CALIFORNIA TRUCKING ASSOCIATION

December 10, 2008

Mary Nichols, Chairperson
California Air Resources Board
1001 I. Street
Sacramento, CA 95814

Re: Proposed Regulation for In-Use On-Road Diesel Vehicles

Dear Chairperson Nichols:

The California Trucking Association (CTA) is pleased to have the opportunity to offer its comments on the Proposed Regulation for In-use On-Road Diesel Vehicles that the California Air Resources Board (CARB) is scheduled to adopt on December 11 and 12, 2008.

CTA supports the comments of Sierra Research (SR) and the Driving Toward a Cleaner California Coalition (DTCC). CTA was an active contributor in the development of those comments and is a principal member of the DTCC. The comments below outline specific concerns in addition to those raised both in the DTCC and SR comments.

As CARB knows quite well, CTA has never opposed in-use regulations to reduce NOx and PM emissions from medium-heavy and heavy-heavy duty diesel trucks. CTA has worked closely with CARB staff since the inception of this proceeding to find ways to reduce the impact of the proposed rules. During the course of the proceeding, CARB staff has made a number of positive changes that have helped mitigate some of the rule's earlier, more stringent provisions.

However, despite these changes, CTA feels that the current version of the proposed regulation should be reevaluated as outlined below.

The regulation and accompanying Staff Report, although comprehensive, does not address the current economic downturn and how it will impact the emissions inventory. Because of this issue and others outlined in the detailed comments section, CTA is requesting the Board direct staff to do the following:

1. CTA requests that the Board direct CARB staff to reevaluate the emissions forecasts in order to reassess the current and future impacts of the financial crisis that is enveloping the nation, and how this downturn will affect the ability of the trucking industry to manage the investments that will be required to comply with the proposed rule, with special attention paid to the ability of the native trucking fleet to compete with out of state carriers.
2. CARB staff should make available any revised emissions forecasts as well as all key data related to the baseline emission inventory and emissions benefit estimates, along with the revised methodology used to compute these estimates.
3. Additionally, the Board should adopt the DTCC proposal or, at a minimum, reevaluate the proposal in our current economic climate and allow for further discussion for modifications based upon the revised estimates.

3251 Beacon Boulevard West Sacramento, CA 95691 (916) 373-3500 Fax (916) 371-7558

Should the DTCC proposal not be considered for adoption or reevaluation and if CARB staff is not directed to reevaluate the emissions forecasts, then the Board should delay the adoption of this regulation until a thorough analysis of the effects of the current economic downturn on the overall emissions inventory is performed, including but not limited to the following points below:

1 CARB must consult with independent economic experts and convene a public process to develop a set of agreed-upon alternative future economic scenarios with which to revisit its emission assumptions and its need to impose rules as severe as those currently under consideration.
2 Furthermore, because the Staff Report neglects to assess the impact to the native California trucking industry in particular, staff should be directed to reevaluate the ability of California carriers to compete with out of state trucking firms, demonstrate how that ability will be impacted by this rule and make their findings available in the revised staff report.
3 CARB staff must also evaluate the emissions impact from cargo diversion through the soon-to-be widened Panama Canal. With looming possibility of diminished freight movement on the west coast, emissions could be significantly lower than anticipated. CARB staff needs to explicitly reflect this development in its emissions forecast.
4 CARB staff should officially present these findings, outlined above, and allow at least 45 days for stakeholder review and comment before any additional regulatory action.

CTA greatly appreciates positive consideration of these requests, and looks forward to a continued dialogue with CARB staff.

Please refer to the additional comments outlined below for more information.

Sincerely:

Eric Sauer
Vice President Policy Development
California Trucking Association

Matthew R. Schrap
Director, Environmental Affairs
California Trucking Association

Additional Comments

Economic Crisis Not Anticipated in Staff Report
Despite the good work to date, it is fair to say that neither CTA nor CARB anticipated and took into account the scope of the financial crisis that is facing our state and nation today. Moreover, it is not at all clear, at this juncture, how large the crisis will become or how much time will have to pass before the state and national economies return to their pre-crisis condition.

What we see today is an ever worsening litany of problems including hundreds of thousands of employees losing their jobs and their benefits, well-known businesses declaring bankruptcy and states struggling, like California, to bridge multi-billion dollar budget deficits.

Trucking has not escaped this crisis. As the U.S. economy has softened, so has consumer demand, translating into fewer goods being carried by trucking companies. The American Trucking Association's seasonally adjusted For-Hire Truck Tonnage Index decreased 3.0 percent in October, marking the fourth consecutive month-to-month drop for a four-month total of 6.3 percent. The worst seems yet to come.

Not only has the trucking business declined significantly, the credit crunch has continued to worsen for truckers, making it difficult for even those carriers with good credit to obtain the loans they need to purchase new trucks and other equipment. In addition, the impact of the financial crisis on pensions and retirement savings accounts has damaged the trucking industry's employees and their families, creating even more stress within the many small businesses that make up the trucking community.

In view of the unexpected advent and magnitude of the current economic crisis, ARB should reevaluate the DTCC proposal or delay this proceeding until the scope and expected duration are better understood.

This will help CARB better tailor the proposed rule to the economic capabilities of the surviving industry. Going forward at this time with a rule that will add significant hardship for trucking companies on top of the hardships already being imposed by the current financial crisis would be unfair and potentially result in irreparable damage.

High Economic Uncertainty Suggests ARB Should Revisit Emissions Forecasts
CTA requests that CARB include in its deliberations a recalibration of its emissions forecasts, including those incorporated in its recent State Implementation Plan.

There is no question that the reduced economic activity associated with the current crisis will have an impact on emissions associated with freight movement. What is extremely unclear at this point is the length of time economic activity will be depressed and the extent to which it will be depressed.

Given the high amount of uncertainty about the future, CTA requests that CARB consult with independent economic experts and convene a public process to develop a set of agreed-upon alternative future economic scenarios that would bound likely possible futures and use these scenarios to revisit its emission assumptions and its need to impose rules as severe as those currently under consideration.

Additionally, CARB staff must be directed to release all revised emissions forecasts as well as all key data related to the baseline emission inventory and emissions benefit estimates, along with the revised methodology used to compute these estimates for at least 45 days to allow for stakeholder review and comment.

ARB Should Address the Potential of Its Currently Proposed Rule to Severely Disadvantage Native California Trucking Companies.

The significantly larger interstate fleet that visits California uses newer trucks than the native California fleet. This means that the proposed rule will cause native California fleets to face significant costs while interstate fleets will face virtually none. This cost inequality will place native California trucking companies at an extreme competitive disadvantage versus interstate companies because native companies will have to try to pass through higher costs to afford the investments required under the rule while interstate fleets will not have to pass on any additional costs.

This unfortunate situation will cause the native California fleet to lose business, with an accompanying loss of jobs and businesses that will be larger than would otherwise take place under the rule if it did not also make native California trucking companies less competitive with their interstate counterparts.

There is no acknowledgement of this serious situation in the staff economic analysis. The context of an economic crisis makes the problem even worse. CTA requests that CARB staff address this significant competitive issue and its potential effects on the California economy and on the citizens of California who labor in the native California trucking industry.

West Coast Bypass via Panama Canal Expansion Not Taken into Account

The West Coast freight movement market is also about to take a serious blow from a soon-to-be widened Panama Canal that will have locks capable of handling cargo ships carrying as many as 13,000 containers -- much larger than the 8,000-container ships it was originally expected to accommodate.

With the ability to handle most of the world's largest ships, the Panama Canal will begin to enjoy better economies of scale than its primary competitor, which is the transpacific intermodal route from Asia to the West Coast and to the rest of the U.S. It is cheaper to move cargo by ship than to transfer it to truck or rail and go overland.

Each year a little more cargo has switched to the East Coast. The trend has been driven by several factors including West Coast port congestion, potential labor issues causing disruptions at West Coast ports and increasing rail and inland trucking costs making it more cost-effective to lengthen the sailing time to bypass the West Coast and higher inland freight rates to offload shipments closer to final Eastern destinations.

There have been limits to that strategy because of longer routing and travel times as well as constraints on the size of ships that could be moved through the Panama Canal.

However, the Canal expansion project will allow wider ships to pass through and increase traffic to East Coast ports from Asia. The logical conclusion is that West Coast market share will be lost and future international freight traffic originating and terminating in California will be significantly less than anticipated. ARB needs to explicitly reflect this development in its emission forecasts.

CTA appreciates the opportunity to offer comments on this monumental regulatory item and is looking forward to having our concerns addressed by CARB staff and Board members.