

December 14, 2010

Mary Nichols, Chair
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

SUBJECT: Proposed In-Use, On-Road Diesel Engine Regulation Amendments

Dear Chair Nichols:

The Associated California Loggers, representing contract loggers, log truckers, and log road builders, is writing to offer our comments regarding proposed amendments to about the Proposed In-Use, On-Road diesel regulations to be taken up at the meeting of the Air Resources Board on December 16 and 17, 2010. We understand that these amendments will be heard on the second day of the two-day hearing, December 17.

The companies that Associated California Loggers represents in California **are largely family-owned**, and have been passed down from generation to generation. We represent some large companies with extensive fleets, but we also represent many small-business owner-operators with only several trucks. **Our companies operate in rural counties which are overwhelmingly in attainment for NOx (78%) and PM(97%) – counties which themselves are suffering from the current disastrously poor California economy, at levels of unemployment well above the levels in more populous areas of the state.**

Our logging companies and their skilled workers provide the basic infrastructure for timber harvesting and for collection and transport of the **woody biomass materials** that will be an increasingly important part of the “climate change” issue, and efforts to develop alternative energy sources. **Loggers also contribute to the prevention of forest fires and the carbon emissions they generate, practicing prevention through thinning and harvesting practices. We fight the fires side by side with CALFIRE when they occur, and our trucks and equipment are required for use in the clean-up of fires after they occur.**

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Our industry is committed to the achievement of proper air quality in California, and our individual companies have strived to comply with air quality requirements as they exist now. Some of our members have participated in the much-needed Carl Moyer program which provides funds for retrofits of diesel vehicles – but many other of our members have found their companies ineligible for Carl Moyer funds or trying to obtain them in poor counties that cannot provide matching funds and hence refuse to participate.

At a time when the timber industry is facing a downturn in lumber prices, log prices and available work at levels not seen since the Great Depression, our association has nonetheless committed a great deal of time and personal investment in meeting with CARB staff and working on the language of the In-Use On-Road rule(hereafter, “the Diesel Truck Rule”)

Our meetings with Board members and Board staff on this particular rule stretch back more than two years, leading up to the passage of the original Diesel Truck Rule in December of 2008, and now again leading up to the amendments pending in December of 2010. Despite the time, effort and, for some of our most active members, personal cost involved in travelling to meetings and preparing data for CARB staff, we believe that the amendments before you for vote on December 17 will likely require *future* meetings, further amendment, and, during the implementation period, a great deal more work on all of our parts to make the Diesel Truck Rule work efficiently and cost-effectively in future years.

That said, Associated California Loggers wishes to thank you, as the Chair, to thank your fellow Board members, and to thank your staff members for listening to our concerns and taking meetings with us over the past two-plus years. Proposed changes to the Diesel Truck Rule are indeed making the rule more workable, and indeed – specifically in the area of the proposed “Log Truck Provision” and certain of the agriculture vehicle provisions -- reflect concerns expressed by our industry about the specific seasonal restraints, physical environment, and cost factors faced by our industry(see below for a review of these factors).

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**I. GENERAL POSITION OF ASSOCIATED CALIFORNIA LOGGERS
ON THE PROPOSED AMENDMENTS TO THE DIESEL TRUCK
RULE**

It is the position of Associated California Loggers that while these amendments will indeed offer our membership (logging companies, log truckers, log road builders) more time, more options, and more flexibility with regard to the Diesel Truck Rule, we remain hamstrung by economic problems in the California logging economy that look to take years to resolve themselves. The Diesel Truck Rule, however improved by these amendments, must continue to be considered in terms of its workability and its cost. This is the beginning, and not the end, of that implementation process.

II. ADOPT THE “LOG TRUCK PROVISION”

Associated California Loggers appreciates the work done by CARB staff in developing this specific provision, particularly with regard to the option being reportable starting in January 2012 (thus allowing all of 2011 for our members to receive education and training on how to use that provision and others within the rule); with regard to the requirement not beginning until 2014; and with regard to the “10%” turnover rate contemplated by the provision, starting in 2014.

III. ACKNOWLEDGE THE DEVASTATED ECONOMY

Even as we have all worked towards meeting deadlines imposed by the state and federal government on these diesel rules, the national, state and logging economies have refused to meet any deadlines for recovery thus far. Associated California Loggers still has many members who are struggling, month to month, to keep their businesses going and to provide for their families. For these members, the requirements of any rule that might involve cost – the purchase of equipment or trucks, the retirement of trucks upon which they depend to make a living – cannot even be contemplated at this time. We must use the years remaining to us before the Diesel Truck Rule requirements become fully operative to find the means to make this rule work financially. In addition, we believe that it is appropriate to further delay the start of Diesel Truck Rule requirements, given that the economy is not improving markedly and we can assume that this will keep the emissions inventory levels in California low and ahead of your schedule for further reduction.

IV. RESOLVE: UNAVAILABILITY AND COST OF DIESEL PARTICULATE FILTERS

The existing rule and its proposed amendments offer diesel particulate filters (DPFs) as much-needed relief as an alternative to the purchase of new trucks, but does so in a marketplace in which many filters have been de-verified on the basis of being unable to meet CARB requirements. Meanwhile, there is strong uncertainty about the availability of remaining filters for the massive number of trucks that will require them – and about the availability of enough technicians to service those filters when they break down, which happens with great frequency.

We believe that the accelerated pace of diesel rule enactment has “gotten the rules ahead of the technology,” but that with the existing delays until 2014 for certain aspects of the rule, there is time for the technology to catch up with the rule. This should be a goal for all of us to pursue with the filter manufacturers.

We understand that the rule as drafted allows companies to obtain exemptions from the rule when filters are unavailable, or unsafe for use with their trucks. We strongly urge the Board to direct CARB staff to make these exemptions readily available for use by companies during the life of the rule. Staff must be ready to approve these exemptions on presentation of proof.

We are told that while CARB staff will give consideration to exemptions being granted when filters are unavailable or unsafe, such exemptions will not be granted on the basis of cost. This remains of concern to us, particularly given that, in some cases, an older truck may require two filters, rather than one, to properly filter exhaust. Thus the owner of an older truck of \$13,000 value would be forced to purchase two filters at a cost of \$45,000 or higher. We must deal with this problem.

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V. LOCATE FUNDING SOURCES FOR LOGGERS AND LOG TRUCKERS TO PURCHASE FILTERS, ENGINES, AND TRUCKS

At the January 22, 2009 meeting of the Air Resources Board at which the original Diesel Truck Rule was adopted by the Board, you made the following comments:

“CHAIRPERSON NICHOLS: We were talking when we broke about the fact that the federal government has just made available (a) really substantial amount of money for agricultural air quality purposes. Ms. D’Adamo is familiar with how that worked. I believe it goes mostly for irrigation pumps on farms. But for the first time, there was money made available for mobile sources like tractors as well...Clearly this is a problem that can be solved with money (emphasis ours.) And to the extent that we can identify any potential new sources of funding that can assist, I think that ought to be factored into the discussion as well. “ (Transcript, January 22, 2009 Air Board meeting, page 139, lines 5-17.)

Associated California Loggers concurs with your statements as the Chair. This is a problem that can be solved with money, and we must act over the coming months to identify sources of money that can be used to purchase filters, engines, and new trucks.

One existing source of money is the Carl Moyer Program, which should be a good source of grants for our members to purchase this equipment, but which currently poses many barriers to doing so: ineligibility to apply for Carl Moyer funds based on the counties in which we work or the number of miles we run on our trucks each year; unwillingness of impoverished local governments to cover matching costs; lack(in some cases) of enough money in a local Carl Moyer account to meet demand.

We also understand that logging and log trucking companies are largely unable to access Proposition 1(B) monies because our companies do not operate in areas that are part of the “goods movement” corridors in that program.

We believe that all of these obstacles can be surmounted via a coordinated effort among CARB, the business community, the federal government, local governments, and, if need be, the U.S. Congress and the State Legislature to make the changes to law and policy necessary to free up Carl Moyer funding, secure federal funding and make the logging community eligible for such funds.

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The emissions reduction benefits from this action are conferred on the entire state of California; we should have access to monies that will allow us to confer these benefits without going out of business.

Costs of purchasing and financing diesel particulate filters, let alone new diesel trucks, are prohibitive. Our logging season is short (six months or less) and the ability of our members to earn a living, make a small profit, or even break even is limited in the best of times. These are not the best of times. Our ability to earn the income to repay loans is limited.

The rule contemplates our companies being able to set aside the money, or to secure the financing, to buy new logging trucks --- or to buy PM filters for existing older trucks. But our members cannot borrow money against their trucks as collateral (CARB has been presented with letters from the banking industry saying this.)

CARB staff has told our membership that if the filters are not a cost-effective solution, "you might as well buy the new truck." Easier said than done. Our members are currently relying on older trucks, or fleets containing older trucks, in reliance on the long life of those trucks. The regulation will continue to render those older trucks worthless for resale in California, while requiring our companies to buy new trucks. Thus, our members won't be able to use the sale of their older trucks to finance the purchase of new trucks, which can cost upwards of \$130,000. **And, as forestry competes in a world market, we cannot pass on these additional costs to consumers.**

We urge CARB to explore and provide as much funding as is necessary to allow California companies to purchase filters, engines, and trucks. Funding mechanisms must be found, with an emphasis on grants rather than loans, as neither the general economy nor the timber harvesting economy make it feasible to repay loans in the amounts contemplated by this regulation.

VI. STOP INEQUITABLE TREATMENT OF CERTAIN RURAL COUNTIES

Our members are aware that they provide a significant amount of the employment in rural timber counties. This rule will thus doubly harm local counties, first by harming our industry, and then by harming our industry's support to counties. **Further, we understand that 60% of trucks in rural California are 1994 model year and older, and banks won't lend money on equipment over ten years old.** Given that these counties are largely in attainment for NOx and PM, they are being treated inequitably as against the more high-pollution counties in California, with little or no relief funding directed their way.

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At a time when all governments are looking to create more jobs in the U.S. and California, the diesel truck regulation is still poised to take jobs away – including both private sector and public sector jobs in rural California counties -- unless certain actions are taken to reduce the cost and impact of the rule. The proposed amendments are a good step in that direction, but more must be done.

VII. RECOGNIZE THE SPECIFIC CHARACTERISTICS OF TIMBER HARVESTING IN CALIFORNIA.

As noted above, the timber harvesting industry in California is in a fragile state, and yet skilled loggers will prove invaluable as part of the infrastructure necessary to deal with global warming/climate change in the future. Our trucks work in low-population attainment districts and on a very short season in which, nonetheless, a log truck must generally be driven 50,000 to 60,000 miles during that season to earn a living.

Forestry vehicles have already been given recognition in the rule as “unique vehicles” which cannot be readily replaced in the new or used-truck market, and which have specific use requirements – heavy duty frame rails, rear suspension, 18-speed transmission, rear differential axle set, and severe service cab. These unique vehicles are used at different altitudes, bearing different weight loads, often on steep or twisting roads.

To some extent, these matters specific to the timber industry are now being addressed in Diesel Truck Rule amendments, and again, we thank you. At the same time, we must all continue to understand how these specific requirements must be addressed in the actual implementation of the rule, for instance, in terms of the workability of filters given different weight loads and uphill/downhill driving conditions, or our need to put on more miles than the “low mileage” range designated by the Diesel Truck Rule, but within a shorter driving season.

VIII. CONSIDER EARLY RETIREMENT CREDITS AND REWARDS FOR EARLY COMPLIANCE

There are “several issues in one here,” all having to do with giving due consideration to those companies who have tried to comply early with these Diesel Truck Rules, or who may be willing to accelerate their compliance by retiring their older vehicles earlier than is necessary under the rules.

I will speak here only to the “early retirement” concept. CARB staff should give consideration to further amendments to allow for credit to be given when trucks are retired early – we would suggest that every time a truck is retired from a fleet, a one-year delay be extended for compliance for one truck that remains in the fleet.

IX. ADDRESS ISSUES OF “CLEANING UP” MAP BOUNDARIES OF ‘NO_x EXEMPT” JURISDICTION UNDER THE TRUCK RULE

In an effort to fine-tune the Diesel Truck Rule so as to make the 17 NO_x exempt areas of the state more practical in their boundaries, we have been working with Air Board staff in suggesting that consideration be given to using boundaries other than strict county administrative boundaries to “mark” those NO_x exempt areas. We have submitted suggested map lines for the Cloverdale area(following state highways 128 and 101); Butte County(currently, an “island” is created which should be absorbed into the NO_x exempt area) and Lincoln, where a boundary other than the Placer County line should be considered – we would suggest using state highways 65 and 193 for the boundaries. The timber industry will continue to work with staff on these refinements.

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X. CONCLUSION

On behalf of Associated California Loggers, we thank the Air Resources Board and you for changes and amendments made or contemplated to the Diesel Truck Rule. At the same time, we remain concerned that the implementation of the Diesel Truck Rule will require a careful and ongoing review of the effect of the devastated economy on the ability of our members to comply with the rule, and a search for grant funds which can be used to meet compliance requirements. Additionally we believe that we must continue to work on the measures by which all provisions of the rule can be made workable and cost-effective at a time when emissions inventories are decreasing as a natural consequence of the economy.

California is already experiencing a decline in the “logging infrastructure” necessary to manage our forestlands and assist in the prevention of massive fires and to assist in the fight against climate change . In adopting these amendments, we hope that the Air Board will continue to offer its understanding of the particular problems of the timber industry in complying with the Diesel Truck Rule.

Sincerely

Eric Carleson
Executive Director
Associated California Loggers

