ENVIRONMENTAL DEFENSE FUND
finding the ways that work

December 5, 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:

Environmental Defense Fund strongly supports the On-road In-Use Truck and Bus Rule. We urge the Board to swiftly adopt this regulation, but also ask the Board to restrict the staff's proposed exemptions for agricultural trucks and provide a margin of safety for meeting SIP commitments. The $28 billion annual price tag of air pollution in San Joaquin and South Coast, and the unquantifiable costs of human suffering statewide, are having increasingly dramatic effects on California residents during these hard economic times. The rule will save lives, save the state billions of dollars, and stimulate and promote California-based retrofit and vehicle manufacturers and mechanic businesses.

We also support the proposed regulation to reduce greenhouse gas emissions from heavy-duty trucks. Improvements in heavy-duty truck rolling resistance and aerodynamic drag can reduce GHG emissions, provide co-benefits of reduced NOx emissions, and increase fuel efficiency while saving truckers operating costs. We urge the Board to improve two of this rule's provisions.

The health and mortality toll of diesel emissions, and the threat of global warming, both emphasize the urgency and importance of both of these rules. We applaud ARB's development of these regulations and respectfully request the following improvements.

Recommended Improvements to the Truck and Bus Regulation

The October 24, 2008 proposed regulation should be revised to ensure maximum health benefit within a reasonable cost. Therefore, we urge the board to amend the rule at adoption. These amendments should address the following issues:

Improve the Agricultural Vehicle Provision to Minimize PM Exposure Risk

The rule's proposed exemptions for agricultural vehicles are too broad. They compromise the regulation's health protections for those who live or work near agricultural operations or the

roads used by these trucks. The exemptions needlessly expose too many people to too much dangerous diesel particulate matter (PM) for too long. Diesel PM is linked to acute health impacts from even short-term exposure. This rule should not delay protections simply because a truck operates in rural areas. Additionally, the proposed exemption significantly reduces the margin for error in meeting the San Joaquin Valley's SIP commitment.

ARB staff estimate that the current proposal would exempt about 70 percent of agricultural trucks from any emissions controls until 2017, and 50 percent of agricultural trucks from 2017 to 2023. ARB broadly defines on-road agricultural vehicles, including trucks that deliver pesticides and fertilizers to farmers. This definition, which reaches beyond those trucks actually owned and operated by farmers to include vehicles that service farms, is far too broad.

We believe that the proposal for agricultural vehicles can and must be more health protective while still recognizing economic challenges in this sector. This can be done through the following adjustments to the current proposal. Please ee Appendix A for more detail:

- 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 fleet size will help to specifically protect the family farmer and smaller farming operations.
- Reduce Mileage Threshold and Require PM Filters: Agricultural vehicles driving under 10,000 miles a year should 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.
- Return the Farmer to the Definition of Agricultural Truck: Do not expand the definition of agricultural truck to include trucks that merely service farms but are not owned by farmers, including fertilizer, pesticide, and other farm chemical trucks.
- Require Cleaner 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.

Agricultural truck owners have several incentive funding sources to allow them to reduce truck emissions. These include Carl Moyer Program funds, Sacramento Air Quality Management District SECAT funds, federal Farm Bill funds earmarked for air quality improvements, and—under guideline revisions that will come before the board in 2009—Proposition 1B funds. Agricultural trucks are also becoming more competitive for state and local incentive funding as other cost-effective diesel reduction sources have entered the rule compliance deadlines or have been cleaned up. See Appendix B for a summary of funding opportunities available specifically for agricultural trucks.

Improve Clarity and Accessibility of Incentive Funding Programs

We do *not* believe this rule's success will depend upon incentive funding. However, we do believe incentive funding helps ensure early compliance. Fortunately, state and local incentive funds currently exceed $120 million a year to assist businesses to clean up diesel equipment. There will

be additional funding in the coming years with ARB's new loan guarantee programs, federal funding sources, and San Joaquin Valley's recently approved AB 2522.

We urge ARB to continue to improve its outreach efforts about incentive programs to truck owners. These should occur in multiple languages, at multiple venues, and in close coordination with air districts to ensure the outreach is effective. The board should encourage the ARB's rule implementation and incentive funding teams to work closely together to deliver a coordinated and early message to truck operators about the rule and available funding options.

Expand Greenhouse Gas Measure

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 GHG reduction goals by 2020 and 2050, we must reduce the emissions from this sector.

The proposed truck GHG reduction measure could economically achieve greater emissions reductions if the rule's tire requirements are applied to all tractor-trailer units and if the 100-mile range limit exemption is removed. We urge the Board to amend the rule with these changes upon adoption. Doing so could increase the overall benefits of the program by 20 percent or more and would not conflict with US EPA SmartWay program requirements.[1]

In conclusion, we applaud staff's diligent work on crafting these rules. We also appreciate the Board's interest in addressing our concerns.

Sincerely,

Camille Kustin

Kathryn Phillips

Cc: Office of Governor Arnold Schwarzenegger

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

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 proposal[i]:

- 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	-Pre-1996 trucks: <15k mls/year -1996-2005 trucks: <20k mls/yr -2006 and newer trucks: <25k mls/yr Vehicles below these thresholds would not be subject to NOx or PM requirements. After 2017, the mileage threshold is reduced, and would apply to vehicles operating under 10,000 miles per year By 2023, all trucks would need to meet the 2010 engine standard.	<10,000 miles/year for trucks in small fleets *(see note on fleet size below)* Install PM filter by Jan. 1, 2015. Throughout the life of the rule, exemptions would apply only to vehicles operating less than 10,000 miles per year. By 2023, all trucks would need to meet the 2010 engine standard.
Defining Agricultural Vehicles	-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.	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)
Specialty Farm Vehicles Exemption	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)	No change
Size of Agricultural Vehicle Fleet	-Exemption applies to all fleet sizes -Fleet size is reported and no additional vehicles can be added to fleet after January 1, 2009.	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).
Replacement of Broken Down Vehicles	Replacement vehicle has to be newer (i.e., a 1987 vehicle could be replaced with a 1988 vehicle).	Replacement vehicle must have a filter
Reporting	Mandatory reporting	No change

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.