerodynamic retrofits.

Expanding the tire requirements to different truck and trailer types along with removal of the 100 mile exemption (as described above) could increase overall benefits of the program by 20 percent or more² and would not conflict with US EPA SmartWay program requirements.

We also ask that the Board direct staff to develop recommendations, in 6 months time, to further reduce global warming pollution from heavy-duty trucks. The current proposal sets performance standards for tractors and trailers based on US EPA SmartWay program requirements. This facilitates compliance with the proposed regulation, but also limits the overall emission benefits

¹ Union of Concerned Scientists, *Delivering the Green: Reducing Trucks' Climate Impacts While Saving at the Pump*, October 2008.

² TIAX, LLC. 2008. *Heavy-duty truck retro3t technology: Assessment and Regulatory approach*. Final Report. September.

achievable from the regulation. For example, a new tractor trailer meeting the CARB proposal (and EPA SmartWay requirements) is estimated to achieve a 10 percent improvement in fuel economy. However, employing a full suite of aerodynamic and tire technology could achieve an estimated 13 percent fuel economy improvement with products available today. Maximizing emission reductions from new trucks and trailers offers the greatest fuel savings and shortest payback time for the operator as new trucks travel the most miles. Straight trucks (urban delivery trucks, moving trucks, etc.) can also benefit from aerodynamic and tire improvements but were not considered in this regulation. ARB staff should include in their report back to the Board an evaluation of the emission reduction possible from more stringent standards for new tractors, trailers, and straight trucks.

The challenge of developing a health protective rule to reduce diesel emission from the state's truck and bus fleet cannot be overstated. We applaud ARB staff for working tirelessly to craft these two rules that protect public health and reduces global warming pollution. We greatly appreciate the Board's interest in addressing our concerns on the current proposal.

Sincerely,

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Bay Area Healthy 880 Communities – San Leandro

Don Anair
Union of Concerned Scientists

Tina Andolina
Planning and Conservation League

Diane Bailey
Natural Resources Defense Council

Nidia Bautista
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Brian Beveridge
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Patricia Castellanos
Los Angeles Alliance for a New Economy

Tom Frantz
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Catherine Garoupa
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Kevin Hamilton & Dr. David Pepper
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American Lung Association of California

Andy Katz
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Lisa Kayser-Grant
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Marylia Kelley
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Anne Lamb
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Nury Martinez
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Brent Newell
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Jill Ratner
Rose Foundation for Communities and the Environment

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Catholic Charities, Diocese of Stockton

Sarah Sharpe
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Jim Stewart
Earth Day Los Angeles

Ed Welch
Save the Air in Nevada County

Ryan Wiggins
EndOil

Joy Williams
Environmental Health Coalition

Barbara Young, MA
Sonoma County Asthma Coalition

The following individuals are also in support of this letter:

Rajiv Bhatia, MD, MPH
Dede Greybeck, RN
Isaac Lieberman
Madelyn Weiss, MD

Appendix A

Statewide Truck and Bus Regulation Agricultural Provision Counter Proposal

The Draft Statewide Truck and Bus Regulation that was released in October contains a new provision that benefits the agricultural industry. The proposed regulation broadly defines an “agricultural truck” as an on-road vehicle used in agricultural operations, which includes harvesting crops, cutting or removing timber and other wood products, transporting any horticultural or livestock product from the farm to the point of processing, and delivering fertilizer or other crop protection chemicals (Proposed Regulation for In-Use On-Road Diesel Vehicles, Appendix A, pg. A-3).

The environmental and public health community have several concerns regarding the proposed agricultural vehicle provision. What the Board will be presented with goes too far. Inventory numbers show that the current proposal would exempt about 70% of agricultural trucks from any emissions controls until 2017. Farm workers, truck drivers, rural communities, and those who live, work, and go to school by thoroughfares used heavily by agricultural trucks to transport their goods will be greatly impacted. While we recognize that the agricultural industry is unique and special considerations may be warranted, what is currently on the table must be more health protective. Instead, we offer the following counter proposal¹:

- **Limit Fleet Size**: Limit the size of the fleet subject to the agricultural provision to three vehicles or fewer. This is consistent with CARB’s definition of a small fleet for the entire rule. A cap on the fleet size will help to specifically protect the family farmer and smaller farming operations.
- **Reduce Mileage Threshold**: Vehicles driving under 10,000 miles a year will be required to install a filter by January 1, 2015 and meet the 2010 NOx engine standard by January 1, 2023. This allows additional time before a replacement vehicle would have to be purchased. Yet, by requiring the more affordable PM retrofit, PM exposure would be dramatically reduced. The rule currently requires all trucks to have a PM retrofit by January 1, 2014. By adding an additional year before requiring a retrofit, agricultural interests are also given another year to acquire incentive funding.
- **Definition of Agricultural Truck**: Do not expand the definition of agricultural truck to include fertilizer, pesticide, and other farm chemical trucks.
- **Replacement Vehicles**: If a truck breaks down, the replacement vehicle must have a filter. This is another measure to improve the health benefits of the rule. It will also bolster a market for older, retrofitted trucks

The following chart presents a side-by-side comparison of the provision that is currently in the proposed rule and the advocate counter proposal.

	Agricultural Industry Exemption Proposal	Advocate Counter Proposal
Expanded Mileage Threshold	<p>-Pre-1996 trucks: <15k mls/year -1996-2005 trucks: <20k mls/yr -2006 and newer trucks: <25k mls/yr</p> <p>Vehicles below these thresholds would not be subject to NOx or PM requirements.</p> <p>After 2017, the mileage threshold is reduced, and would apply to vehicles operating under 10,000 miles per year</p> <p>By 2023, all trucks would need to meet the 2010 engine standard.</p>	<p><10,000 miles/year for trucks in small fleets (<i>see note on fleet size below</i>)</p> <p>Install PM filter by Jan. 1, 2015.</p> <p>Throughout the life of the rule, exemptions would apply only to vehicles operating less than 10,000 miles per year.</p> <p>By 2023, all trucks would need to meet the 2010 engine standard.</p>
Defining Agricultural Vehicles	<p>-Truck owned by farmer used for farming -Harvests commodity and delivers to point of first processor. -Includes certain vehicles owned by chemical supply companies for pesticide and fertilizer delivery exclusively to the farm -Needs to be exclusively engaged in agricultural operations (raising livestock or growing food/plants). This also includes vehicles used in forest operations, including vehicles used to cut or remove timber, construct or maintain roads and firebreaks, and prepare the site.</p>	<p>Do not expand the definition of an agricultural vehicle to include non-farm vehicles that deliver products to the farm (e.g., fertilizer and pesticide trucks)</p>
Specialty Farm Vehicles Exemption	<p>No PM and no NOx requirement, regardless of mileage. After 2023, would have to meet 2010 engine standards. (Examples: Cotton module, nurse rig, feed mixer trucks, farm-owned water truck)</p>	<p>No change</p>
Size of Agricultural Vehicle Fleet	<p>-Exemption applies to all fleet sizes -Fleet size is reported and no additional vehicles can be added to fleet after January 1, 2009.</p>	<p>Limit exemption to small fleets (i.e., those with 3 vehicles or less, consistent with the CARB definition of small fleets for the entire rule).</p>
Replacement of Broken Down Vehicles	<p>Replacement vehicle has to be newer (i.e., a 1987 vehicle could be replaced with a 1988 vehicle).</p>	<p>Replacement vehicle must have a filter</p>
Reporting	<p>Mandatory reporting</p>	<p>No change</p>

Appendix B

Incentive Funding is Available for Agricultural On-Road Trucks

November 19, 2008

In the last seven years, new incentive funds to reduce diesel emissions have grown dramatically in California. Nevertheless, agriculture industry representatives have said that on-road diesel trucks owned by agriculture are not able to compete effectively for these funds because that industry's trucks operate in rural areas, have low mileage, and operate seasonally. Environmental Defense Fund surveyed three key agencies providing incentives in agricultural regions: the San Joaquin Valley Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, and the Air Resources Board. We found that incentive funding to reduce emissions from agricultural trucks is available, and likely to become more available in the next year or so, as the In-Use Truck and Bus Rule takes effect.

San Joaquin Valley APCD

Proposition 1B Funding: The APCD is expected to receive about \$5.7 million in early project funding and \$40.5 million for the Year-1 allocation of the program. The goal is to fund 1000 truck retrofits, 612 replacements, 25 repowers, and 50 three-way transaction projects.

The district's 1B funding this year is oversubscribed for truck replacements; however the agency is undersubscribed for 1B funding dedicated to retrofit devices, including particulate matter filters. The agency has just begun reviewing 1B program applications and so is unable to provide data breaking out which industry sectors had the most success obtaining these funds. However, district staff estimate that 2,800 applications have been received, with about 500 of those being for "unique" trucking entities, which include owner-operator and agricultural trucks. Because funding set aside for retrofit devices is undersubscribed, a truck owner applying for retrofit funding would very likely receive it.

Moyer Program: In addition to using Moyer cost-effectiveness and emissions surplus requirements, the APCD tries to allocate funding to where there is the most need and to emission sources that are not covered by other funding programs, such as Prop. 1B. Currently, the APCD receives about \$10 million per year in Moyer funds, and is using much of the money for agricultural pump electrification and off-road equipment. As more of the off-road equipment becomes ineligible, due to the compliance calendar of the Off-Road Rule, and as agricultural irrigation pump projects become harder to find, the APCD expects it will increasingly direct its Moyer funding to agricultural and other on-road trucks.

Other Diesel Emissions Reduction Sources of Funding: AB 2522, which was recently signed into law, allows the district to levy an additional fee of up to \$24 on motor vehicles to fund emissions reduction projects. The APCD has not yet determined at what level to set the fee or how the collected funds will be spent. However, it is expected that on-road trucks, including agricultural trucks, will benefit from this program. Indirect Source Rule fees, collected annually in various

amounts of several millions of dollars, have strict cost-effectiveness guidelines similar to the Moyer program, but have no restrictions on use as compliance funding. These fees have mostly been used for diesel agricultural pump replacement in the ISR's first two years. The funds are soon expected to become more available for truck retrofits and replacements as agricultural pump replacements have been completed. The APCD has also applied for various federal funds to supplement existing incentive funds.

Sacramento Metropolitan AQMD

Moyer Program: The district will receive about \$5 million in Moyer funding annually through 2014. Like the San Joaquin Valley, Sacramento also believes that funding agricultural and owner-operator trucks will become more cost-effective and increasingly competitive as agricultural pump and off-road projects become harder to find and become subject to adopted regulations.

Proposition 1B: The district's Prop. 1B money totals about \$4 million for trucks and about \$10 million for locomotives for 2008, and will be similar for the next three years. However, the project allocations may be more heavily weighted toward locomotives, at least in year 2.

SECAT: The SECAT program accounts for about \$4 million annually. The AQMD roughly estimates that about a third of its SECAT funds are spent on agricultural truck projects. The program is more flexible than Moyer, in terms of surplus emission requirements, and staff have found that even those agricultural vehicles with relatively low mileage drive enough to qualify for and acquire funds.

California Air Resources Board

Proposition 1B: Agricultural trucks, if they are moving a good, which includes harvested crop items and livestock, are eligible for Prop.1B funding. Even if an agricultural truck operates part time on the farm, it may still be eligible to receive funding.

CARB will propose revisions to the Prop. 1B Guidelines to the Board in January 2009. One of these revisions will be to allow vehicles that are under the heavy-heavy duty classification (i.e. those that are under 33,000 lbs gross vehicle weight rating) to be eligible for funding. This will open up the funding to more agricultural trucks, since many of them are classified as medium-heavy duty, even though they often have components of heavy-heavy duty vehicles.

Moyer Program: Annual Moyer program funding statewide amounts to about \$140 million. With the upcoming On-Road Rule, and minor changes to the Public Utility and Off-Road Rules, CARB is putting together a guidance document that will be presented after the Truck Rule Board hearing in December to advise air districts and to clarify the projects that can be and will be eligible for funding. The rule, as currently proposed, will make most on-road diesel vehicles ineligible for funding after 2012, except for agricultural trucks and some of the vehicles covered by other special provisions.

CARB is also proposing a few changes to the Moyer Guidelines to maximize use of the funds while continuing to achieve surplus emissions. Many of the changes extend the availability of Moyer funds for small fleets and expand eligibility for fleet modernization projects. The proposed changes are described in CARB's On-Road Rule Technical Support Document (pg. 234-237).

Federal Farm Bill

A new provision in the 2008 Farm Bill authorizes \$37.5 million per year, for four years through 2012, or a total of \$150 million, for payments to producers to "...implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies." These funds exist in the Farm Bill largely because of the efforts of Senator Boxer and Rep. Cardoza and Rep. Costa and others in the California delegation.

The federal rules for allocation of the funding are expected to be released soon. It is also expected that that California will receive a large portion of the funds. Additionally, the Natural Resources Conservation Service, which administers Farm Bill conservation dollars, has provided approximately \$5 million per year from its Environmental Quality Incentive Program (EQIP) funding for agricultural air pollution reductions in the San Joaquin Valley in the last five years. NRCS operation in California, plans to continue that EQIP spending for air quality, and may raise it in the coming years. That EQIP funding has not, so far, been used for agricultural trucks, but NRCS has not ruled out using that funding for trucks in the future.
