

08-11-4
Ken Nichols

December 11, 2008

Tony Brasil, Manager
In-Use Control Measures Section
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812-2815

RE: On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation

Dear Mr. Brasil:

Thank you for the time you and the ARB staff have expended providing information on the proposed On-Road Heavy-Duty Diesel Vehicles (In-Use) regulation to stakeholders. We welcomed the efforts you and other ARB staff made to understand the use of vehicles in the agricultural industry and how the regulation would impact various segments of the industry. We appreciate your consideration of the following comments related to the exemptions for certain agricultural vehicles.

We suggest an amendment to the language defining "agricultural vehicle" to clarify the definition in recognition that vehicles must make a round-trip from the distribution center (to the farm and return to the distribution center), and to provide clarity that vehicles delivering supplies and equipment used in fertilizer and chemical application are included in the definition.

Section 2025 (d) (5) Agricultural Vehicle

(A) An on-road vehicle that is specifically dedicated to and used to provide fertilizer or crop protection supplies or services for use in agricultural operations from a distribution center to a farm, and is owned by a business holding a valid fertilizer or pest control license.

We request an amendment to the language to clarify that while the vehicles may display a Department of Transportation (DOT) placard, it is only to be displayed at the appropriate time, e.g., when a chemical which requires a placard is being transported and not displayed on the return to the distribution center when the chemical is no longer being transported.

(2) Such vehicles must exclusively carry products or equipment defined under one of the following, and display an appropriate placard, as required by the United States Department of Transportation:

In keeping with the definition of "agricultural vehicles", we suggest adding two additional documents - a valid fertilizer or pest control license - which may be used as proof that the primary function of the business is agricultural.

(r) Record Keeping

(4) Agricultural Fleets

(A) Fleets utilizing the agricultural fleet provision must keep and make available upon request proof that all agricultural vehicles were used exclusively in agricultural operations. This may include records used to support proof to other governmental agencies that the primary business function was agricultural. Such documentation may include IRS or Board of Equalization tax forms, bills of lading, or a valid fertilizer or pest control license.

Thank you again for your outreach efforts and thoughtful consideration of the practical implementation of the rule for the agricultural industry. We appreciate your consideration of these comments. Please contact Dave Lawson at (916) 797-1267 if you have questions regarding the comments.

Sincerely,



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cc: Mary Nichols, Chairman, ARB
Gloria Lindner, Air Resources Engineer, In-Use Control Measures Section, ARB