

January 7, 2009

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

RE: Proposed Amendments to the Regulation for In-Use Off-Road Diesel Fueled Fleets

Dear Chairwoman Nichols and Board Members:

The undersigned organizations strongly support ARB's continued implementation of the In-Use Off-Road Equipment regulation to reduce harmful emissions of nitrogen oxides (NOx) and toxic diesel particulate matter (PM). Successful implementation of this regulation will save thousands of lives and is critical to meeting the state's clean air objectives. The regulation is a feasible and cost-effective approach to cleaning up diesel particulates and no major changes are warranted. Progress on new retrofit technologies for off-road equipment is moving forward, and several good choices of retrofit technologies for a wide range of equipment are currently available. However, we believe the staff's proposed amendments are more narrow adjustments to assist with improving compliance and implementation, and our main concern is that they do not affect emission benefits.

Since rule adoption over a year ago, many companies and businesses have been proactive, even despite the challenging economic times we are facing. Businesses have retrofit equipment, modified their business plans, and have sought out incentive funds in preparation of the 2010 implementation date. Any changes to compliance dates will create an unfair business advantage for many California companies. Extending compliance dates could also have serious long term emissions reductions implications, influence our ability to meet federal clean air requirements, and continue to put the lives and well-being of thousands of Californians in jeopardy.

While we support the proposed amendments, we urge staff and the Board to build in requirements for monitoring their effects on emissions and allow for additional modifications if needed to preserve the regulation's emission reduction benefits. Furthermore we strongly oppose any rollbacks of compliance deadlines.

Specifically, we request that CARB consider the following:

- Double Credit Extension: Without data on the number of fleets that have taken advantage of the early compliance provision so far, it is even harder to predict how many fleets would take advantage of the proposed extension going forward. This creates great uncertainty on how the proposed extension would impact early PM clean up and how early actions would influence future emissions reductions. CARB should monitor how this provision is affecting emission reductions and adjust the rule to reduce available credits if staff discovers that emissions goals are falling short.

We also encourage staff to actively work together with retrofit manufacturers to ensure that new retrofit devices are verified and made available as soon as possible.

- Fleet Size Modifications: CARB should monitor this proposed modification to ensure that in practice, fleets do not exploit this provision. Emissions reductions could be lost.

We appreciate the Board's interest in considering our comments and look forward to continuing to work with CARB staff as the Off-Road Rule is implemented.

Sincerely,

Camille Kustin
Environmental Defense Fund

Don Anair
Union of Concerned Scientists

Diane Bailey
Natural Resources Defense Council

Bonnie Holmes-Gen
American Lung Association of California

Brian Beveridge
West Oakland Environmental Indicators Project

Duane Goodson
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