

BEFORE THE
California Environmental Protection Agency - Air Resources Board

Second Notice of Public Availability of Modified Text: Public Hearing to Consider
Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled
Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs
Operate

COMMENTS

SUBMITTED BY THE

TRANSPORTATION INTERMEDIARIES ASSOCIATION

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The Transportation Intermediaries Association (TIA) submits these comments on the above referenced Second Notice of Public Availability of Modified Text: Public Hearing concerning the Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.

IDENTITY AND INTEREST OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION

TIA is the professional organization of the \$162 billion third party logistics industry. TIA is the only U.S. organization exclusively representing transportation intermediaries of all disciplines doing business in domestic and international commerce. TIA is the voice of transportation intermediaries to shippers, carriers, government officials, and international organizations.

TIA members include approximately 1200 motor carrier property brokers, surface freight forwarders, international ocean transportation intermediaries (ocean freight forwarders and non-vessel-operating common carriers), air forwarders, customs brokers, warehouse operators, logistics management companies, intermodal marketing companies, and motor carriers.

TIA is also the U.S. member of the International Federation of Freight Forwarders Associations (FIATA), the worldwide trade association of transportation intermediaries representing more than 40,000 companies in virtually every trading country.

THE ROLE OF TRANSPORTATION INTERMEDIARIES

Transportation intermediaries or third party logistics professionals act as the "travel agents" for freight. They serve tens of thousands of shippers and carriers, bringing together the transportation needs of the cargo interests with the corresponding capacity and special equipment offered by rail, motor, air, and ocean carriers.

Transportation intermediaries are primarily non-asset based companies whose expertise is providing mode and carrier neutral transportation arrangements for shippers with the underlying asset owning and operating carriers. They get to know the details of a shipper's business, then tailor a package of transportation services, sometimes by various modes of transportation, to meet those needs. Transportation intermediaries bring a targeted expertise to meet the shippers' transportation needs.

Many shippers in recent years have streamlined their acquisition and distribution operations. They have reduced their in-house transportation departments, and have chosen to deal with only a few "core carriers" directly. Increasingly, they have contracted out the function of arranging transportation to intermediaries or third party experts. Every Fortune 100 Company now has at least one third party logistics company ("3PL") as one of its core carriers. Since the intermediary or 3PL, in turn, may have relationships with dozens, or even thousands, of underlying carriers, the shipper has many service options available to it from a single source by employing an intermediary.

Although intermediaries are described in the business and trade literature as "non-asset-based," many intermediaries in fact own some assets, broadly defined. These include local pick up and delivery vehicles, over the road trucks, warehouses and cargo consolidation centers, complex

computer and telecommunications systems, dispatching centers and sales offices. Shippers count on transportation intermediaries to arrange for the smooth and uninterrupted flow of goods from origin to destination, and many carriers rely upon them to keep their equipment filled and moving. It is, therefore, difficult to describe a typical intermediary, or to divide them into fixed categories. They range from small, family owned businesses to multi-billion dollar, publicly traded corporations.

TIA SUPPORTS THE BOARD'S EFFORTS TO IMPROVE COMPLIANCE RATES

TIA supports the board's efforts to improve compliance rates and ultimately reduce emissions of diesel particulate matter from diesel-powered engines used to refrigerate perishable goods in insulated truck and trailer vans, rail cars, and domestic shipping containers. We look forward to working with the California Air Resources Board, while allowing the goods to be moved safely and economically through the State of California.

TIA SUPPORTS THE EXEMPTION FOR NONCOMPLIANT, NON-OPERATING RAILCAR TRUs PASSING THROUGH CALIFORNIA

TIA supports the CARB proposed amended language in regards to creating an exemption for noncompliant, non-operating railcar TRUs passing through California on a railway carrier.

Although, a third-party logistics provider does not have control over a carrier's travel route, with the creation of this exemption it will ensure that the economic flow of goods and products along the supply chain isn't hindered by frivolous compliance checks on non-operating TRUs.

Furthermore, brokers do not own the equipment or have responsibility in ensuring compliance of TRUs. The brokerage industry will do its best to ensure that a compliant carrier is hired, and

removing this segment of non-operating TRUs from liability will reduce the regulatory requirements.

TIA CONCERNS WITH AMENDMENT EXTENDING RESPONSIBILITY TO BROKERS

TIA has concerns with section CCR 2477.8 that would add requirements for brokers and freight forwarders to only contract or hire with compliant carriers. According to the California Air Resources Board staff report, it estimates that there are 176,300 “units” that operate in the State of California. These “units” consist of TRUs, railcars, and generator sets. The ARBER database shows that there are currently 8,538 compliant carriers. TIA is concerned because this means that our members and the industry would be limited to contract/hire only six percent of the available carriers in an already very tight capacity market. A broker cannot exercise control over the carrier or its trucks or operation. As previously stated, transportation intermediaries act as “travel agents” for freight. Transportation intermediaries are primarily non-asset based companies whose expertise is providing mode and carrier neutral transportation arrangements for shippers with the underlying asset owning and operating carriers. They get to know the details of a shipper's business, then tailor a package of transportation services, sometimes by various modes of transportation, to meet those needs. Transportation intermediaries bring a targeted expertise to meet the shippers’ transportation needs. If a broker, were to get too involved in the actual trip details, they could find themselves stepping over a fine line in terms of liability and financial responsibility.

In addition to having an adverse effect on companies in California seeking to transport their products and companies seeking to do business in California, the proposal would have a severe impact on small trucking companies. Approximately 80-percent of trucking companies in the

United States operate five or fewer trucks. It is no wonder, therefore that only six percent of the current California fleet is compliant with the regulation. While the goal of clear air is laudable, taking drastic steps quickly may result in thousands of small California businesses being forced to close. The result would be to exacerbate an already intolerably high California unemployment rate.

TIA is grateful of the California Air Resources Board staff, for their understanding and willingness to work with the brokerage industry on the development of guidelines for broker and forwarders and understanding that it is not the role for brokers and freight forwarders to physically inspect TRUs to determine compliance. It is not the role of 3PLs to physically inspect trucks; rather the obligation should be on the trucking companies to ensure only compliant TRUs are on California highways.

In conclusion, TIA looks forward to working with the California Air Resources Board on our concerns and help the board achieve their goal of increasing compliance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Voltmann", followed by a horizontal line.

Robert A. Voltmann
President & CEO
Transportation Intermediaries Association